

The factors which mandate in favor of indictment and prosecution are:

1. The principle of equal justice under law requires that every person, no matter what his past position or office, answer to the criminal justice system for his past offenses. This is a particularly weighty factor if Mr. Nixon's aides and associates, who acted upon his orders and what they conceived to be his interests, are to be prosecuted for the same offenses.
2. The country will be further divided by Mr. Nixon unless there is a final disposition of charges of criminality outstanding against him so as to forestall the belief that he was driven from his office by erosion of his political base. This final disposition may be necessary to preserve the integrity of the criminal justice system and the legislative process, which together marshalled the substantial evidence of Mr. Nixon's guilt.
3. Article I, Section 3, clause 7 of the Constitution provides that a person removed from office by impeachment and conviction "shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law." The Framers contemplated that a person removed from office because of abuse of his public trust still would have to answer to the criminal justice system for criminal offenses.
4. It cannot be sufficient retribution for criminal offenses merely to surrender the public office and trust which has been demonstrably abused. A person should not be permitted to trade in the abused office in return for immunity.
5. The modern nature of the Presidency necessitates massive public exposure of the President's actions through the media. A bar to prosecution on the grounds of such publicity effectively would immunize all future Presidents for their actions, however criminal. Moreover, the courts may be the appropriate forum to resolve questions of pre-trial publicity in the context of an adversary proceeding.