

# Executive Privilege Reaffirmed

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By Carl Bernstein  
and Bob Woodward

Washington Post Staff Writers

President Nixon said yesterday that he would refuse to let any White House aides testify before Congress, adding that he would welcome a test of the issue in the Supreme Court.

The position put him in conflict with two Senate committees—the Judiciary Committee which is holding hearings on confirmation of acting FBI Director L. Patrick Gray III and the Senate select committee investigating the Watergate bugging case.

Senators from both political parties said they were willing to take up the challenge.

Specifically, the President stood firm on his refusal to let White House counsel John W. Dean III appear at the Gray hearings. Dean has said, however, he would answer "relevant" questions in writing.

In addition to closing the door on testimony of his aides, the President said that "the practice of the FBI furnishing 'raw files' to full committees must stop" with the recent release of information by Gray to the Judiciary Committee.

Gray released information last week showing that the President's personal attorney and appointments secretary arranged for the payment of more than \$30,000 in campaign funds to alleged political saboteur Donald H. Segretti.

Both of yesterday's statements about White House aides and FBI files will effectively limit the extent to which the upcoming Senate investigation of the Watergate case will be aided by the administration.

Sens. Sam J. Ervin Jr. (D-N.C.) and Howard H. Baker Jr. (R-Tenn.), the chairman and ranking minority member of the special Watergate investigating committee, said the inquiry would be seriously hampered by the President's ac-

tions and said they would go to court, if necessary, to fight the restrictions.

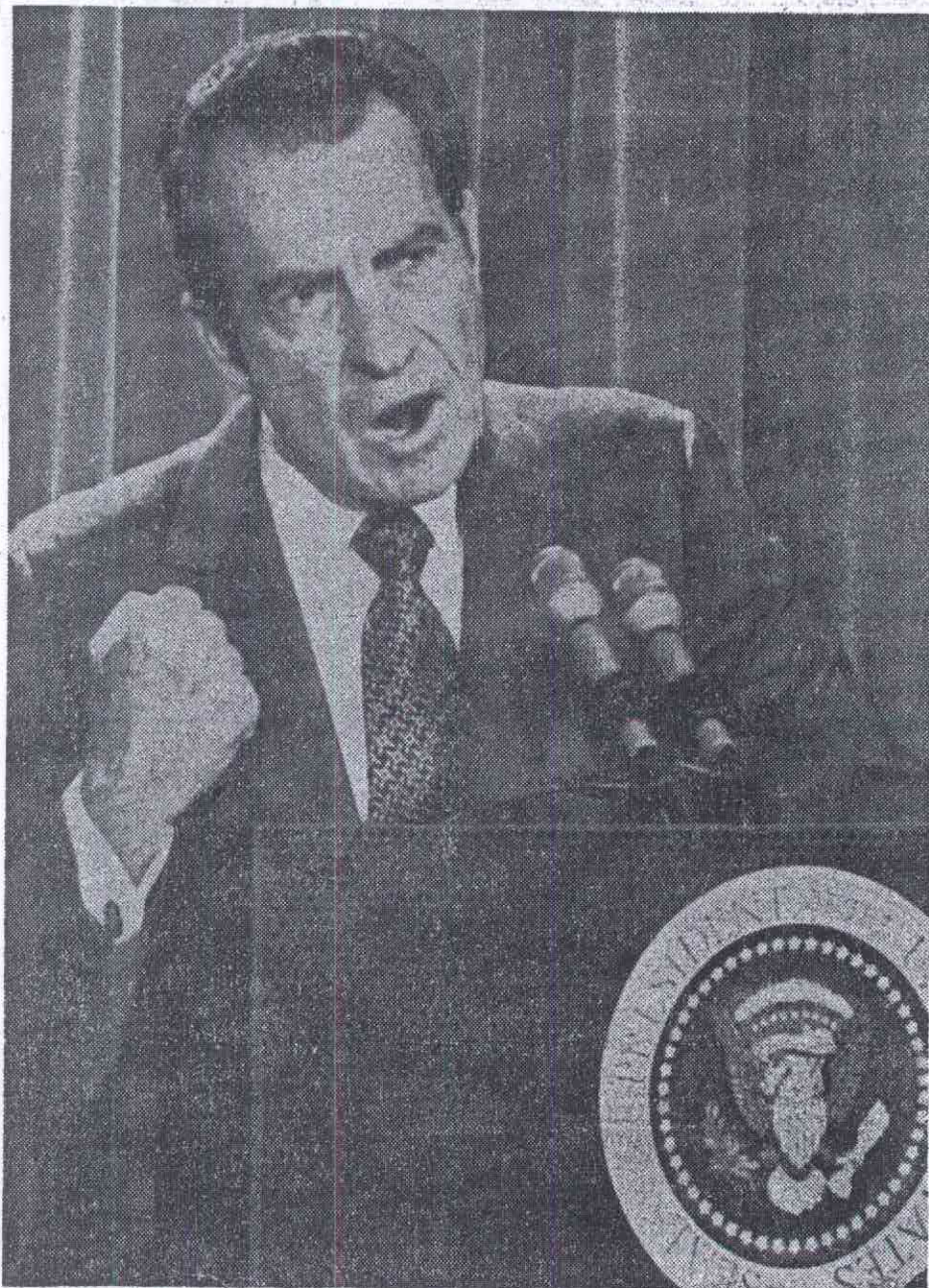
"If we get information indicating that any White House aide has any knowledge relevant to this investigation I will certainly recommend to the committee that he be subpoenaed," Ervin said, adding:

"If he fails to appear or refuses to give information after his appearance, I will recommend to the Senate that he be adjudged in contempt of Congress and that the Senate ask the Department of Justice to appoint a special prosecutor to prosecute the individual—I don't care who he is."

Baker, who has close ties to the White House, said: "I'm disappointed at the President's statement. I had hoped early on for a successful accommodation . . . to get all the relevant facts."

Regarding possible testimony from Dean before the special Watergate investigating committee, Baker added: "I'm not prepared to say I'd be satisfied with written questions only. . . . At the moment my personal inclination is to insist on a personal appearance. If we can't negotiate a way around this impasse, the only way is to litigate it."

Ervin said yesterday that he feels the President's statement  
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Associated Press

“. . . my constitutional responsibility is to defend . . . separation of powers . . .”

## WATERGATE, From A1

ment about FBI Files was designed to curtail, if not cut off, his committee's access to important data.

Although the President indicated he did not object to the FBI showing "raw files" to committee chairmen and the ranking minority member, Ervin said that in the Watergate probe such a limitation would be "unacceptable."

"It would take days to go through those files," Ervin said. "I don't have the time. The staff has to do it."

If the President's statement that raw files should not be furnished to a full committee is translated into action, it would put the decision in direct conflict with the Senate resolution that established the Watergate select committee.

That resolution, which passed the Senate Feb. 7 by a 77-to-0 vote, grants all seven senators on the select committee and at least two staff members access to the FBI's voluminous Watergate files.

The President's statement yesterday also seemed to counter earlier statements by Gray, who told the Judiciary Committee considering his nomination that all 16 members could look at the raw files. At least two members have already accepted the offer and looked at some of the files.

Gray had said that he would cooperate fully with the Ervin select committee investigation and did not quarrel with the provision allowing two staff members access to the FBI files.

By his statements yesterday, President Nixon indicated that he was primarily concerned that information in FBI files involving what he called "hearsay," "guilt by innuendo" and "guilt by association" might be made public and leaked to the press.

During his testimony last week, Gray released information in FBI files that showed that Herbert W. Kalmbach, the President's personal attorney, and Dwight L. Chapin, the President's former appointments secretary, arranged for the payment of more than \$30,000 to Segretti, a California attorney.

The information Gray released was based on a statement given to the FBI by Kalmbach and could not be classified as a "raw, unevaluated file," according to Justice

Department sources.

Spokesmen for both the Justice Department and the FBI had no comment yesterday on whether the President's stated position would cause Gray to modify his offer to either the Senate Judiciary Committee or the Ervin select committee. The White House also had no additional comment.

The initial offer to make the FBI Watergate files available to the Senate was made in January by Attorney General Richard G. Kleindienst, who at the time specified that there would be some limitations placed on what could be made public.

The President's statement that he would not allow his aides to appear before any congressional committee brought a strong reaction

tary, Ronald L. Ziegler, would make no more comments on the Watergate investigations.

"I could comment on them," the President said. "Mr. Ziegler could in the future. I will not. He will not. And the reason that we will not is that when the committee completes its investigation, we will then have comments, if we consider it appropriate to do so."

The President said that he would cooperate fully with the Senate other than allowing the direct testimony of his aides.

"I have confidence in all of the White House people who have been named," the President said in apparent reference to the allegations in press reports that some of his closest advisers were involved in a campaign of political espionage and sabotage.

The President also said that officials from his re-election committee do not have an executive privilege to refuse to testify before the Ervin select committee.

With specific reference to former Attorney General John N. Mitchell, the President's campaign manager, and former Commerce Secretary Maurice H. Stans, the chief fundraiser, Mr. Nixon said:

"None of them have the privilege, none of them, of course, will refuse to testify, none has when he is asked to, and I am sure they will give very good accounts of themselves, as they have in the court matters that they have been asked to."

In a pretrial deposition by Mitchell, the former Attorney General refused to answer certain questions about discussions of the Watergate bugging, claiming the attorney-client privilege.

Concerning the possibility of taking the issue of executive privilege to the Supreme Court, the President said: "Perhaps this is the time to have the highest court of this land make a definitive decision with regard to this matter. I am not suggesting that we are asking for it."

He said that if the matter was challenged in the court, "we will, of course, present our side of the case, and we think that the Supreme Court will uphold, as it always usually has [sic], the great constitutional principle of separation of powers rather than to uphold the Senate."

from Sen. Lowell P. Weicker of Connecticut, another Republican member of the Ervin select committee.

While saying that the appearance of presidential counsel Dean at the Gray hearings was a side issue, Weicker said: "But in the case of the Watergate the White House staff is not a side issue. The people around the President and in the White House are the issue."

Asked if he would vote to subpoena presidential aides in the Watergate investigation, Weicker said, "absolutely."

In addition to closing off the Senate's access to FBI files and his White House aides, President Nixon said that he and his press secre-

## *Bugging Transcript Request Withdrawn*

Sen. Sam J. Ervin Jr. (D-N.C.), chairman of the select committee investigating the Watergate bugging and related activities, has withdrawn his request for access to the transcript of the federal grand jury inquiry into the bugging.

In a letter to Chief U.S. District Judge John J. Sirica, Ervin said the transcripts will not be needed "at this time" since acting FBI Director L. Patrick Gray has promised the committee access to "all of the data collected by the FBI in its investigation of the break-in and electronic surveillance of the Democratic National Committee headquarters at the Watergate."

Samuel Dash, chief counsel to the seven-member, bipartisan committee, said that despite President Nixon's comments at his press conference yesterday that access to FBI files would be limited, the committee is "still acting on the assumption that they (Gray and Attorney General Richard Kleindienst) are not going back on the commitment they made to us."

Dash said the committee would not be hindered by not having the grand jury minutes and that obtaining them could involve time-consuming litigation that might delay the committee's investigation.

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