

"Early indication that Nixon is Cox's real target from the outset"
[See text p 1]

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CONFIDENTIAL

MEMORANDUM

TO: Archie Cox

FROM: John Ely

I've spent a couple of days rummaging about and wanted to let you know what I've come up with. The question with which I'd like to begin is whether the President enjoys some immunity from being called before a grand jury. In the Boston Globe for May 30, at p. 30, Alex Bickel states what I gather must be the sort of argument on which those supporting such immunity must rely, one generally emanating from the separation of powers:

It is not a matter of law, but of assumed convention. The President, alone, is presumed to be immune to the judicial process.

But of course observing that there is a separation of powers does not begin to disclose its contours: the question, here as everywhere, is what powers, privileges and immunities are distributed in what ways. Alex appeals to some historically evolved and broadly assumed convention, perhaps thereby trying to move considerations