

NIXON SUGGESTS HIGH COURT RULING ON REFUSING DATA

MAR 16 1973

Voices Confidence He Would Be Upheld on Interpretation of Executive Privilege

CHALLENGE 'WELCOME'

President Hopes the Senate Won't Hold Up Nomination of Gray 'as Hostage'

NYTimes

By JOHN M. CREWDSON
Special to The New York Times

WASHINGTON, March 15— President Nixon suggested today at a news conference that the time may have come for the Supreme Court to decide the extent of a President's right to withhold information from Congress.

The President also reaffirmed his decision not to allow White House aides to make formal appearances before Congressional committees and expressed confidence that the Court, if asked, would uphold his interpretation of the unwritten doctrine of executive privilege. [Question 12, Page 22.]

Asserting that his chief legal counsel, John W. Dean 3d, was protected by "the Presidential privilege," Mr. Nixon said he hoped that the Senate would not hold the nomination of L. Patrick Gray 3d to become director of the Federal Bureau of Investigation "as hostage" to an appearance by Mr. Dean. [Question 1.]

Invitation Declined

The Senate Judiciary Committee asked Mr. Dean this week to testify on the Gray nomination, but the invitation was declined.

Mr. Nixon declared that "for the F.B.I. before a full committee of the Congress, to furnish 'raw files' and then have them leak out to the press, I think could do innocent people a great deal of damage." [Question 6.]

The President later charac-

terized the Watergate bugging case as "espionage by one political organization against another." Previously, spokesmen for the White House and the Committee for the Re-election of the President had said that the seven men indicted for the bugging, including two Republican campaign officials and a former White House consultant, had been acting independently.

'Political Sabotage'

Last week, Mr. Gray disclosed to the Judiciary Committee that Herbert W. Kalmbach, the President's personal lawyer, had paid up to \$40,000 to a man who reportedly ran a "political sabotage" operation for the Republicans during last year's campaign.

He said Mr. Kalmbach had told Federal agents that he had paid the money to Donald H. Segretti, a California lawyer, after conferring with Dwight L. Chapin, the White House appointments secretary.

Mr. Nixon did not note today, however, that Mr. Gray's revelations were contained in a written addition to his testimony in which he paraphrased

Continued on Page 23, Column 1

Continued From Page 1, Col. 1

Mr. Kalmbach's account, and not in "raw files."

The information was not "leaked" to the press, as the President put it, but provided by Mr. Gray for the committee's public record. Mr. Gray declined several times after that to furnish similar confidential information except to the committee members themselves, citing his concern for the constitutional rights of innocent individuals.

Mr. Gray's direction of the F.B.I.'s investigation of the Watergate case has been a central issue in his confirmation hearings. Democratic Senators have criticized Mr. Gray's judgment in turning over numerous F.B.I. records on the matter to Mr. Dean, in view of what Senator John V. Tunney of California has called the Presidential counsel's "omnipresence" in the Watergate case.

Following Mr. Dean's refusal yesterday to testify before the committee, several Democrats began to gather support for a move to put off a vote on Mr. Gray, perhaps as long as a year.

'A Double Privilege'

Mr. Nixon declared today that Mr. Dean's knowledge of the Watergate case was protected by "what I would call a double privilege, the lawyer-client relationship as well as

the Presidential privilege," in view of the fact that Mr. Dean also served as "counsel to a number of people on the White House staff."

Nevertheless, he added, his Administration had "not drawn a curtain down." He said that Mr. Dean would "furnish information when any of it is re-

quested provided it is pertinent to the investigation."

But if the Senate were to find this arrangement unsatisfactory, he said, and attempted to subpoena Mr. Dean or others to appear in person, "we would welcome it."

"Perhaps this is the time to have the highest court of this land make a definitive decision with regard to this matter."

Mr. Nixon's remarks were directed not only at the Judiciary Committee, but also at a select Senate committee that is scheduled to begin an investigation of the Watergate case in May.

Senator Sam J. Ervin Jr. of

North Carolina, who will head the committee, said following the President's statement that "it is ridiculous to say that aides cannot be subpoenaed to testify to wrongdoing of other aides in the executive branch, or anyone else."

A G.O.P. Comment

Senator Howard H. Baker Jr. of Tennessee, the Watergate committee's ranking Republican member, said that at least a limited appearance by Mr. Dean "would be essential to a full investigation."

He added "it is clear to me that some of the information we want is in the hands of

people who are covered wholly, or in part, by executive privilege."

He expressed hope that an accommodation could be worked out between the Administration and Congress.

Senator Lowell P. Weicker Jr., the Connecticut Republican who is a member of the Watergate investigating committee, was sharply critical of the President's statement.

"I think the national interest is achieved by opening, not closing, the White House doors," he said.

He added that the Judiciary Committee proceedings had a political "twist" to them but

that the President nonetheless could not withhold information from the committee without compounding public "cynicism" about the Government.

"In the case of Watergate, the White House staff is not a side issue," he said. "The people around the President and in the White House are the issue."

He said he would "absolutely" vote to subpoena White House officials before the Watergate panel said that though he supported Mr. Gray's nomination it should be held up until the issues of executive privilege and the Watergate were resolved.

"The time has come to get it all out on the table," Mr. Weicker said.

Mr. Nixon compared his position with respect to the conditions under which he would supply information to Congress with the cooperation he, as a young Congressman, sought unsuccessfully from President Truman 25 years ago.

"What we asked for in the hearing of the Hiss case," he recalled, was "a report of an investigation that had been made in the Administration."

Alger Hiss, a former State Department official, was convicted of perjury in 1950 after

he denied passing secret documents to Whittaker Chambers, a Time magazine editor. Hiss served nearly four years in prison.

Mr. Truman issued an Executive order that kept the report from the House committee of which Mr. Nixon was a member. In a House debate on April 22, 1948, Representative Nixon declared that the Truman order "cannot stand from a constitutional standpoint or on the basis of the merits."

"Any such order of the President can be questioned by the Congress as to whether or not that order is justified on the merits," he said then.