

O'Brien Backs Prosecution Of Nixon but Not His Jailing

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By Jules Witcover

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Former Democratic National Chairman Lawrence F. O'Brien, one of the prime targets of the Watergate break-in, said yesterday that former President Nixon should be prosecuted for his part in Watergate but if convicted should not be sent to jail.

By being driven from office, O'Brien told a breakfast meeting with reporters, the former President already has been given "as tough a sentence as anyone ever had, short of the death penalty . . . I think the punishment he has suffered is severe. I can't see where it serves any meaningful purpose, any national purpose, for him to be in jail."

If Mr. Nixon were convicted and received a prison sentence, O'Brien indicated, he would favor the granting of a pardon by President Ford, who already has said he would consider that option.

O'Brien reiterated that in his view nothing of great significance ever was said over his Democratic National Committee telephone on which a wiretap was placed. But he said he would be "embarrassed" by the release of some conversations in which some 1972 presidential candidates made derogatory comments about their rivals.

The former party chairman said the Nixon administration had conducted "a full-blown effort" to harass him with income tax audits from 1970 to 1973 and had done "a pretty good job." Last week, O'Brien was the principal beneficiary of a \$775,000 out-of-

court settlement of the Democrats' civil suit against the Committee for the Re-election of the President in the Watergate break-in. He received \$400,000, which he has turned over to the Democratic National Committee.

Politically, however, the Democratic Party was not "a gainer" as a result of Watergate, he said yesterday, because all politics lost credibility with the public.

"Any Democrats who think they gained out of this horrible national experience are kidding themselves," he said. "The two-party system is under test and is being severely tried," he said. Referring to the recent announcement of former Sen. Eugene J. McCarthy that he intends to be a presidential candidate in 1976, O'Brien said "a third party or movement is not as remote a possibility as most people think."

Until adequate financing of campaigns and access to mass media can be assured to both major parties, he said, "I don't think you can ensure the continuity of the two-party system."

In this fall's elections, O'Brien said, he expects the Democrats to gain about 22 seats in the House and two in the Senate and at least hold their own in 36 gubernatorial races.

But to survive, he said, the party must open its ranks to all voters and cannot reinstate such limiting provisions as the unit rule in delegate-selection, or impose quotas.

Looking to 1976, O'Brien again said that out of concern for the safety of Edward M. Kennedy he hopes the Massachusetts senator does not run for the Democratic presidential nomination. "I was at Dallas and Los Angeles and I can't forget," he said, referring to the assassinations of John F. and Robert F. Kennedy.

If Kennedy does run, O'Brien said, it will be "very difficult for any group of Democrats to block his nomination." He acknowledged that Kennedy's accident at Chappaquiddick Island in 1969 in which a female passenger in his car drowned, would be a major issue. But it is one that Kennedy would handle, O'Brien said, by showing "no hesitancy to restate" the facts of that episode.

The former chairman said he expects that Kennedy will make his decision on running known "within a year" and that meantime other hopefuls will not be inhibited by the senator's reticence from advancing their own prospects.

O'Brien said he sees the Democratic 1976 field in three categories: those candidates "who have been tested before" like Sens. Hubert H. Humphrey (Minn.), Edmund S. Muskie (Maine) and Henry M. Jackson (Wash.); new faces from the Senate and state houses like Sens. Walter F. Mondale (Minn.) and Lloyd M. Bentsen (Tex.) and Govs. Wendell R. Anderson of Minnesota and John J. Gilligan of Ohio, and Kennedy.