

Nixon Crime Immunity Is Debated by ABA

By Jack Fuller

Special to The Washington Post

HONOLULU, Aug. 13—The American Bar Association began debating today whether the criminal law should apply to Richard M. Nixon for his part in the Watergate scandals.

Two ABA members have introduced resolutions bearing on the question. Both speak circumspetly, urging only that the decision whether to prosecute be made on the same basis it would for any other person.

Yet the resolutions are expected to meet with loud opposition when they are taken before the full association.

One resolution, introduced by San Francisco lawyer Gilbert T. Graham, specifically mentions the former President. "It is unfair and unequal treatment for other Watergate defendants to be convicted, sentenced and disbarred for actions and conduct apparently condoned and participated in by the President of the United States if the latter is not also prosecuted for said actions and conduct," Graham's resolution states.

It calls on Watergate Special Prosecutor Leon Jaworski to base his decision whether

to prosecute Mr. Nixon "on considerations other than that he has held the office of President."

The association's Resolutions Committee voted to oppose Graham's proposal when it makes its report to the assembly, the meeting of all 5,000 lawyers attending the annual convention here.

Some members of the committee said they were worried that specific references to President Nixon might have a prejudicial effect on any case that is brought against him.

"I would hate to defend a man whom the ABA demanded be prosecuted," said committee member Sidney S. Sachs, of Washington, D.C. Sachs was one of the attorneys for convicted Watergate figure E. Howard Hunt Jr.

Other committee members wanted to avoid having the association appear to give advice to Jaworski, but the committee voted unanimously to support a more general resolution introduced by Thomas M. Ferrill Jr., of Blue Bell, Pa.

After some technical changes made by the committee, the resolution states that the association "continues its dedication to the principle of fair, just, and impartial appli-

cation and enforcement of the law, without fear or favor arising from the position or status of the person or persons alleged to have violated the law."

Though committee chairman William Reece Smith Jr., of Tampa, said the Ferrill resolution "is so obvious that I don't know whether anybody could disagree with it," there was no doubt at the committee's meeting that it was going to be a controversial proposal.

As one committee member put it, "Even though it seems very general, in the context of the times, it takes on a special meaning."

On Monday the outspoken ABA president, Chesterfield Smith, said at a press conference that he opposes any "blanket immunity" for Mr. Nixon.

"I think we should slow the process down," Smith said, "give it 30 to 60 days, allow the special prosecutor to assemble the facts and make his judgment."

Smith said he believed the association should act cautiously, if at all, on the issue, "perhaps setting up guidelines and standards that might aid the public and authorities in making a determination."

Archibald Cox, former special prosecutor, shared Smith's



CHESTERFIELD SMITH

... opposes blanket immunity

concern that the decision on prosecution should be made slowly and carefully. In an interview here today Cox said, "I can think of arguments on both sides whether to prosecute Nixon. My strongest feeling is to let it simmer for a while, and I think that's Leon Jaworski's feeling, too. Let's see what happens. Nixon could sink back into private life, for example, or he could keep himself in the public eye. That could have a bearing on the decision."

Even if the association's assembly votes in favor of one of the resolutions, the proposal would not become official ABA policy until it is approved by the smaller House of Delegates, which would hear the issue later this week.

Meantime, the association's regular sessions continue to raise agonizing questions about legal ethics and discipline in the wake of what Smith calls "a lawyer's scandal."