

## Congressman Nixon on Confidentiality

I think it is important to observe in connection with the impeachment inquiry that President Nixon has not always adhered to the view that the President may withhold information from Congress in his unfettered discretion. His earlier statements regarding that issue suggest that his refusal to comply with subpoenas issued during the current impeachment proceedings is based not upon any constitutional principle, but upon fear about what disclosure may reveal.

In 1948, a House committee was investigating the loyalty of Dr. Condon, then Director of the U.S. Bureau of Standards. The executive branch refused to deliver to the House of Representatives a letter from J. Edgar Hoover to the Secretary of Commerce concerning Dr. Condon's loyalty on the ground that nondisclosure was necessary to protect confidentiality. During debate on a House Resolution that would have directed the Secretary of Commerce to transmit the letter to the House of Representatives, then Congressman Nixon persuasively argued:

"I am now going to address myself to a second issue which is very important. The point has been

made that the President of the United States has issued an order that none of this information can be released to the Congress and that therefore the Congress has no right to question the judgment of the President in making that decision.

I say that that proposition cannot stand from a constitutional standpoint or on the basis of the merits for this very good reason: That would mean that the President could have arbitrarily issued an Executive order in the Meyers case, the Teapot Dome case, or any other case denying the Congress of the United States information it needed to conduct an investigation of the executive department and the Congress would have no right to question his decision." 94 Cong. Rec. 4783, 80th Congress 2nd Session (1948)

Substitute the words "Watergate," "ITT," and "Milk Fund" for "Meyers" and "Teapot Dome" and the President himself has made the case for rejecting all claims of executive privilege in the current impeachment proceedings.

MELANIE FEIN.

Washington.

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