

# U.S. Studies Removal

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The Justice Department suggested yesterday that a President might be impeached for a noncriminal offense, but that if he is, the charge must center on a "gross abuse of office" and not simply "maladministration."

That implication emerged from two sections of a four-part study and an "overview" which the department's office of legal counsel has been working on since last October.

Assistant Attorney General Robert G. Dixon, who heads the office, stressed that the study "does not reach conclusions or propose solutions."

Rather, he said, it is "a general academic discussion" without reference to any current charges involving President Nixon. "It is resource material," he said of the 146-page document.

The language of the Justice Department study is more restrictive than that of a House Judiciary Committee staff study, released Thursday, which says clearly that "impeachable conduct need not be criminal." But the department's

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statement takes care not to rule out that conclusion.

Like the committee study, the Justice Department report leaves open the question of whether a President may be held responsible for the criminal acts of his subordinates or impeached for firing Special Watergate Prosecutor Archibald Cox last October.

Again, the department's language seems more restrictive than the committee's on these issues and indicates that both might fall into the category of "maladministration."

Several hours after the department's study was released, Dixon heatedly denied a wire service report contending that it was part of a White House attack on the committee's analysis.

"That's simply incorrect," he said. "The White House looked at our study but suggested no changes."

His comment squared with an earlier statement by White House press secretary Ronald L. Ziegler, who said that the President's chief lawyer, James D. St. Clair, agreed "in the main" with the Justice De-

partment study "but not in all respects."

For several weeks department officials have said privately they wanted the study to come out before the committee issued its report so that their study would not appear to be a counter proposal. Earlier this month, Justice sent an 82-page "overview" to the White House and to the new Watergate Special Prosecutor, Leon Jaworski.

But several factors prevented earlier release of the study. Some department officials, including Dixon and Solicitor General Robert H. Bork, thought it needed additional work. Boh Attorney General William B. Saxbe and the White House wanted the House Judiciary Committee to ask for a copy before publication, but Committee Chairman Peter W. Rodino (D-N.J.) pointedly refused, indicating his feeling that impeachment is the sole responsibility of Congress.

Saxbe was reported to be miffed at Rodino, and several department officials were known to be disappointed that the committee's staff report came out first. Yesterday, as it made its study public, the Jus-

Justice Department sent a courtesy copy to Rodino.

A department source said Saxe, who was out of town yesterday, will decide next week when the overview and two remaining parts of "The Law of Impeachment" study will be made public.

The departmental study says that if one reads only the language of the Constitution, a person could conclude that a criminal offense solely may be grounds for impeachment. Citing all relevant clauses, the study says that they "suggest the need for a criminal offense, although, of course, they do not expressly forbid an additional noncriminal penalty."

But, the study continues, "as soon as one turns to the background of the impeachment clause and the precedents set under it, the matter becomes far more complicated. There are historical precedents and writing showing a broad definition" of what constitutes an impeachable offense.

Referring to the nation's first impeachment involving Sen. William Blount in 1798, the study noted that it was said then that impeachment is a political proceeding "not so much designed to punish an

offender as to secure the State." The study added that "under this hypothesis, one can conceive of serious abuses of power which have not been made crimes" as grounds for impeachment.

But the Justice Department report stressed that "the feeling of many citizens and many members of Congress is that impeachment of a President is, if anything, more serious than an ordinary criminal trial, 'an almost parricidal act,' and that strict standards should be applied." The reference to parricide, or murder of one's relative, is a quotation from an impeachment study by Harvard Law Professor Raoul Berger.

The study said the framers of the Constitution, in making "high crimes and misdemeanors" grounds for impeachment, "meant something narrower than 'maladministration.'"

Nothing James Madison's contention during the constitutional convention that a term as vague as maladministration would leave the President's tenure to the "pleasure of the Senate," the study also cited Madison's post-convention remarks indicating he had changed his mind.