

The 'Impeachable Offenses' of President Nixon

A lawyer in this city, Joseph Califano—once chief of staff to President Lyndon Johnson—answered an important question the other day with a careful listing of the impeachable offenses of Richard Nixon.

There are three areas of offenses, Mr. Califano pointed out, against which any President must be judged: Violations of criminal statutes; failure to fulfill the constitutional obligation, "faithfully to execute the laws of the United States and preserve, protect and defend the Constitution of the United States"; egregious breach of the public trust.

Under the first category, Mr. Califano says, to wit: "Solely on the basis of sworn testimony there is ample justification for a healthy suspicion that President Nixon has violated at least 38 criminal statutes."

The potential violations fall into three broad categories. They are personal corruption, political corruption and obstruction of justice. The specific criminal statutes relating to each of these areas must be considered, Mr. Califano says, in the context of four

basic criminal sections of Title 18: Sections 2, 3, 4 and 371.

Section 2 defines a principal to a crime as one who "commits an offense against the United States or aids, abets, counsels, commands, induces or procures" such an offense.

Section 3 defines an "accessory after the fact" of a crime as one who "knowing that an offense has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment." Section 4 provides that anyone having knowledge of a felony and who does not report it to a judge is guilty of misprison of a felony. Section 371 provides that if two or more persons conspire to commit an offense, and one or more of such persons do any act to effect the object, each of the conspirators is guilty.

So, under the category of personal corruption, Mr. Califano suggests that impeachment managers would look into Mr. Nixon's income taxes and the question of whether or not the deduction of more than \$500,000 which he took for his vice-presidential papers was legally accomplished. Also, the possible use of cash for personal expenses; to

wit, the \$100,000 from Bebe Rebozo, the early cash from the dairy industry and the hundreds of thousands in cash that flowed so easily among Mr. Nixon and his friends. Issues relating to his houses and the government's expenditures on them would also come under this category.

Political corruption, Mr. Califano points out, might involve Mr. Nixon in violations of 19 criminal statutes. Among the possibilities are the forged Muskie letter; the forged sexual misconduct letters against Sen. Hubert Humphrey and Sen. Henry Jackson; the illegal wiretapping; the million-dollar slush fund kept in Maurice Stans' office; the solicitation of corporate campaign contributions and the filing of false reports on campaign finances; the "sale" of ambassadorial posts; charges of extortion by Ashland Oil; the parole of James Hoffa, allegedly in return for money; and a wide range of civil rights violations, including those committed by the "plumbers."

Nine more criminal statutes are involved in public accusations that the President obstructed justice in the approach to Judge Matt Byrne, the pay-

ment of hush money to the Watergate Five, and the suborning of perjury by Jeb Magruder and others.

Allegations that Mr. Nixon failed to execute the laws and breached the public trust spring largely, but not entirely, from the foregoing allegations of criminal misconduct.

The issue involved in impeachment will be the President's personal knowledge and willful activity in connection with proven crimes. In an impeachment proceeding, no privilege of squaring away his papers or claiming they cannot be revealed would be permitted.

Impeachment is probably coming, and the Califano indictment is a useful measure of the task ahead. It will be long-drawn and will test the patience of Americans. "But," said Mr. Califano "to say that we cannot stand impeachment is to say that we cannot seek the truth, much less face it." As Mr. Califano points out, that attitude is the stuff of "a tired generation that seeks to avoid one more trauma of its own, even if it involves betraying a trust to succeeding generations."