

White House Data

Ervin's New Probe Ploy

Washington

Senator Sam J. Ervin Jr. (Dem-N.C.) has found a 1928 law which he believes empowers his government operations committee to obtain in writing virtually any information it wants from the Nixon administration.

The discovery, made known Saturday by Ervin's aides, could become a significant factor in the clash between Congress and the White House over secrecy.

The little-known section of the United States code would not affect President Nixon's claim to an unlimited right to withhold witnesses from committees of Congress, a matter of sharp contention in the Senate's effort to question White House aides about the Watergate conspiracy.

But it could be used to force the White House to provide documentary information that it has been unwilling to make available.

Attorney General Richard G. Kleindienst testified at a Senate hearing on Tuesday that there were no limitations that could be placed on executive privilege.

But Section 2954 of Title 5 of the Federal Code, enacted in 1928, appears to compel the executive branch to answer any request for docu-

ments if they are sought by the committee that Senator Ervin heads or its counterpart in the House. The section, in its entirety, reads as follows:

"An executive agency, on request of the Committee on Government operations of the House of Representatives or any seven members thereof, or on request of the Committee on Government Operations of the Senate or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee."

The key phrases are those asserting that the administration "shall" provide the information and that the law pertains to anything in the committee's jurisdiction.

In legal terms the word "shall" is mandatory and does not give any room for disagreement.

Ervin said last week that the judiciary subcommittee on separation of powers was making a detailed survey of every instance since January, 1961, in which documents or witnesses were denied to Congress. Without providing any breakdowns he said that the study, which has not been completed has already identified 166 instances.

"The greater number," he added, "have occurred in the last six years."

The issue of written information being withheld from

Congress has been overshadowed by the argument over Mr. Nixon's claim of executive privilege to bar testimony by White House aides to the Select Senate Committee investigating the Watergate conspiracy.

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