

Ervin Assails Delaying Trial Until '73

By WILLIAM ROBBINS

Special to The New York Times

WASHINGTON, May 20 — Senator Sam J. Ervin Jr., chairman of the select Senate committee investigating the Watergate case, criticized today the Justice Department's handling of the case, saying he believed that "five men caught red-handed in actual burglary" should have been tried before the 1972 election.

Senator Ervin, a Democrat of North Carolina, also indicated, in a television interview, resentment over the Attorney General's decision to grant immunity to expedite testimony by John W. Dean 3d, the former White House counsel, and Jeb Stuart Magruder, another former White House aide.

Other developments surrounding the Watergate case and related espionage and campaign tampering today included the following:

John W. Gardner, chairman of Common Cause, a public interest lobby, opposed President Nixon's proposal for a study commission to seek reforms, saying that it would be a "mortuary for action proposals." He also called for the resignation of Representative Wayne

L. Hays, Democrat of Ohio, as chairman of the Democratic Congressional Campaign Committee. Mr. Gardner was interviewed on the C.B.S. "Face the Nation" television program.

Mr. Gardner pointed out that Mr. Hays is also chairman of the House Administration Committee, which has jurisdiction over campaign reform. Mr. Gardner said this was like "sending the fox to guard the chickens."

Archibald Cox, the Harvard law professor who has been appointed the special prosecutor in the Watergate case, told United Press International that he had no present plans to seek an interview with President Nixon.

A Time magazine poll report said that a majority of Americans now refuse to believe President Nixon's denials that he knew of a Watergate cover-up and that they are about evenly divided on whether he had approved the operation in advance.

Both Mr. Dean and Mr. Magruder have been linked to a cover-up of the break-in and



John W. Gardner yesterday

Continued on Page 26, Column 6

Continued From Page 1, Col. 7

bugging of the Democratic National Committee headquarters at the Watergate complex.

"If they haven't accumulated enough evidence to convict these two parties in this time, why I think there is something very sadly wrong in the investigatory arm of the Government," Senator Ervin said.

Mr. Ervin also said that his committee should follow "wherever the evidence in this case may lead it," but said that thus far the committee had received "no competent evidence" to connect President Nixon to the case.

'All' Evidence 'Hearsay'

The magazine also said, quoting an unidentified Justice Department official, that L. Patrick Gray 3d, the former acting director of the Federal Bureau of Investigation, had hidden evidence that would have quickly connected two sentenced Watergate conspirators, G. Gordon Liddy and E. Howard Hunt Jr., with aliases that had been used in preparations for the break-in.

Senator Ervin, in answer to a question on the A.B.C. "Issues and Answers" television program, said that he had no plans "at this time" to solicit a statement from President Nixon on the Watergate case. The Senate Select Committee on Presidential Campaign Activity will

resume its hearings on the case Tuesday.

Pressed to explain, Mr. Ervin said, "Well, thus far in the evidence we have received no competent evidence to connect the President with it. All the evidence received was hearsay."

In all his responses to questions, Mr. Ervin appeared to be attempting carefully, as he had in the hearings last week, to point out the distinction between evidence that would be admissible in a court and what could be heard in a Congressional proceeding, which has essentially a fact-finding and legislative mission.

He was also careful to avoid an appearance of prejudging the case.

But he described as an im-

pressive witness James W. McCord Jr., the convicted Watergate conspirator and burglar who told the committee Friday of offers of executive clemency, purportedly from "the very highest level."

"I was very much impressed by Mr. McCord as a witness," Senator Ervin said. "He seemed to be very calm and deliberate."

The Time magazine report on Mr. Gray said that the Central Intelligence Agency had given him details of the disguises, aliases and false identification papers that it had supplied to Hunt and Liddy for their investigation of the release of the Pentagon papers.

Those false names — Edward Hamilton and George Leonard — had appeared on the Watergate hotel register.