

Nixon Says He Won't Let Aide Testify on Gray Appointment

By John P. MacKenzie
Washington Post Staff Writer

President Nixon will invoke executive privilege if senators demand the testimony of a top White House aide in hearings on the FBI and the Watergate scandal. Mr. Nixon told reporters yesterday.

Asked at his news conference about a suggestion that the White House counsel, John W. Dean III, be summoned to the confirmation hearings for FBI nominee L. Patrick Gray, III, Mr. Nixon said, "No president could ever agree to allow the counsel to the president to go down and testify before a committee."

The President's challenge in advance of any decision by the Senate Judiciary Committee to call Dean as a witness, was tempered by an offer to make other arrangements for staff members to provide information sought by Congress.

The proposal to call Dean came from Sen. John Tunney, Calif., who said he was "shocked" to learn from Gray that FBI reports on the Watergate investigation were sent to the White House with no control over their use.

Several present and former administration aides have been implicated in investigations growing out of the bugging and burglary at the Democratic Party's Watergate headquarters, and the thoroughness and impartiality of the FBI's probe had become a central issue in Gray's confirmation hearing.

Asked whether he would stand on executive privilege if there were evidence that a White House counsel was involved in illegality, Mr. Nixon said he did not expect that to happen and would answer that question when it arises.

Committee Chairman James O. Eastland (D-Miss.) said Thursday he doubted a majority would vote to summon Dean. But the threatened use of executive privilege could revive a sensitive issue of power at a time when many in Congress are taking issue with executive authority.

Mr. Nixon reaffirmed his

confidence in Gray and said he was sure the Senate, which is considering his nomination "in a non-political and non-partisan atmosphere," would confirm him "overwhelmingly."

The President defended Gray against charges that he gave political speeches during the 1972 election campaign as acting FBI director. He said Gray must be, as J. Edgar Hoover was before him, "a non-partisan figure."

Questioned about a White House memorandum urging Gray to accept a speaking engagement last summer in the politically important state of Ohio, Mr. Nixon said he was sure Gray did not intend to engage in politics.

"If there was anything indicating that during the campaign we were trying to enlist him in that, it certainly didn't have my support and would not have it now," Mr. Nixon said.

The President declined to comment on Gray's testimony Thursday that he declined to pursue questioning of Martha Mitchell about the Watergate incident as a "courtesy" to her husband, former Attorney General John N. Mitchell.

Mrs. Mitchell, who sparked FBI interest last fall by reports that she wanted to "tell all" about the Watergate affair, labeled Gray's testimony "far-fetched" and "stupid."

"If they wanted to question me, they would have," she told Helen Thomas of United Press International. "That's

the stupidest thing I ever heard. That's far-fetched."

"I have to agree with her," Mitchell said when reached at his Manhattan law office.

Mitchell confirmed that he discussed the FBI's request to interview his wife on two occasions last fall, once in New York and again in Washington a few days later.

He said he told the agents that Mrs. Mitchell had no information to offer and that any suggestion to the contrary sprang from "a lot of damn nonsense" uttered on an NBC television program for women.

"She got on that program with a lot of harpies," Mitchell said, and the impression was created that "she knew all the picture."

Mitchell said he told the FBI

that "all she knew about the Watergate is that she used to live there." The Mitchells had an apartment in the same complex in which the Democrats had offices.

Mitchell resigned as Mr. Nixon's campaign director last June, two weeks after the Watergate eavesdropping and burglary were discovered, saying that his wife had threatened to leave him unless he quit politics.

Asked what his response would have been if his wife had possessed information, Mitchell said, "By all means, the last thing I would do is obstruct or impede an FBI investigation. The bottom line on all of this is that the bureau decided there was nothing there."