

NYTimes FEB 22 1974
**HOUSE AIDES DENY
CRIME IS REQUIRED
FOR IMPEACHMENT**

**Judiciary Unit Lawyers Say
Proceeding Protects U.S.
From 'Grave Misconduct'**

NO PRECISE DEFINITION

**Report of Bipartisan Staff
Hints at a Broad Range
of Grounds for Action**

By **JAMES M. NAUGHTON**

Special to The New York Times

WASHINGTON, Feb. 21. — Lawyers for the House Judiciary Committee flatly rejected today arguments that President Nixon was subject to impeachment only for indictable criminal offenses.

The bipartisan staff said, in a 49-page advisory report to committee members, that impeachment was a "constitutional safety valve" designed to protect the nation from "grave

*Excerpts from committee's
report are on Page 14.*

misconduct" by a President. But the study drew no precise outline of the broad authority the lawyers said the House of Representatives had to inquire into Mr. Nixon's conduct.

The staff dismissed the expected White House position, and the view of the committee's ranking Republican, that proof of criminal wrongdoing would be the sole justification for attempts to remove Mr. Nixon from office.

Special Powers Cited

"The criminal law sets a general standard of conduct which all must follow," the staff study asserted. "It does not address itself to the abuses of Presidential power. In an impeachment proceeding a President is called to account for abusing powers which only a President possesses."

The closest the staff came to a definition was in stating that impeachment is a remedy against "constitutional wrongs that subvert the structure of government, or undermine the

integrity of office and even the Constitution itself."

Representative Edward Hutchinson of Michigan, the panel's senior Republican, said at a Capitol Hill news conference that he had not had an opportunity to study the report thoroughly but would continue to approach the inquiry "from a position that there should be criminality involved."

Counter Brief Weighed

Mr. Hutchinson also emphasized that the report was meant only to advise the committee members in making individual judgments on Mr. Nixon's conduct. The report, he said, "speaks to the committee; it does not speak for the committee."

The report implied, but did not state specifically, that Mr. Nixon could be held accountable in impeachment proceedings for such noncriminal matters as the secret United States bombing raids in Cambodia or for refusing to spend funds appropriated by Congress.

A White House spokesman

Continued on Page 14, Column 6

Continued From Page 1, Col. 8

decided to comment directly on the Judiciary Committee study but confirmed that the President's attorneys were considering preparation of a counter brief on impeachment standards. Historically, objects of impeachment proceedings have always sought to confine the scope of the inquiry to narrow terms of criminal misconduct. Dorsed by the Committee's chairman, Representative Peter W. Rodino Jr., Democrat of New Jersey. The two senior staff members, John M. Doar, the special counsel, and Albert E. Jenner Jr., the Republican counsel, said that the study represented a bipartisan view and "speaks for itself."

The report said that limiting impeachable conduct to criminal offenses would be "incompatible" with the history of impeachment and the intent of the Constitution's authors.

The study traced impeachment from its origin in 14th century England through the debates of the Constitutional Convention to the 13 cases of impeachments by the United States Congress. It said there were "no fixed standards for determining whether grounds for impeachment exist."

The report drew no direct conclusions about the relevance of charges against Mr. Nixon contained in more than a dozen impeachment resolutions.

But the study's description of the history and nature of impeachment, and the conclusions

drawn abstractly from it, implied that Mr. Nixon could apparently be held accountable for the criminal acts of subordinates, for actions that undermined public confidence in the Presidency and for Mr. Nixon's dismissal last October of Archibald Cox, the special Watergate prosecutor.

Impeachment in 1386

The study noted that one of the impeachment charges against the Earl of Suffolk in a trial in 1386 by the British Parliament had been "failing to expend a sum that Parliament had directed be used to ransom the Town of Ghent"—a potential parallel to Mr. Nixon's refusal in 1972 and 1973 to spend some \$12-billion appropriated by Congress for a variety of domestic programs.

The staff report also quoted James Iredell, an early Supreme Court Justice, as having argued that a President "must certainly be punishable [by impeachment] for giving false information to the Senate," a charge made against Mr. Nixon because of Pentagon reports

falsified to hide the secret 1969 bombing of Cambodia.

In several places, the memo suggested that Mr. Nixon might be impeachable for the criminal acts of subordinates growing out of the Watergate break-in and cover-up.

Citing the Constitution's mandate to Presidents to "take care that the laws be faithfully executed," the committee staff said the duty "emphasizes the responsibility of a President for the over-all conduct of the executive branch, which the Constitution vests in him alone."

Moreover, the report called attention to the argument of one of the Constitution's authors, James Madison, that a President could be impeached for permitting subordinates "to perpetrate with impunity high crimes of misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses."

Madison was also quoted as having theorized that the President would be subject to impeachment for "the wanton removal of meritorious officers"—a prospective basis for the committee to judge the dismissal of Mr. Cox last year despite a Justice Department

pledge of independence for the Watergate prosecutor.

Representative Robert McClory of Illinois, the second-ranking Republican on the panel, described the report as a "valuable prerequisite to our continued investigation." But he said that it afforded various interpretations of impeachment precedents and that it "should not be viewed as locking in the committee or the House of Representatives to a particular position regarding specific charges against President Nixon."

The lawyers completed the draft of the study at 12:30 o'clock this morning. The committee was scheduled to meet tomorrow to discuss other procedural matters, but the staff study could be debated if enough of the members chose.

FEB 22 1974