

Use of Executive Privilege Ruled Out in House Inquiry

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The senior Republican on the House Judiciary Committee said yesterday that President Nixon could not constitutionally refuse on grounds of executive privilege to furnish materials the committee requests for its inquiry into whether he should be impeached.

This statement at a news conference by Rep. Edward Hutchinson (R-Mich.) was clearly a signal from one of the President's staunchest supporters to the White House that it would be well advised to cooperate with the committee.

There have been some hints from the White House that it would not cooperate with the House inquiry into whether the President should be removed from office for Watergate or other matters. Questions as to whether the White House would comply with subpoenas for relevant materials have been turned aside. Mr. Nixon recently told a group of Republican congressmen

that he would "fight like hell" against impeachment.

The committee is to ask the House next week to grant it broad powers to gather by subpoena material bearing on impeachment. John Doar, special counsel for the inquiry, told reporters he would be ready to move with subpoenas "immediately" after that power is obtained, but write a letter to the White

House requesting information before demanding it by subpoena.

Rep. Charles Wiggins (R-Calif.), another committee member, said it has been generally assumed, but never tested, that the legislative branch would prevail over the executive branch in any legal controversy in an impeachment case because the Constitution vests full

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power over impeachment in Congress.

But Wiggins added that he was confident that there would be no clash over the power of Congress to obtain material from the President. The "political realities" of an ongoing impeachment in-

quiry are such, Wiggins said, that he did not believe that the President would refuse information unless the House committee "goes off half-cocked" on a fishing expedition.

Much of the information the committee may want from the White House has probably been given already

to Watergate Special Prosecutor Leon Jaworski, who is presenting it to a grand jury and who so far has been unwilling to give it to the committee because of secrecy requirements.

Albert Jenner, Republican counsel for the House inquiry, told reporters that he was "very hopeful" that he

and Doar could work out an agreement with Jaworski so that with "appropriate assurances of security" the committee could gain access to the prosecutor's records without going to court for permission.

The committee is so jealous of the House's pre-eminent constitutional role in the impeachment process that it is unwilling to seek a court order, which would be a tacit admission that the courts have some jurisdiction in the matter.

In that connection, several committee members yesterday criticized Doar for going into court last week to obtain a court order permitting the committee to examine records of Nixon campaign contributions involved in a suit by Common Cause against the Finance Committee to Re-Elect the President.

The order issued by Judge John J. Sirica made the records available—but, as expected, on conditions that committee members not disclose or publicly discuss their contents. Wiggins said Doar had filed the motion in court without consulting the committee, and had agreed at a closed committee meeting yesterday that he should have waited. Several mem-

bers said they were not bound by the secrecy order.

Republicans seemed to be cooling on a proposal by some of them that the House set an April 30 cutoff date for the committee's inquiry. Chairman Peter W. Rodino (D-N.J.) said it would be "totally irresponsible" to set an arbitrary deadline so early in the investigation. Rodino has, however, set April as a target date for reporting to the House.

Yesterday's meeting was the first at which the full committee was briefed on the progress of Doar's staff of 35 lawyers in assembling information that could provide the basis for articles of impeachment. Members of both parties expressed satisfaction with the staff progress.

Rodino said that in three weeks Doar will present the committee with a legal brief on what constitute impeachable offenses—whether or not they must be indictable crimes. By the first of March, Doar is to present to committee members a status report consisting of a categorized but probably incomplete tabulation of information obtained on the President's involvement in actions that might justify impeachment.