

Ervin Unit Wins Reputation for Fairness



SEN. HOWARD H. BAKER JR.
... emerging as star

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More quickly than most anticipated, after its first five days of hearings the Senate Select Committee on Presidential Campaign Activities—the Ervin committee on Watergate—has made itself a reputation.

It is the reputation the chairman, Sen. Sam J. Ervin Jr. (D-N.C.), set out to achieve—of fair and meticulous deliberation in an atmosphere of restraint and nonpartisanship.

With a modicum of theatrics and showboating for the network television cameras, and with only infrequent glimpses of inter-party ten-

sions, the committee has created a style and a procedure that it will need to cope with the sensitive political testimony that lies ahead.

Out of the appearances of the first 10 witnesses, one central piece of information appears to have been established—that one or more persons in the White House offered executive clemency to Watergate conspirator James W. McCord Jr. to keep silent, and that he and those who conveyed the offer believed it to come from President Nixon.

That latter impression, of course, gives no comfort to the three Republican members of the committee—

Sens. Howard H. Baker Jr. of Tennessee, Edward J. Gurney of Florida and Lowell P. Weicker of Connecticut.

When McCord first testified that he was told the President knew of the offer, Baker, the committee vice chairman, jumped in to underline the fact McCord was giving hearsay testimony that in his view would not be admissible in a court of law.

Ervin quickly concurred with Baker's emphasis, and throughout McCord's nine hours of testimony frequently made note of the hearsay nature of much of

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what the witness said. It was the kind of gesture that builds a reputation for fairness.

The test of the committee's fairness, nonpartisanship and deliberation, of course, will really come in the weeks of hearings that are to resume June 5, as witnesses closer to the President are called in.

For all the present tip-toeing, the ultimate point of the exercise is to establish responsibility; to find out how high up it went, in both the Watergate break-in and subsequent cover-up, and in the sweeping money-raising and money-spending practices that underpinned both.

To speed this process, it has been suggested that the committee forgo its step-by-step procedure of carefully laying the groundwork in the case first and then moving methodically up the Nixon re-election and White House hierarchies.

By leapfrogging to the central figures in the scandal, men who had firsthand access to Mr. Nixon, it has been argued by Sen. Herman E. Talmadge (D-Ga.), it could be established in short order whether he was involved.

It is an idea predicated on the belief the truth would be forthcoming from one or more of these higher-ups. But Ervin says the committee has no present intention of altering the methodical order of witnesses.

In the effort to fix responsibility, two of the seven committee members have emerged after the first five days as the sharpest, most perceptive and most tenacious in cross-examination—Republican Baker and, on the Democratic side, Sen. Daniel K. Inouye of Hawaii.

These two, and to a somewhat lesser extent Ervin and Talmadge, have been the prosecuting attorneys, listening intently to the testimony and pressing witnesses on inconsistencies.

Weicker, the first Republican senator to openly warn there was more to Watergate than the White House was acknowledging, has his own staff of investigators. He has been responsible for the disclosure that the Nixon re-election committee regularly got reports from the Internal Security Division of the Justice Department on political activist groups.

The other two committee members, Republican Gurney and Democratic Sen. Joseph M. Montoya of New Mexico, are generally regarded as the mop-up men, often going over ground covered in direct testimony or previous cross-examination.

Ervin has presided over the first days of hearings like the big, benevolent bunny rabbit he resembles—silently surveying the scene for the most part, his eyebrows working busily on his otherwise serene, jowly face. He has been courtly to fellow senators and witnesses alike, but he has been withering, too, on occasion when he thinks circumstances warrant.

Most of the time, however, Ervin has been content to leave the hard questioning to others. And the one

senator moving most obviously into the void has been Baker.

The Tennessean—boyish at 47, forceful without being domineering, and independent—already has begun to emerge as the individual star of this most heralded political TV drama in the Senate Caucus Room since the Army-McCarthy hearings of 1954.

He is photogenic and has an earnest, pressing style, perhaps best illustrated in his cross-examination of Bernard L. Barker, the convicted Watergate conspirator who said he was motivated by hopes of advancing the liberation of Cuba.

As Barker told of how his old Bay of Pigs mentor, former White House aide E. Howard Hunt, had recruited him for the break-in of the office of Daniel Ellsberg's psychiatrist, Baker peppered him after each response "Why? ... Why? ... Why? ... What national security?"

And as the ranking Republican, Baker has made abundantly clear he intends to have his say in the committee's procedures. When Samuel Dash, the chief counsel, early on introduced an exhibit that none of the Republicans had seen, Baker jumped on him, demanding time to see it, and no repetitions of surprises in the future.

In other, small ways, Baker has seemed testy over the role of Dash, who is a mild-mannered but determined Georgetown University law professor. It is a relationship that will bear watching as the hearings proceed. Nor has Baker hesitated to take on Ervin, though always with proper deference.

Inouye has cast himself the skeptical interrogator, determined to take nothing on face value, even from a witness like McCord whose testimony was damaging to a Republican in the White House.

Inouye deftly cornered McCord, first praising his "very distinguished service of many years with the FBI (and) CIA" and then using that fact to remind him pointedly that he ought to know the difference between national security and politics.

Talmadge has been a no-nonsense observer, succinct but pointed in his comments and questions. When the testimony of lawyer Gerald Alch differed with McCord's on the matter of an executive clemency offer, Talmadge warned.

"I want all witnesses to be put on notice that at an appropriate time wherever there is any evidence of perjury, I expect to ask the staff of this committee to submit a transcript of that possible perjury to the appropriate prosecuting attorney for action . . ."

Weicker, in addition to having his own investigating staff that has produced charts and probing questions for him, has been the embodiment of the Republican who feels his party has been wronged, not by the wronged, not by the accusations, but by the bungling and insensitivity to the political system of the Watergate perpetrators.

After Bernard Barker had made an impassioned defense of what he had done in the name of the liberation of Cuba, Weicker asked him: "Do you look upon your present jailing as an honor?" Barker replied: "I would like to state I don't consider my jailing for this matter or anything I've done a dishonor." Weicker looked incredulous.

Unlike the situation in other notable Senate hearings, the staff counsel has been greatly overshadowed by the committee members so far. But Dash has demonstrated a quiet tenacity, and the minority counsel, 30-year-old Tennessee prosecuting attorney Fred Thompson, an equally quiet toughness that should help keep the hearings on an even keel in the weeks ahead.

Although the first days of the Watergate hearings have had their moments of drama, that fact has not stopped inveterate soap-opera watchers from besieging the TV networks to curtail or drop their live coverage and get back to normal programming.

Network spokesmen said Friday that the total number of calls a day has dropped, but they still are heav-

ily opposed—often to one among ABC and NBC viewers in New York alone, by more than half among CBS viewers. In New York and Los Angeles on Thursday, the hearings hit 14.3 on the Nielsen rating for all three networks—slightly less than a good normal daytime show receives.

Starting June 5, the networks announced Friday, they will cover the hearings

on a rotating basis, each of the three taking it for a day, with the option of the others covering too if events warrant.

Interestingly, the Public Broadcasting Service reported Friday it had received 33,000 letters, 99 per cent of them favoring PBS' full-scale, evening prime time rebroadcasts of the hearings. A PBS spokesman said local PBS stations have

reported unprecedented financial contributions since the hearings started. In New York, PBS said, its audience doubled last Friday and when McCord testified, it tripled.

Peter Kaye, the PBS correspondent covering the hearings, reported that among those who told him they were watching the rebroadcasts nightly was Senator Ervin.