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Ervin Suggests Penalties For Balking Nixon Aides

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WASHINGTON, March 18— Senator Sam J. Ervin Jr., the chairman of a special Senate committee investigating the Watergate bugging case, said today that White House aides who invoked executive privilege to keep from testifying on the matter should be found in contempt of Congress.

The North Carolina Democrat said that if these aides failed to answer subpoenas from his committee, he would recommend to the Senate that it "pass a resolution declaring that the man is in contempt of the Senate and request a prosecution."

President Nixon reiterated last Thursday his decision not to allow members of his personal staff to make formal appearances before Congressional committees and suggested a Supreme Court decision on executive privilege.

"We think that the Supreme Court will uphold, as it always usually has, the great constitutional principle of separation of powers rather than to uphold the Senate," Mr. Nixon told a news conference.

Senator Ervin said on the Columbia Broadcasting System television program "Face the Nation" that he, too, would welcome a court test "because the President has stretched the doctrine of executive privilege far beyond its true boundaries and far beyond any precedent on the subject."

But, he added, if it appeared that the committee's investigation was "going to be delayed



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Senator Sam J. Ervin Jr. talking to reporters.

two or three years while it's getting to the Supreme Court," he would be prepared to take more severe steps.

"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," he said, "and let the Senate try him."

Mr. Ervin said he was convinced that the doctrine of executive privilege, which protects confidential communications between the President and his assistants, did not cover possible "wrongdoing" by Presidential aides.

He noted that the Senate resolution authorizing his committee's inquiry, "which took about 10 days to draw," gave it the "power to investigate or take any evidence from anybody who we think has any knowledge of" the Watergate case or related matters.

The Ervin committee's hearings on alleged illegal and unethical activities during last year's Presidential election are scheduled to begin in May and could last a year.

Mr. Ervin indicated that his committee might summon, among others, John W. Dean 3d, President Nixon's chief legal counsel. The President's comments Thursday on executive privilege followed an invitation from the Senate Judiciary Committee for an appearance by Mr. Dean.

Mr. Dean declined the invitation, citing Mr. Nixon's policy forbidding such appearances. He offered to answer questions submitted in writing that he considered relevant to the committee's hearings on the nomination of L. Patrick Gray 3d to become director of the Federal Bureau of Investigation.

Offer Unacceptable

Several committee Democrats termed Mr. Dean's offer unacceptable, and Mr. Ervin, who is also a member of the Judiciary Committee, observed that it was "impossible to cross-examine a piece of paper."

He said today that he considered an appearance by Mr. Dean essential in the Gray nomination hearings. Recalling that Mr. Gray had testified that he had passed "some 80 F.B.I. reports" on the Watergate case to Mr. Dean, Mr. Ervin said:

"There's testimony which justifies the inference that somebody communicated what the F.B.I. had done in respect to certain witnesses to the Committee to Re-elect the President. There's testimony that there were close relations between Mr. Dean and Gordon Liddy [one of the men convicted in the Watergate bugging trial].

"I think Mr. Dean ought to come down and tell us whether or not he leaked any of these reports given to him by Mr. Gray to the political committee."

The Senator said he would support an attempt by a number of the committee's Democratic members to put off a vote on Mr. Gray until the lengthy Watergate investigation was complete.

"I would hate to judge a man on the basis of the evidence we have now," he said. "I think the committee would actually do justice to Mr. Gray and would do justice to the Senate" if the vote was delayed.

'Hostage' Idea Disputed

He rejected an inference by the President that the Democrats were attempting to hold Mr. Gray "hostage" for an appearance by Mr. Dean.

"I don't think he's a hostage," Mr. Ervin said. "I think when the President asks the Senate to confirm an appointee of his, and he has within his power evidence that would reflect on the qualifications of that appointee, that he should produce them."

Mr. Ervin described Attorney General Richard G. Kleindienst as "very cooperative" toward the Watergate committee.

Continued on Page 30, Column 6