

GAO Report Calls Law 'Vague'

Nixon Aided on Keeping Foreign Gifts

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The General Accounting Office, after nearly a year's investigation, has issued a report that could enable former President Nixon and his family to keep all valuable foreign gifts received by them while he was in the White House.

These gifts, 824 from foreign government officials worth at least \$2 million and 2,632 more of unknown value from private foreign donors, include jewels, paintings, objects of gold and silver, rare porcelains, antique furniture, and other works of art. Some are in storage here with the General Services Administration, others are in San Clemente and elsewhere.

The GAO, in a 66-page study of the way the Foreign Gifts and Decorations Act of 1966 is administered in all branches of government, asserts that the present legislation is so "vague" in its wording that it cannot be enforced.

The 1966 act, aimed at preventing U.S. officials and their families from receiving foreign largess, specifies that all gifts valued at more than \$50 from "kings, princes or foreign states" are legally the property of the U.S. government and must be turned over to the Chief of Protocol's office.

Only gifts from foreign officials fall under the 1966 act. Nixon's "private" foreign gifts—those from persons not officially connected at the time with

foreign governments—were ruled exempt from the act last fall by White House and State Department legal counsel.

Turnover of official "state" gifts as public property by Nixon and all other U.S. officials under the act is basically a matter of "voluntary compliance," the GAO said. There is no penalty for noncompliance, investigators concluded, recommending that Congress amend the act to provide the teeth of criminal sanctions.

The GAO also criticized the State Department for failing to alert Congress to "difficulties encountered in implementing the law," failing to alert

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all government officials to its provisions and not "documenting known instances of noncompliance.

The State Department, which helped draft the original legislation, sharply disputed both GAO's findings and its criticism in an eight-page appendix to the report, sent this week to the Senate Foreign Relations Committee, which had requested the investigation last April.

U.S. Chief of Protocol Henry E. Catto Jr., the man charged by Congress with administering the Foreign Gifts Act, said the opinion of the State Department's legal advisors is that "the statute and implementing regulations make it clear that gifts of over \$50 value . . . become U.S. property at the moment of their acceptance" and must be reported within a "reasonable," if unspecified, time.

"As U.S. property, such gifts are covered by various laws and regulations related to the control, use and the disposal of federal property."

There are already "criminal, civil and administrative sanctions," Catto said, adding that the Justice Department "has the authority to investigate

and prosecute individuals believed to have failed to comply with this statute."

The GAO investigators state in their report that they agree "theoretically" with the State Department's legal advisors "that criminal and civil sanctions . . . are available under existing laws."

"However," the GAO states, "we know of no case in which these sanctions have been used and, in our opinion, as a practical matter, they cannot be used effectively."

The Office of Protocol, accused by the GAO of being reluctant in years past to approach high-placed officials "concerning requirements of the act," was defended by Catto. He said that "neither the act nor the implementing regulations confer any investigative, recovery, or enforcement powers on either the Secretary of State or the Chief of Protocol."

Attorneys for Nixon and his family have resisted all efforts of the Ford administration over the past seven months to persuade the Nixons—whose financial condition is now unclear—to comply voluntarily with the law.

Nixon's legal counsel in the White House, J. Fred Buzhardt, took the

position last March that the President and First Family were "probably exempt" from the 1966 act. But Buzhardt insisted at the time that the Nixons "never for a minute" regarded jewels and other foreign gifts as anything but "public property" and intended to "turn them over" when Nixon left office.

Nixon's gifts have been in legal limbo since his resignation on Aug. 9.

In September, President Ford's White House lawyers embargoed GSA shipment of some 1,100 packing crates and boxes full of foreign and domestic gifts to San Clemente until a ruling could be obtained from the Justice Department clarifying public-versus-private ownership.

In October, Nixon's lawyers went to court here and got a temporary restraining order which enjoins any agency or any individual in government from "disclosing, transferring, disposing or otherwise making known to any person, be he/she private citizen or public official, the materials, including documents, tapes and other papers known as the 'presidential materials of the Nixon administration.'"

Some 20,000 gifts, both foreign and

domestic, are among the "presidential materials" that Nixon is suing to claim as his property rather than the government's.

The GAO report, congressional sources said, could strengthen arguments of Nixon's attorneys in a legal battle that is expected to go to the Supreme Court and could take two years to resolve.

The GAO proposed that Congress revise the existing statute to make it a crime for anyone covered by the act to fail to turn over gifts worth more than a minimal value. Punishment would be a fine of not more than \$1,000 or imprisonment for not more than 12 months, or both.

In addition, the GAO urged the foreign gifts act be changed to read:

"The penalty authorized in [the U.S. Criminal Code] for unlawfully converting property of the United States shall apply to the unlawful retention of gifts of more than minimal value."

Such violations now can result in fines up to \$10,000 and imprisonment up to 10 years, or both.

As the act is now worded, the report adds, "there is the possibility of abuse since there is no limitation on the President's authority for the ulti-

mate disposition of a foreign gift or decoration.

Neither the GAO nor the State Department mentioned the Nixons by name in their argument over whether the 1966 law is enforceable without being amended by Congress.

The report, made public by the Senate Foreign Relations Committee chairman, John J. Sparkman (D-Ala.), was accompanied by a press release announcing his intention to introduce legislation after the Easter recess that will be "designed to remove ambiguities, clarify responsibility and broaden the application of the act."

Virtually the only specific information in the GAO report on the Nixon gifts is this:

- "A number of gifts apparently received by President Nixon and members of the First Family had not been recorded by the (White House) Gift Unit."

- "According to Gift Unit records, most of President Nixon's gifts were in storage at the National Archives, Washington, D.C., or at San Clemente,

California, at the time of our review. The National Archives — was providing courtesy storage for the gifts pending shipping instructions from Mr. Nixon. Records relating to these gifts were in possession of the Chief of Protocol."

The GAO, an arm of Congress, noted that senators and representatives have reported only "23 gifts valued at over \$50 presented to them or their families by foreign governments since the passage of the act in 1966."

As for the judiciary, the GAO says that no one connected with either the Supreme Court or the lower federal courts has ever reported receiving any foreign gifts since 1966.

The GAO was also critical of the Smithsonian Institution for previous "questionable disposition" of foreign gifts made available to it by the GSA as surplus government property. The museum was accused of taking such items as wristwatches with the intent of exchanging or selling them in order to obtain other objects more suitable for display. The Smithsonian "halted such exchanges" two years ago, the GAO said.