

Harmony Promised By Ford

Softer Line Taken on Issue Of Privilege

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By Spencer Rich

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Vice presidential nominee Gerald R. Ford testified yesterday that if he were President he would not deny the courts documents bearing on possible crimes by anyone in the White House.

Ford's statement, made under sharp questioning by Senate Democratic whip Robert C. Byrd of West Virginia seemed to go further in shrinking the scope of executive privilege than President Nixon and his staff have been willing to go in the dispute over the Watergate tapes and related data.

Ford's testimony came as the Senate Rules Committee opened the first congressional hearings in history on the selection of a Vice President. The hearings began nearly one year to the day after President Nixon and Vice President Agnew won re-election in a landslide. Now, Agnew is gone, having resigned and pleaded no contest to an income tax charge, and President Nixon is engaged in a fierce dispute with Congress over the Watergate break-in and alleged White House cover-ups of related actions.

Rep. Ford, nominated by the President under the 25th Amendment to succeed Agnew, needs a majority vote in each chamber to be confirmed. If yesterday's hearing is any sample, the congressman will roll through the Senate as easily as the Michigan football powerhouses, on which he played star center in the 1930s, bowled over their small-

college opponents.

"As of now he looks fine," said Byrd after the first day's six hours of assured and confident testimony by Ford.

"I thought he did very well," said Senate GOP Whip Robert P. Griffin of Michigan, a member of the committee who, as a House member in 1965, helped engineer the coup that propelled Ford to his present post of House GOP leader.

Rules Committee Chairman Howard W. Cannon (D-Nev.) said, "He was a very open and forthright witness. I'm impressed with the way he's been willing to respond." However, he told Ford there are still a few more questions and asked him to return Monday for more testimony. Other witnesses will follow.

Ford opened the hearing with a brief statement portraying himself as the White House apostle of peace to the Congress; the conciliatory word "compromise" was sprinkled liberally through the paragraphs.

"I come back to the first question: What makes you, Jerry Ford, qualified to be Vice President of the United States?" Ford's opening remarks concluded. "My answer is that I believe I can be a ready conciliator and calm communicator between the White House and Capitol Hill,

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between the re-election mandate of the Republican President and the equally emphatic mandate of the Democratic 93d Congress."

The nine members of the Rules Committee welcomed Ford's peacemaker promise. But in view of the massive disputes between President Nixon and Congress over executive privilege, impoundment, charges of Watergate cover-up and White House "dirty tricks," they were much more interested in hearing how Ford would behave if he were President, and in clearing up

questions about his medical history and his finances.

The natural drama of history's first vice presidential confirmation hearing was heightened by the growing feeling on Capitol Hill that President Nixon may not finish his term, that the committee may be passing judgment on a man who may soon become President of the United States.

One major focus was on the doctrine of executive privilege. Ford initially told the committee, under questioning by Sen. Marlow W. Cook (R-Ky.), "I don't think the President has unlimited authority in the area of executive privilege . . . However, I don't

think Congress and the public have an unlimited right to personal communications between the President and his advisers or any documents that go between a President and his advisers."

This statement—parallel to the White House position—proved too vague and loose for Byrd. When his turn to question came, he pressed for a more precise reply.

In a series of queries, he narrowed the question to this: Should executive privilege be invoked to shield potential evidence of crimes in the President's office, where the documents were being sought by a court and didn't relate di-

rectly to foreign affairs and national security secrets?

Ford finally responded:

"Where you have serious allegations of criminality and those documents have material impact on guilt or innocence of the individual . . . it would seem to me . . . they should be made available."

To nail down what he obviously considered to be a commitment by Ford, Byrd returned to the same theme several hours later. He asked whether Ford had meant to say that if he were President he would decline to invoke executive privilege to deny documents demanded by a

court. "Yes, I believe I did," Ford responded.

He might put the legality of the matter to a court test, he said, but if the courts ruled he should turn over the material, he would.

On several occasions the Nixon administration has given the impression that it believes the President has inherent constitutional powers that might not be subject to the courts.

"I don't think any person is above the law," Ford declared. "I would strongly say any person, including the President, when a determination is made by the highest court in the land, ought to obey the court order."

Byrd also asked whether the new Watengate special prosecutor just appointed by Mr. Nixon "should be restricted by orders of the President from going to court" to seek presidential documents he believes are needed. Ford responded, "He should not," except possibly in some national security and foreign policy situations.

Ford further said, under questioning by Sen. James B. Allen (D-Ala.), that "it might have been much more helpful to the Senate as well as the courts" had President Nixon long ago revealed to Congress and Judge John J. Sirica the non-existence of two of the nine Watergate tapes, instead of battling for months over the tapes before announcing Wednesday that two were missing.

He told the committee that the new special prosecutor appointed by the President ought to be confirmed by the Senate, and that the impeachment study in the House judiciary Committee should go forward in order to clear the air of charges against the President.

In the course of an unsuccessful House impeachment move against Supreme Court Justice William O. Douglas, Ford once said that an impeachable offense is anything the House considers it to be at a given moment in history.

Sen. Claiborne Pell (D-R. I.) asked whether Ford, in the

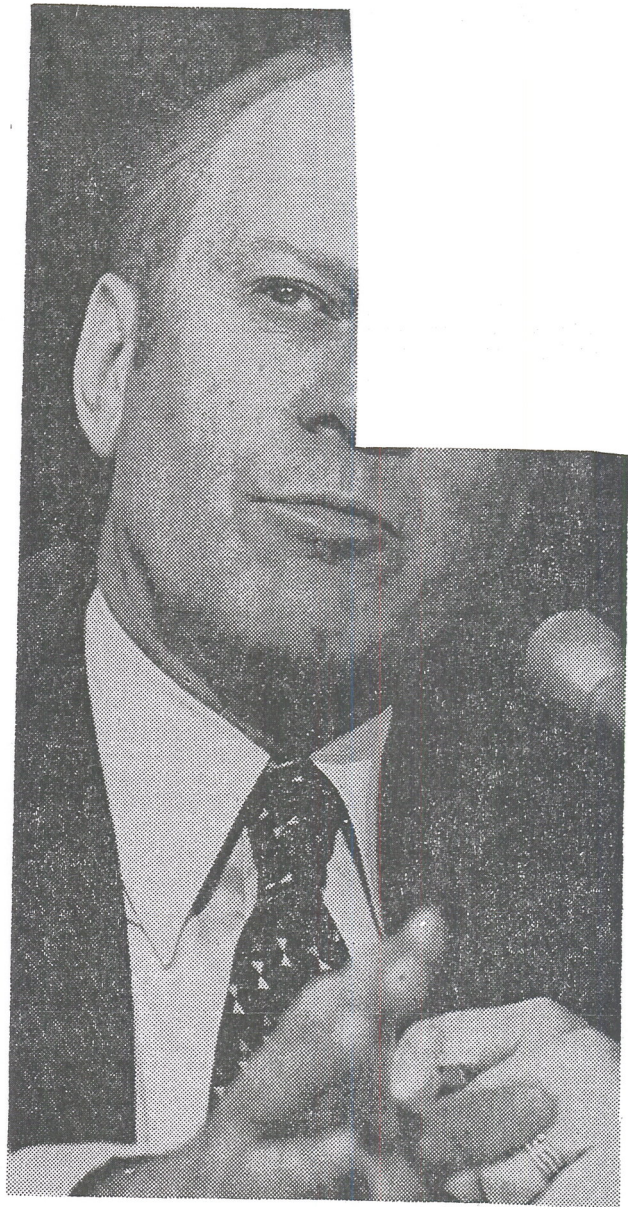
face of the impeachment move against President Nixon, would now go back on that statement, and the nominee responded, "I'm still of that opinion . . . Impeachment is, to a substantial degree if not entirely, a political decision."

Ford said he had opposed the war powers bill, limiting to 60 days the President's power to wage undeclared war, but only because it didn't call for an automatic vote after 60 days to let Congress decide whether to allow the President to continue combat or not. Requiring combat to cease unless Congress acts affirmatively to authorize continuation isn't acceptable, he said. (The House votes next week on whether to override the Nixon veto of this bill.)

In all these answers, Ford appeared to be a bit more willing than President Nixon to bow to congressional demands for restriction of presidential powers, and the senators appeared pleased.

However, he strongly backed the President's right to impound substantial portions of program funds voted by Congress, while seeming less inclined to favor impoundments intended to kill an entire program.

At the start of the hearings, Sens. Cannon, Cook and Griffin posed a series of questions on Ford's personal life and finances. It appeared that the committee was inclined to accept Ford's explanations and denials of charges by former lobbyist Robert Winter-Berger.



By Bob Burchette—The Washington Post

Gerald R. Ford: "I can be a ready conciliator."