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EXECUTIVE SILENCE STIRS DEMOCRATS

Senators to Seek Contempt Charges in Some Cases

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WASHINGTON, Jan. 18 — The Senate Democratic caucus resolved today to make "Cabinet officers and other officials" of the Nixon administration subject to possible contempt-of-Congress citations if they should refuse to appear and testify before Senate committees.

Despite the broad scope of the resolution, however, Mike Mansfield of Montana, the Democratic majority leader, cautioned that more study was in order before it could be determined whether and how the resolution should apply to the president's "most intimate advisers."

Senator Mansfield appointed a five-member committee of the Democratic caucus to explore the extent to which the Senate should permit such key White House aides as Henry A. Kissinger, the President's foreign policy adviser, or H. R. Halde- man, Mr. Nixon's chief of staff, to continue to refuse to answer Congressional questions.

A Tradition at Issue

At issue is the tradition of "executive privilege," under which Presidential advisers and some Cabinet officers have occasionally refused to appear before Congressional committees to explain Administration policies.

Senator Sam J. Ervin Jr. of North Carolina hailed the adoption of the resolution — with one dissenting vote, cast by Senator James B. Allen of Alabama—as the first attempt to regulate the legitimate use of executive privilege since the Presidency of George Washington.

Presidents and Congresses have "shied away from a confrontation" over the issue, Mr. Ervin told newsmen. But he said that the privilege had been abused by recent Administrations to the point that "almost a file clerk could invoke executive privilege."

Under the resolution adopted today, the Democrats, who constitute a majority in the Senate and on each Senate committee, can insist that Administration witnesses answer all questions unless the President "expressly pleads in writing" that he wishes to invoke executive privilege.

If the privilege is invoked, the resolution calls on the committee "to decide as to whether or not the plea of executive privilege is well taken." If not well taken, the witness shall be ordered to answer the question or questions, it adds.

The resolution provides that in a case in which a committee either upholds or denies the invocation of the privilege the committee should report within 10 days to the full Senate.

Supporters said that if the committee felt executive privilege was not justified it would then be up to the Senate to decide whether to initiate contempt of Congress proceedings against an unwilling witness.

Mr. Mansfield told the Democratic Caucus that he favored adoption of the resolution, sponsored by Senators John C. Stennis of Mississippi and Gaylord Nelson of Wisconsin and approved on Tuesday by the Senate Democratic Policy Committee.

But he said that "if the matter of executive privilege does come to a court test, as may well be the case, the Senate

will be on much sounder ground if we do not insist that we have a right to be privy to everything that Mr. Kissinger may whisper into the President's ear."

The resolution was approved a little more than two weeks after Secretary of State William P. Rogers and Mr. Kissinger declined to appear at an informal meeting of the Senate Foreign Relations Committee to explain the reasons for the massive United States bombing campaign over North Vietnam in December.

The approval also followed instances in which Senators complained that nominees to Mr. Nixon's new Cabinet were unwilling to state their personal views on Administration policies, including the bombing.

Senator Allen said that he

had opposed the resolution because he believed that it "covers too much ground" and that there was not "enough evidence" of refusal by Administration officials to be responsive to Senate committees.

Hugh Scott, the Senate Republican leader, said earlier this week that the Democrats were playing politics with the issue and seeking headlines. He contended that Mr. Nixon had formally invoked executive privilege only three times in four years.

The committee set up to explore a definition of executive privilege will be headed by Senator Ervin. The others named to it were Senators Stennis, Nelson, Adlai E. Stevenson 3d of Illinois and Edmund S. Muskie of Maine.