

Lawyers Decide Nixon Immunity

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HONOLULU, Aug. 16 — The question of immunity or prosecution for Richard M. Nixon is so hard even lawyers don't want to debate it publicly. That is the explanation of the cryptic resolution that came out of the American Bar Association's convention here this week.

Among the 6,000 or so lawyers here, including many of the nation's best-known legal figures, no question was discussed more — unless it was the condition of the beach. But there was little desire to discuss it on the record, and there was no consensus, either among present and former high-

ranking government officials or among general practitioners from small towns, about what ought to happen next in the aftermath of Watergate.

A few, like Sen. Sam J. Ervin Jr. (D-N.C.) and U.S. Attorney George Beall, Spiro T. Agnew's prosecutor, have made up their minds. Ervin said the other day that if he were the special prosecutor and didn't proceed against Mr. Nixon, "I'd suffer from insomnia for the rest of my life." Beall said, "If we want to get the nation back to paying attention to its problems and get Watergate behind us, then we may well be better advised not to initiate criminal prosecution."

Others, like former Watergate Special Prosecutor Archibald Cox, urged delay in deciding Mr. Nixon's fate to give time for more facts to surface and for emotions to settle down. In some instances, the former officials urging delay conceded privately that the ramifications of the question are so great they believe no one has had time to give them thorough consideration.

As a result, the association, which purports to speak for the nation's lawyers and which is known for debating almost anything at length, adopted without any debate at all a resolution reaffirming its dedication to the fair, just and impartial

application and enforcement of the law regardless of the position or status" of those accused of crime.

That seemed to satisfy ev-

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eryone. Those who believe Mr. Nixon ought to be prosecuted read it to support that position. Those who believe otherwise read it to leave the decision squarely up to Special Prosecutor Leon Jaworski. They point out that the "fair and impartial application and enforcement of the law" encompasses grants of immunity and decisions by prosecutors not to prosecute.

Generally speaking, a

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cross-section of the nation's leading lawyers, many of them queried privately, think a decision on immunity ought to be postponed for a while. They indicate they will support Jaworski's final decision, whatever it is.

The lawyers share the feeling of former Attorney General Elliot L. Richardson, who said, "I wish for (Mr. Nixon) that he be allowed to recede into a position of quiet and obscurity. . . I shrink from the idea of indictment and trial but on the other hand I can see the strictly legal questions involved if (prosecution) isn't pursued."

This visceral reaction

against the prosecution of a former President is met immediately by what is referred to around here as the question of fairness. If Mr. Nixon is not prosecuted, is it fair to prosecute anyone else involved in any of the events covered by the House Judiciary Committee's bill of impeachment?

It is on that point that any open debate boggles. Few argue that it would be fair. A sense of "equal justice under law" indicates otherwise. Yet, the conflict between that sense and the unsavory scene of a former President in the criminal dock is, for many, impossible to resolve.

Chesterfield Smith, retir-

ing president of the ABA, summed up one view: "As far as I am personally concerned, everyone would have to get immunity."

One former high official in the Nixon administration, who is totally unsympathetic otherwise toward the Watergate defendants, said he leans toward total amnesty largely because Mr. Nixon and the others have been punished enough already. "Their reputations and careers have been ruined," he said. "What more can you do to them?"

Another lawyer, once involved in the Watergate investigation, said he favors delay in any decision simply to see what will happen. "If

a lot of people around the country begin to say Nixon was forced out unfairly by the Democrats and the press, Jaworski must prosecute," he said. "That's the only way left to settle this matter. Otherwise, we'll have a long period of political hatred."

In some ways, many lawyers seem to think Mr. Nixon's decision to resign created as many problems as it solved. "If he had been impeached and convicted," one of them said, "immunity would have been supportable on the ground the matter was settled and he had been punished. As it is, we're stuck with no good answer. We better just sit for a while and think."