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# Judgment of Peers

## By Herbert Mitgang

To 375,000 lawyers in the United States, just about the most interesting case in the country today appears on no calendar, is conducted with the greatest secrecy, affects the reputation of one of the best known members of the profession and of the profession itself, and can lead to a history-making judgment. It is the disbarment proceeding conducted by the Association of the Bar of the City of New York against Richard M. Nixon, Esq.

A President can leave the White House on the eve of his impeachment; another President can pardon him. But no such procedure exists, under these circumstances, for an attorney at law. He must face the judgment of his peers, and it is coming.

As a partner in Nixon, Mudge, Rose, Guthrie, Alexander & Mitchell and its predecessor firm, Mr. Nixon practiced law in New York City from 1963 until his election in 1968. In theory, there is nothing now to prevent Mr. Nixon from representing a client in any of the New York courts, but in practice, such an eventuality seems wildly improbable.

Under the Appellate Division of the New York State Supreme Court, the Bar Association is empowered to act as a sort of grand jury to handle investigations about the fitness of any lawyer to practice here and to recommend clearance, discipline or disbarment. All during the Watergate revelations, the role of Mr. Nixon had been tracked by both the American Bar Association and local bar associations.

It was almost all over for Mr. Nixon as an attorney last year, when the A.B.A. went on record in favor of prosecuting him. The ex-President's name was actually used in one of the original resolutions of its House of Delegates, but the final version was generalized to preserve the A.B.A.'s policy, it was said, of "not becoming embroiled in personal politics."

The California State Bar came close to censure or disbarment, and then permitted Mr. Nixon to make a deal. It turned down his first effort to avoid reprimand because his letter of resignation failed to mention that he was the subject of a disciplinary investigation. His second letter—carefully framed to admit no wrongdoing—effectively ended the case:

> I, Richard M. Nixon, against whom an investigation is pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the state of California and agree and understand that, in the event this resignation is accepted and I thereafter file a petition for reinstatement, the state bar will consider in connection therewith in addition to other appropriate matters all disciplinary proceedings and matters pending against me at the time said resignation is accepted.

This "lawyer's letter" was delivered to the California Supreme Court, before which Mr. Nixon had originally practiced. The California Bar and Supreme Court have done nothing with it—and the case appears closed.

Now it is the turn of the Bar Association of the City of New York. Those who seek his disbarment point out that Mr. Nixon's closest aides—Mitchell, Ehrlichman, Dean, Colson, Kalmbach, Mardian, Liddy, Hunt, Krogh and a dozen other legal spear carriers—have lost their licenses or face disciplinary action for such crimes as obstruction of justice, conspiracy and violations against the rights of citizens. They underscore that Mr. Nixon himself was named as an unindicted co-conspirator in the conspiracy to obstruct justice.

Some members of the bar have said that the only way to remove the tarnished image of the profession caused by the Watergate disbarments is to demonstrate that all lawyers, including ex-Presidents, must be treated equally. They say that Mr. Nixon's current standing leaves even greater confusion in the public mind than former Vice President Agnew's "no contest" plea. Slapped on the wrist for bribery in public office, Mr. Agnew immediately stepped outside the Maryland courthouse and told the world that his plea of "no contest" bore no onus of guilt. The opposite is true, and Mr. Agnew is barred from practicing law.

There have been rumors of plea bargaining by Mr. Nixon or his attorney with the Bar Association. It is said that an effort has been made to achieve a "California" solution, somewhat strengthened to include either a formal resignation or a promise never to practice law again in New York. However, some members of the Bar Association want Mr. Nixon to follow the standard form in such matters—including a recitation of charges against him that would, practically, be an admission of guilt. That would be quite a price for him to pay for resignation.

If the "Esq." were to be removed from the name of Richard M. Nixon—who, ironically, appointed the Chief Justice and three associate justices of the United States Supreme Court—the action would spell more than an end to his professional career. It could come as close as any semi-official body now can to defining his Watergate activities in legal terms and thereby recording a quasi-legal judgment on his Presidency.

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