

Nixon Bars Hill Quizzing Of His Aides

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President Nixon yesterday reaffirmed his determination to prevent Congress from questioning past and present members of his staff, but he promised to make available "all necessary and relevant information."

In a formal explanation of his position on the controversial issue of executive privilege, the President argued that the doctrine is "rooted in the Constitution, which vests the 'executive power' solely in the President."

The privilege was first invoked by George Washington and has been invoked by many Presidents since, some more often than he has, Mr. Nixon said.

The first congressional response to the President is expected today when the Senate Judiciary Committee plans to vote on whether it will invite presidential counsel John W. Dean III to testify during its consideration of the nomination of L. Patrick Gray III to be director of the FBI.

The President made it clear in his March 2 press conference that he would not allow Dean to testify, and his statement yesterday reaffirmed that stand.

Dean investigated the circumstances surrounding the Watergate case for the President and sat in on interviews of White House officials the FBI conducted in its inquiry into the case. Dean's report was made to the President and has never been made public.

While recognizing that a President has certain rights to withhold some information, Congress has never been content with the way Presidents have interpreted the privilege.

In recent years, with the steady growth of the White House staff and the reduction of Cabinet authority, Congress has grown increasingly critical of the use of executive privilege.

Mr. Nixon claimed that he has invoked executive privi-

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lege only three times whereas President Kennedy invoked it 13 times and President Johnson twice.

A Library of Congress study prepared for Rep. William S. Moorhead (D-Pa.), chairman of the House Foreign Operations

and Government Information Subcommittee, said, however, that President Nixon has invoked the privilege nine times.

The difference in statistics is that the President counted only those times in which he formally invoked the privilege and refused to provide documents sought by congressional committees. The Library of Congress study also included times in which White House staffers refused invitations to testify.

The instances the White House cited of invoking executive privilege were: (1) in 1970, when the House Inter-governmental Relations Subcommittee requested an FBI investigation file on a presidential appointee; (2) in 1971, when the Senate Foreign Relations Committee requested documents on military assistance; (3) in 1972, when the Foreign Relations Committee requested documents on United States Information Agency programs and planning.

Mr. Nixon made it clear that he will decline to allow past or present members of his personal staff to testify. National security adviser Henry A. Kissinger, for example, has not testified before any committee although he has met informally with the Senate Foreign Relations Committee.

Presidential aide Peter M. Flanigan was allowed to testify before the Senate Judiciary Committee last year in connection with the nomination of Richard G. Kleindienst as Attorney General, but questions were strictly limited and did not involve Flanigan's personal contacts with the President.

Under the President's definition, former White House appointments secretary Dwight L. Chapin would refuse to testify regarding

charges that he gave \$30,000 to Donald H. Segretti for political espionage work.

Executive privilege is "designed to protect communications within the Executive Branch in a variety of circumstances in time of both war and peace," Mr. Nixon said in his statement.

"Without such protection, our military security, our relations with other countries, our law enforcement procedures and many other aspects of the national interest could be significantly damaged and the decision-making process of the Executive Branch could be impaired."

The President promised the executive privilege "will not be used as a shield to prevent embarrassing information from being made available but will be exercised only in those particular instances in which disclosure would harm the public interest."

The President said it was his policy to comply "to the fullest extent possible" with congressional requests for information and that no one in his administration could invoke executive privilege without his specific approval.

Arguing that the separation of powers meant that a President might not be questioned by Congress, he said it followed that the President's staff also should not be questioned, "for their roles are in effect an extension of the presidency."

A President must be able to place absolute confidence in his staff, he said, and members "must not be inhibited by the possibility that their advice and assistance will ever become a matter of public debate, either during their tenure in government or at a later date.

"Otherwise, the candor with which advice is rendered and the quality of such assistance will inevitably be compromised and weakened."