

Kleindienst Said To Withdraw From Inquiry Into Watergate; Associates' Involvement Seen

Ervin Notes Role

Declares Senate Panel Will Be Final Judge on Privilege Issue

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Senator Sam J. Ervin Jr. declared here yesterday that the Senate committee investigating the Watergate conspiracy would be the final judge on whether a White House aide could refuse to answer any of the committee's questions.

This statement appeared to conflict with President Nixon's suggestion Tuesday that his aides would not be hindered in refusing to answer specific questions. Mr. Nixon said that executive privilege was "expressly reserved and may be asserted during the course of questioning as to any question."

The Democratic senator from North Carolina, who chairs the select Senate investigating committee, told a news conference at Davidson College that Mr. Nixon's sudden decision to permit White House aides to appear before the committee and give sworn testimony had been "a victory for constitutional government."

But the 76-year-old legislator, an expert on constitutional law, was inclined to be gracious about the President's turnabout on the issue of executive privilege.

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on the issue of executive privilege. Seated behind a

marble lectern, a few feet from a Bible opened to the Book of Solomon in the Philanthropic Society Hall, Mr. Ervin said that he would follow this precept:

"When you lose, weep softly. When you win, brag gently."

In bragging gently, he emphasized that the Senate panel had not yielded to the White House on its interpretation of executive privilege, under which Mr. Nixon had insisted until yesterday that his aides could not be compelled to testify in the Watergate case.

Mr. Nixon said yesterday that the ground rules on testimony adopted Monday by the Senate committee would "preserve the doctrine of separation of pow-

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ers" and permit his assistants to decline to answer questions if they believed the subject matter was privileged. He appeared to suggest that some form of compromise had been reached with the committee.

Mr. Ervin, who drafted the nine guidelines, which his staff made public today in Washington, said that the only points they yielded were approval for the President to have his own legal counsel present when White House aides testified, and agreement to give the White House sufficient notice when the committee was calling a Presidential adviser as a witness.

Apart from that, Mr. Ervin said, "the guidelines say just what was the law already in any kind of a fair investigation — that if any witness claims that he is privileged for any reason against testifying, he can raise that point."

"But just like in court," the Senator went on, "somebody has to rule on that point, and these guidelines expressly say that the committee's going to do the ruling. If the committee rules adversely to the witness on any question of privilege,

the committee shall require the witness to testify."

Senator Ervin said that the committee could ask the full Senate to issue an arrest warrant or a citation for contempt of Congress if an individual still refused to give the required answers.

The President also appeared to suggest yesterday that initial appearances before the committee by members of his staff could be in private, out of the glare of television lights and the attention of the public.

One of the guidelines noted that the committee could—if it chose—go into closed sessions from time to time. But another of the ground rules specifically said that White House staff members would be invited to testify under "oath or affirmation" at open hearings.

Senator Ervin said that when he wrote the guidelines a few days ago, at the suggestion of Senator Howard H. Baker Jr. of Tennessee, the committee's ranking Republican, there had been no indication from the White House that Mr. Nixon would change his stand on the testimony of Presidential staff members.

According to Mr. Ervin, he and Mr. Baker met with John D. Ehrlichman, the President's domestic adviser, at Mr. Ehrlichman's invitation, to discuss the question of executive privilege. At that time, Mr. Ervin said, he and Senator Baker mentioned that they intended to develop guidelines so that witnesses—from the White House or wherever—would have some "road signs" as to how the committee intended to proceed.

"I'm glad the President saw the guidelines as a reason for reversing his previous declarations," the Senator said.

Several times he was asked

to state whether Mr. Nixon's announcement yesterday represented a victory for the Congress in its struggle over constitutional rights with the White House.

The Senator declared that it "would have been a great tragedy for the United States" if the Senate had not insisted on open, sworn testimony from the White House.

"I wouldn't say this was so much a victory for Congress as a victory for constitutional government," he said.

Mr. Ervin, who arrived here this afternoon for a speaking engagement on the Davidson campus, credited an aroused public — particularly constituents of Republican officeholders and campaign officials — for having persuaded Mr. Nixon to alter his stance.

Then, too, he said, the President may have "finally decided there were some laws in the Constitution that belonged on the Congressional side of the separation of powers, and that this is one of them."

At one point, Senator Ervin was asked about news accounts that Mrs. John N. Mitchell, the wife of the former Attorney General, was eager to appear before the investigating committee.

"I'd have to meditate a long time on a voluntary witness," he said, his eyes alight with a mischievous glint. "The only other voluntary witness I've had is a man who calls me several times a week to tell that the Lord has communicated with him on Watergate."

The Senator said that he had advised his caller that he would be "awful glad to have the Lord come" as a witness, but that he could not permit the caller to testify because it would amount to presenting "hearsay" evidence.