

Nixon Aides Warned

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story
under
Senate
Investigation*

Ervin Issues Bug Inquiry Arrest Threat

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Sen. Sam J. Ervin (D-N.C.) said yesterday that he would seek the arrest of any White House aides who refuse to testify before the Senate's select committee investigating the Watergate bugging case and related political espionage.

"I'd recommend to the Senate they send the sergeant-at-arms of the Senate to arrest a White House aide or any other witness who refuses to appear," Ervin, who is chairman of the Senate Watergate investigation committee, said yesterday on CBS' Face the Nation.

Ervin's remarks appeared to be a direct challenge to President Nixon, who flatly asserted last week that his aides have an executive privilege not to appear before Congress and will refuse to testify. Mr. Nixon also said that he would welcome a test of the executive privilege issue in the Supreme Court.

Observing that "the President has some peculiar notions about executive privilege," Ervin warned: "I'd suggest to the White House aides that if anybody has to go to jail on account of the invocation of executive privilege, that it will not be the President, it will be the White House aide."

If the Watergate committee is confronted by a court test that may delay its inquiry "for two or three years," the senator continued, he would not hesitate to recommend that White House aides be tried for contempt by the Senate in the interim. If convicted, under Senate rules, they could be jailed until purging themselves by agreeing to testify,

according to legal authorities. Ervin's statement is the strongest indication to date that the Senate may force a direct confrontation with the White House on the issue of executive privilege. Ervin, a 76-year-old former state supreme court judge is respected by members of both parties. Last week President Nixon referred to Ervin as a great constitutional lawyer.

In a more immediate challenge to the White House on executive privilege, Ervin also said that action on the nomination of L. Patrick Gray III to be permanent director of the FBI should be delayed "until after the Watergate affair is fully investigated by the select committee." See WATERGATE, A4, Col. 1

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"If the President wants us to confirm Mr. Gray," Ervin said, "the President has some very important evidence that he can produce, and if he refuses to produce it I think that the Senate has to stand up for its prerogatives."

Ervin referred to Mr. Nixon's decision not to permit presidential counsel John W. Dean III to accept the Senate Judiciary Committee's invitation to testify. The Judiciary Committee, of which Ervin is a member, currently is considering the Gray nomination.

Dean was asked to testify about allegations that he may have misused FBI files on the Watergate investigation that he received from Gray. Dean was given 82 FBI files to conduct an internal Watergate investigation for the President. Dean's report, which the President said late last summer absolved any "presently em-

ployed" White House aides of involvement in the Watergate bugging, never has been made public.

Senate sources said yesterday that the Democratic Judiciary Committee members opposing the Gray nomination may move to delay the hearings until after the Watergate probe, as Ervin suggested.

Ervin said that he does not know whether a majority of the Judiciary Committee agrees with him. "It is just a hope" that they do, Ervin said.

On the subject of executive privilege, Ervin charged that "the President has stretched the doctrine far beyond its

true boundaries and far beyond any precedent on the subject."

Ervin added, "I'm satisfied that executive privilege does not cover wrongdoing. The only thing in the Constitution that covers wrongdoing is the self-incrimination clause, and if any of the White House aides wish to come down and plead the Fifth Amendment,

why the Committee will honor the plea."

The select committee, which Ervin heads, was created by a 77-0 vote of the Senate following allegations that the Watergate bugging stemmed from a White House-conceived campaign to conduct espionage and sabotage against the Democrats.

Ervin said he agreed with President Nixon on one subject, namely that raw FBI files made available to a Congressional committee should not be made public. Ervin pledged to "see to it that none of the raw files that are viewed by any member of the (Watergate) committee or the counsel are made public."

On the President's refusal to let Dean appear at the Gray confirmation hearings, Ervin said: "It's very unfortunate when the President of the United States . . . and I say this with all deference to the President . . . gives the impression to the American people that he is unwilling to allow his aides to assist a congressional committee in determining what the truth is in respect to a matter of which the committee has jurisdiction."

Dean has offered to answer questions in writing to the Judiciary Committee. Ervin said this was unacceptable, adding, "I want the man there in person, and I'd be satisfied with nothing less."

President Nixon said at his press conference Thursday that neither he nor White House spokesmen will make any further comments on the subject of Watergate allegations until after the Ervin committee has completed its final report.

The President added: "I have been very pleased to note that Sen. Ervin — at least this is the way I read what he says — has indicated that the investigation will be

bipartisan; that it will look into charges that have been made against both election campaigns, and that is as it should be. He has also indicated that he, as a great constitutional lawyer, will accept no hearsay; that he will not tolerate any guilt by innuendo; he will not tolerate any guilt by association."