

NYTimes  
If Mr. Nixon Is Acquitted . . .

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To the Editor:

It is strange that none of your interesting letters concerning the possible trial and conviction of ex-President Nixon seems to discuss the situation that will arise if Richard Nixon is acquitted, which is certainly possible. Such an acquittal will mean that he had been forced to resign on mistaken grounds, and that President Ford was occupying a position to which Nixon was entitled. It must, however, be emphasized that no criticism can be directed against President Ford as the relationship between the two Presidents has brought great credit to both of them. Nixon appointed Ford Vice President, although he knew that this would make his own impeachment more likely, while Ford did everything possible to defend Nixon. His continuing association with Nixon since the resignation suggests that he does not believe in the terrible crimes that John Doar, special counsel to the House Judiciary Committee, described in such virulent terms.

Such a criminal trial will have a profound effect on foreign opinion. The legal experts coming from abroad will be able to discuss the main question, whether a judge may charge a witness with lying and then warn him that he may be imprisoned for thirty or forty years unless he gives truthful evidence as seen by the judge. It was against similar practices by the English judges that the Colonists revolted in 1776.

Under British law any confession made under compulsion is invalid. This is especially true where the confession charges a third person with having taken part in the crime as the

temptation to excuse oneself by accusing another is so great.

There is another matter that will be of great interest to foreign observers. A few days after the Watergate breakdown by four Cubans and two Americans it was discovered that the money to pay for the raid came through a Mexican bank. Mexico is within the territory covered by the C.I.A. while the F.B.I. covers the United States. President Nixon, who was particularly anxious to maintain peaceful relations with Cuba, was worried. In his June 23, 1972 meeting with Haldeman, he said:

"It is likely to blow the whole Bay of Pigs thing which we think would be very unfortunate—both for C.I.A. and for the country, at this time, and for American foreign policy. Just tell him (the acting head of the F.B.I.) to lay off."

It is not clear whether the C.I.A. played any part in activities against President Castro, but it is certain that it would have been disastrous if the F.B.I. had become involved in them. As President Nixon could not state any of this publicly, it is unfair to suggest that his order to the F.B.I. to "lay off" was intended to keep secret any improper acts on his part.

A prosecution will benefit Richard Nixon by enabling him to present his case fairly and fully in open court. A similar result may, however, be achieved by future legal historians when they consider what specific crimes have been charged against ex-President Nixon. That would seem to be the best course to follow.

ARTHUR L. GOODHART  
Stamford, Conn., Aug. 24, 1974

### Prosecuting Nixon

To the Editor:

In the discussion of whether Nixon should be prosecuted for his crimes it has been generally asserted that Congress has no power to prevent such prosecutions, assuming it wished to do so. In fact Congress does have the power to protect Mr. Nixon, at least with respect to Federal crimes such as obstruction of justice.

To prevent Mr. Nixon's prosecution Congress need only repeal the relevant criminal statutes. If President Ford disagrees his veto can be overridden. The Supreme Court has long held that repeal of a criminal statute bars punishment of those violating the statute prior to the repeal. *U.S. v. Chambers* 291 U.S. 217 (1934) for instance involved the repeal of prohibition. This solution to Mr. Nixon's problems has the virtue of also protecting Mr. Halde-

man, Ehrlichman and the others charged with the same criminal acts.

Of course, Congress might feel that obstruction of justice is wrong and should continue to be considered a crime. Some Congressmen might even think that Mr. Haldeman and the President's other men should not be treated the same as Mr. Nixon. Equal treatment does, however, seem rather fundamental to our system of justice. Indeed the dilemma which those Congressmen desiring to protect the President from further prosecution find themselves in is a direct product of the high value our constitutional system places upon equal treatment before the law. Are we prepared to discard such a fundamental notion?

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Cleveland, Aug. 20, 1974