

Study Drafts Indictment of Nixon

By George Lardner Jr.
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Four Washington lawyers maintained yesterday that "ample evidence" has already been gathered to support a criminal indictment against President Nixon for 28 "common crimes."

The attorneys set out their contentions in a 169-page study summarizing various allegations involving the White House and analyzing the criminal laws that they said appear to have been violated.

They proposed a 28-count indictment which they maintained could legally be brought against Mr. Nixon and former White House aides and campaign officials as the basis for impeachment by the House of Representatives.

"What we're saying is that the President could properly be indicted and made to stand trial on all these charges—on the basis of probable cause," said one of the attorneys, William A. Dobrovir.

"We're also saying that the House of Representatives could, today, impeach Richard Nixon for these same offenses."

The assertions have been set out in a paperback study entitled "Bribery and Other High Crimes and Misdemeanors." The project was financed by millionaire Stewart R. Mott, who has been working to bring about impeachment of the President. Two thousand copies of the study have been printed.

Its release came as the American Civil Liberties Union, which has also called for impeachment, issued its own handbook calling for citizen action in support of its drive to bring Mr. Nixon to trial.

The Dobrovir study accused Mr. Nixon of crimes ranging from illegal wire-tapping and accepting bribes to embezzlement of public funds and tax evasion. The courts have made clear, the lawyers said, that the head of an organization can be held criminally responsible for the illegal activities of his subordinates.

Tracing a long list of scandals from the Watergate cover-up to illegal corporate campaign contributions to the long-concealed break-in at the offices of Daniel Ellsberg's psychiatrist, the study charged that in each case:

"President Nixon was the head of the organization. He was the individual who would benefit from the illegal acts. It is inconceivable, given the range and scope of the illegal acts, that Mr. Nixon could not have been aware of them or that they

could have been carried out without his consent or approval. He is as culpable as those who physically carried them out."

Dobrovir and three colleagues in his public interest law firm, attorneys Joseph D. Gebhardt, Samuel J. Buffone and Andra N. Oakes, said they were not contending that the evidence compiled thus far establishes Mr. Nixon's guilt beyond a reasonable doubt.

However, they said, "the question presently under consideration in the House of Representatives is not conviction but impeachment—that is, the presentment by the House of Representatives of charges to be tried before the Senate . . . The evidence against Richard Nixon is ample to satisfy the



STEWART R. MOTT
... financed study

standard of proof required to hold a defendant to answer at trial to charges made against him."

The study called the prosecution of gangster Charles (Lucky) Luciano in the late 1930s the landmark case in establishing the principle that the head of an organization is responsible for its illegal activities. Luciano's conviction in connection with a prostitution racket, the book said, was upheld even though there was no evidence of his direct participation in or even of knowledge of the particular transactions involved.

"The Luciano principles,"

the study contended, "are particularly applicable to high government officials whose subordinates commit criminal acts."

Turning to bribery charges that they said could be brought against Mr. Nixon, the four lawyers singled out what they called "a pervasive pattern" of campaign contributions solicited for Mr. Nixon's re-election effort "in exchange for governmental action," such as an antitrust settlement with the International Telephone and Telegraph Corp. and higher milk price supports for the dairy farm industry. (Dobrovir has been fighting a controversial 1971 increase in milk price supports on behalf of Ralph Nader and several consumer groups.)

Under federal bribery laws, the attorneys said, prosecutions have been sustained even where "the mere receipt" of gifts, without official action in return, created a substantial likelihood of favorable treatment. In a 1958 case, they said, a government-employed architect was convicted, for taking a payment from a heating subcontractor, under a court ruling holding the architect punishable even if there was no evidence that he had "actively altered" his

decisions in return for the money.

The study maintained that Mr. Nixon could be charged with tax evasion for the \$500,000 gift of pre-presidential papers that enabled the President to pay what he has called only "nominal" income taxes in 1970 and 1971.

The deed of gift for the papers was dated March 27, 1969. Congress severely limited tax deductions for such gifts that same year, setting July 25, 1969, as the cutoff date.

Citing stories in The Washington Post, the book contended that Mr. Nixon's gift was never validly made because the deed was not delivered to the National Archives by the cutoff date, because Mr. Nixon never signed it himself, and because archives officials refused to sign it since the President had not.

The circumstances of the transaction, including a backdating of the deed, the lawyers charged, constituted a "deliberate and willful attempt by the President and his representatives" to evade the imposition of income taxes. "President Nixon's signature on his tax return, together with his position as supervisor of those

directly involved in the actual attempt to evade, make him criminally responsible," the study argued.

The lawyers also asserted that Mr. Nixon could be charged with embezzlement in connection with the public expenditure of more than \$1 million for permanent improvements "of questionable security value" on his homes at San Clemente and Key Biscayne. In this case, the study charged, Mr. Nixon "acquiesced in the diversion of public funds from proper purposes to his own personal use."