

# Presidential Privilege--

## New Report

SFCronicle FEB 28 1974  
Washington

A Justice Department study of the impeachment process strongly suggests that a president cannot use executive privilege to withhold information from an inquiry into his own impeachment.

The report stated that in no impeachment case in American history has such an argument been advanced to withhold information. However, the attorneys who prepared the report cautioned that nothing in the study should be construed "as the department's position" on any question.

At the same time, the report stated that even in the trial of an impeachment before the Senate there is no clear method by which a president could be forced to supply information deemed to endanger the national security or the conduct of foreign affairs.

"If the President persisted in his refusal to comply," the report said, "a constitutional confrontation of the highest magnitude would ensue."

The information was contained in the edited version of the final three sections of a five-part study on impeachment provided Attorney General William B. Saxbe by his office of legal

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counsel. The two earlier sections, dealing with impeachment in general and the question of impeachable offenses, were released last Friday.

The material released yesterday did not include material which the attorney general described as "visionary" but declined to further identify. However, sources familiar with the entire study said that the excluded

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portions dealt with such questions as the subpoena powers of Congress and the general question of gathering information in an impeachment inquiry.

"Those items," said one source familiar with the full report, "attempted to draw parallels and analogies to impeachment proceedings on such matters as subpoena powers and were of a more speculative nature. They were difficult to weigh in actual proceedings such as are now underway."

Such questions may become crucial to the current impeachment inquiry. President Nixon is at odds with the House Judiciary Committee with his claim that impeachment requires involvement in a criminal offense. The congressional inquiry has taken a more liberal view that would support impeachment for non-criminal conduct.

The President further clarified his position to Republican leaders at a White House meeting yesterday at which he reportedly said he wishes to cooperate with the impeachment inquiry but only to supply information that "is reasonable and relevant."

The combination of those positions could allow the President and his lawyers to argue for a severe limitation on material supplied to the impeachment inquiry.

New York Times