

Gray Testifies That Dean 'Probably' Lied to F.B.I.

Reports Nixon Aide Voiced Uncertainty About Office of Watergate Figure — White House Denies Assertion

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WASHINGTON, March 22—L. Patrick Gray 3d, President Nixon's nominee to head the Federal Bureau of Investigation, told Senators today that Mr. Nixon's chief legal counsel "probably" lied to bureau agents investigating the Watergate bugging case last summer.

But Mr. Gray said that he continued to send confidential bureau materials to the counsel, John W. Dean 3d, after realizing that Mr. Dean might have been untruthful. He added that he would continue to do so if Mr. Dean requested more confidential documents.

The White House press office later contradicted Mr. Gray's memory in a statement "unequivocally" denying that Mr. Dean had ever misled a bureau agent.

The admission by Mr. Gray visibly surprised many of those present at the Senate Judiciary Committee's hearings on his

nomination. It came in more than two hours of close questioning by Senator Robert C. Byrd, Democrat of West Virginia, the majority whip, who is Mr. Gray's strongest opponent among the committee's nine Democratic members.

Mr. Gray said that Mr. Dean was present at an F.B.I. interview last June 22 with Charles W. Colson, who was then a special counsel to Mr. Nixon. Mr. Gray previously said that Mr. Dean, who was conducting a special investigation of the Watergate case for Mr. Nixon, had insisted on attending all interviews bureau agents held with White House personnel.

One of the agents questioning Mr. Colson made a "chance remark" about whether E. Howard Hunt Jr., a former part-time White House consultant who pleaded guilty in the Watergate

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case, had had an office at the White House, Mr. Gray said.

Mr. Dean, Mr. Gray related, "indicated at that time he didn't know whether Mr. Hunt had an office" and added that "he'd have to check it out."

Senator Byrd then recalled previous testimony before the committee in which Mr. Gray said that on June 19 two of Mr. Dean's deputies directed a search of Hunt's office in Room 338 of the Old Executive Office Building, next-door to the White House.

Mr. Gray told the committee two weeks ago that the items found in Hunt's desk and in a safe there, which Mr. Dean's assistants ordered opened, were turned over to Mr. Dean himself on June 20, the next day.

He said then that Mr. Dean kept the materials for a week, "sorted through the boxes to determine if there was any classified material," and then "voluntarily" handed Hunt's effects over to the bureau on June 27.

Eighth Day on Stand

Senator Byrd, after recounting this chronology and Mr. Dean's statement of June 22 that he "didn't know" whether Hunt had had an office at the White House, asked:

"He lied to the agent, didn't he?"

"I would have to conclude that that probably is correct," Mr. Gray replied. But he added that, when the bureau received Hunt's effects from Mr. Dean on June 27, "we just didn't think about it."

According to the White House, Mr. Dean's recollection of the incident was that he had been asked by the agents "whether or not they could

visit Mr. Hunt's office," and that he remembered replying that he would "check."

The statement called the reference to Mr. Dean's veracity by Mr. Gray and Senator Byrd "reprehensible, unfortunate, unfair and incorrect."

Mr. Gray, who completed his eighth day of testimony before the committee this afternoon, has said that in the following months he gave Mr. Dean more than 80 "sensitive" bureau reports on the Watergate case without seeking approval from his superiors.

Three of these, he has said, contained "confidential" interviews with employees of the Committee for the Re-election of the President who had told Federal agents of the alleged destruction of campaign records by Nixon committee officials immediately after the June 17 break-in at the Watergate complex here.

Another report contained an account of conversations overheard by the group, headed by Hunt and G. Gordon Liddy, then a Nixon campaign counsel, that bugged telephones in the Democratic party's Watergate offices last spring.

"Yesterday, you said you would continue to send Mr. Dean raw F.B.I. files if he requested them," Senator Byrd continued. "Why would you continue to send raw F.B.I. files to a man who, to use your words, 'probably' lied to an F.B.I. agent?"

Issue of Duty Raised

"That man is counsel to the President of the United States," Mr. Gray replied.

"Where does your first duty lie," Mr. Byrd asked, "to the President of the United States or to the F.B.I.?"

"That's a tough question," Mr. Gray conceded. "We may indeed be creating a national police force — it's a very real risk. But at this time, I do

take my orders from the President, and I can't evade that fact."

Mr. Gray told the committee two days ago that he had been forbidden to testify on the "substance" of the bureau's Watergate investigation.

He refused today several requests from Senators to answer new "substantive" questions, but agreed to discuss those facets of the case that he had brought out in his earlier testimony.

Mr. Gray appeared to tire under Mr. Byrd's interrogation, listening impassively to the Senator's long questions, his head at times resting on his hand.

Mr. Byrd finished by reading a long statement saying that his early decision to vote against Mr. Gray's confirmation had "only been substantiated by the developments that have occurred in the course of the hearings."

Mr. Gray replied that he understood Mr. Byrd's position, adding, "I regret that I have not been able to persuade you. Thank you very much."

Hearings Broken Off

Senator James O. Eastland, Democrat of Mississippi, the committee chairman, later adjourned the hearings for what he said would probably be "several days."

Although Mr. Eastland did not formally excuse Mr. Gray from further testimony, committee sources said it was unlikely that he would again be called to testify before the committee votes on his nomination.

Before that happens, the committee must hear from three additional witnesses subpoenaed earlier this week.

Among the committee's 16 members, seven Democrats were reported ready to vote against the Gray nomination, and an equal number—six Republicans and Mr. Eastland—

were said to favor his confirmation.

There has been speculation that the one remaining Republican, Charles McC. Mathias Jr. of Maryland, might give the Democrats the eighth vote they need to block the nomination.

Mr. Mathias would not say today how he planned to vote. But he noted that both he and Mr. Gray had served in the Navy and added, "I think he'd understand it when I say a lot of unhappy things seem to have happened on his watch."

Senator John V. Tunney, Democrat of California, a leader of the anti-Gray faction on the committee, when asked for his assessment of how the committee would eventually vote, replied that Mr. Gray "may get" eight votes, "but I know that he wouldn't get—I'm sure he wouldn't get nine, which he would need to win."