

# By Resigning, Nixon Is Stripped Of Immunity Guarding President

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By Lawrence Meyer  
Washington Post Staff Writer

Former President Nixon's resignation last week stripped him of the legal and traditional immunities that had protected him as the nation's chief executive from criminal prosecution, personal civil suits and subpoenas to appear as a witness in criminal and civil trials of others.

His new legal status as a private citizen, however, has raised a variety of questions about his possible new legal liabilities, some of which are answered here:

*Now that he is no longer President, can Mr. Nixon be indicted if he committed a crime while in office?*

As a private citizen, Mr. Nixon may be held criminally liable for acts committed while President. No former President has ever been indicted. Mr. Nixon was named as an unindicted co-conspirator by the federal grand jury that returned the Watergate cover-up indictments on March 1, 1973, after Watergate Special Prosecutor Leon Jaworski told the grand jury that it could not indict an incumbent President.

Many lawyers also believe that Mr. Nixon can be sued for acts committed while President, such as ordering wiretaps.

*If the grand jury votes to indict Mr. Nixon, does the special prosecutor have to sign the draft indictment?*

No. Prosecutors have refused to sign draft indictments in the past and that refusal has been upheld by the courts. Without the signature of the special prosecutor, the indictment would have no legal force.

*Could Mr. Nixon, while still President, have pardoned himself for any crimes committed while in office or prior to holding office?*

The Constitution confers virtually unlimited power upon the President of the United States to grant "reprieves and pardons for offenses against the United States. . . ." The constitutional

grant is broad and relatively undefined. As a result, many legal scholars have concluded that a President may pardon himself from criminal offenses.

The only requirement under the Constitution is the the offense has been committed. No formal charge or indictment need be made before a pardon is granted. A President cannot pardon anyone in advance of the commission of the act. If Mr. Nixon has pardoned himself, nothing requires him to make the fact public until such time as he chooses. Prosecutors then could attempt to contest the pardon in court if they chose to do so.

*Can President Ford pardon Mr. Nixon?*

Yes, but the new White House press secretary J. F. TerHorst said Friday that it is unlikely that President Ford would do so. Testifying during the Senate hearings on his nomination to be Vice President last fall, Mr. Ford said in reference to such a pardon, "I do not think the public would stand for it."

*Can Congress enact legislation granting immunity to Mr. Nixon?*

James D. St. Clair, who was Mr. Nixon's Watergate lawyer until Mr. Nixon resigned as President, has taken the position that Congress cannot grant Mr. Nixon immunity. A resolution pending in Congress would express the sense of Congress that Mr. Nixon should not be prosecuted. This resolution would be advisory only, if passed and would have no legal effect.

*Can Mr. Nixon be called as a witness in criminal or civil cases now that he is no longer President?*

Mr. Nixon can be called as a witness. Whether he will be or not is another matter, however. Some lawyers believe that Mr. Nixon would not be a credible witness because of contradictory statements he has made about the Watergate affair in the past two years. As a result, his testimony

would be subject to challenge whether he was called by the prosecution or the defense.

The White House has announced that tape recordings made while Mr. Nixon was President are in the custody of the White House counsel's office. Mr. Nixon's papers will be turned over to the National Archives, according to a White House source, but it is not clear whether they will be turned over directly and what steps will be taken to protect the papers before they are turned over.