

Indictments Could Delay Senate's Watergate Probe

By Edward Walsh

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The Senate select committee investigating the Watergate bugging conspiracy may have to postpone its hearings if several key witnesses are indicted, Sen. Sam J. Ervin Jr. (D-N.C.), chairman of the committee, said yesterday.

Ervin, speaking in a telephone interview from his office in Morganton, N.C., said he hopes a postponement of the hearings, which are scheduled for mid-May, will not be necessary.

Committee members, now scattered through the country during the Senate's Easter recess, have not discussed recent developments in the case or their possible impact on the Senate hearings, Ervin said.

"We'll just have to play it by ear," he said.

Ervin also elaborated on the guidelines for the taking of testimony, indicating that assistants to President Nixon who invoke the right of executive privilege in refusing to answer questions can expect little sympathy from him.

The guidelines, issued Wednesday, state that the committee members will rule each time executive privilege is invoked and that if a claim of privilege is rejected the committee "will require the witnesses to give the testimony sought."

Ervin said that the committee will rule immediately each time executive privilege is invoked and that the votes of a majority of committee members present would prevail.

Ervin said yesterday that if a witness persists in refusing to testify he could be cited for contempt of the Senate and prosecuted in court, or he could be arrested and brought before the Senate for trial on contempt charges. Conviction on a contempt charge is punishable by imprisonment for up to one year, he said.

Ervin's statements on executive privilege appeared to conflict with President Nixon's announcement Tuesday that White House aides would testify by could invoke executive privilege in response to specific questions. The President made no mention of the guideline giving the committee power to reject claims of privilege and demand that White House aides answer questions.

The possibility that key figures in the Watergate bugging case and related allegations of political sabotage during the 1972 Nixon re-election campaign may soon be indicated was raised by Mr. Nixon on Tuesday, when he said that if any administration official is indicted, that official would be suspended from his position.

Yesterday, The Washington Post quoted White House and re-election committee sources as saying that Jeb Stuart Magruder had told federal prosecutors that former Attorney General John N. Mitchell and White House counsel John W. Dean III had approved and helped plan the Watergate bugging operation last June 17.

The sources said that Magruder, President Nixon's

former special assistant, also told federal prosecutors in a meeting Saturday that Mitchell and Dean had arranged to buy the silence of the seven convicted Watergate conspirators.

One of the sources said that Magruder's statements and other information developed by prosecutors are expected to result in the criminal indictment of both hell and Dean.

Ervin said the problem that criminal indictments would pose is that several key witnesses might invoke the Fifth Amendment against self-incrimination, thereby diminishing the committee's ability to get information it seeks.

"There is no doubt that any witness has a right to invoke the Fifth Amendment, but we can anticipate

that any person who is under criminal indictment is going to invoke it on the advice of his counsel," Ervin said.

He said a committee decision to postpone its hearings—now scheduled to begin about May 15—would depend largely on other developments in the case during the next few weeks.

Ervin noted that the committee is empowered to investigate matters other than the bugging incident itself, including allegations of political sabotage and campaign financing irregularities.

"It depends on what they (prosecutors) bring out," he said. "If indictments are returned and they relate only to the bugging, we could still investigate these other matters."

Fred Thompson, counsel to Sen. Howard H. Baker Jr. (R-Tenn.), the vice chairman of the committee, said yesterday another problem would be "legal questions and questions of propriety" in taking testimony from potential witnesses in later criminal trials stemming from indictments in the Watergate case.

"We could possibly proceed in executive (closed) session," Thompson said. "It's hard to tell, but at some stage someone will have to decide."

In a separate interview with the Associated Press Wednesday at Davidson College in North Carolina, Ervin said he would have to "mediate" before deciding whether to allow Martha Mitchell, the wife of the for-

mer attorney general, to testify before the Senate committee:

Mrs. Mitchell has said repeatedly in recent weeks that her husband is being made a "scapegoat" in the Watergate case and that she wants to tell all she knows about the case before the Ervin committee.

Mrs. Mitchell has been called on by Democratic Party lawyers to make a pretrial statement May 3 in connection with civil lawsuits stemming from the Watergate affair.

"I'm very sorry they just want a deposition," Mrs. Mitchell said Wednesday in New York. "I want to go to the (Capitol) Hill to testify publicly. I do not want a deposition because any written word can be misinterpreted. I want to testify publicly."