

Should We Prosecute Mr. Nixon?

Now that Richard Nixon has brought us together, by saving us the messy work of impeachment, the question is: What should we do with him now?

Any reader for whom the answer is easy needn't bother reading today's column. For the rest of us, as citizens, as officials and as institutions, the question will have to be faced, and fairly soon.

The basis for the question is the ex-President's status as a criminal suspect—whether unofficially, based on evidence of income and real estate tax fraud, for example; semi-officially, based on the obstruction-of-justice article of impeachment voted by the House Judiciary Committee, or officially, based on his being named an unindicted co-conspirator by the Watergate grand jury.

Anyone else—including anyone who has lost his high office and prestige as a result of implication in such offenses—would surely be haled into court. Should Richard Nixon likewise be made to face trial on criminal charges?

My own thinking on the question has fallen roughly into three phases. The first, in the forefront while the impeachment process was under way, was: Yes, of course he should face criminal charges, assuming his conviction by the Senate

After his successful fight to have the Congress define impeachable offenses as synonymous with indictable crimes, his conviction by the Senate would have provided a strong inference that he was guilty of serious crimes—at least a strong enough inference to warrant a trial.

Nor, I thought at the time, should he be permitted to duck criminal liability by resigning once he saw his impeachment and conviction as probable.

But immediately after the resignation, whether due to a sense of relief or out of sympathy for the fallen man's family, I started to think that maybe it was enough just to have him out of office. I still thought that he deserved jail, but I also thought that the country deserved better than to be torn apart in a national debate over what to do with him. Perhaps we should leave him alone, not for the good of Nixon but for the good of America. I was impressed by the talk of a "time for healing."

I also appreciated the fact that, no matter how fairly the prosecutors handled the case against Richard Nixon, there would be a substantial minority of the people who would see his prosecution as pure vindictiveness. ("What do they want—blood?")

I don't know what I will think tomorrow. But today I am inclined to say: Let Special Prosecutor Jaworski proceed with his investigations, including his review of the tapes he will be receiving from Judge Sirica. If the evidence points to serious criminality on the part of Richard Nixon, let Jaworski seek an indictment. And if he gets it, then let's have the trial.

Like many Americans, I have no stomach for seeing a former President behind bars, or for kicking a man when he's down. But after two years of watching the abuse of the governmental process, I also have no stomach for obstructing justice, whether by acts of commission or acts of omission.

The people who are predicting that the trial of Richard Nixon would divide the country for years to come are the same people who were saying the same thing about impeachment. It didn't happen. The impeachment process brought together in logical fashion the evidence that had been accumulating for two years and, as a result, it brought the country together in its conviction that the President had to be removed.

I suspect a criminal trial would do the same thing—that it would make clear to all of us that Richard Nixon

either did or did not deserve imprisonment.

We do need to know the extent to which our government has been corrupted. And having paid the price of finding out, by enduring months of leaderlessness and the agony and re-creation of the impeachment process, it would be a shame to close the books now without ever really knowing the truth.

But learning the truth through criminal proceedings entails the risk of having to put a former President in jail, a prospect that many of us find disturbing. It has an un-American flavor to it.

But it is also distinctly un-American to suppose that status has anything to do with justice. A grant of amnesty to Nixon simply because he is an ex-President is to render empty all the fine phrases—"equal justice under the law," "a government of laws, not of men," "justice is blind."

The question, really, is not whether we should be vindictive but whether we have the courage to practice what we have professed to believe for 200 years: that we have no royalty deserving of special status, that all Americans—even Presidents—are just citizens.