

David Lionel Bazelon

Special to The New York Times

WASHINGTON, Sept. 6 — When President Nixon's lawyers, appealing Judge John J. Sirica's demand for the Presidential tapes, argue their case next week, they will appear before a court whose reputation for liberalism and innovation is unmatched by any in the country. To a

Man
 in the
 News

great extent, the reputation of the United States Court of Appeals for the District of Columbia is a reflection of its chief judge, David Lionel Bazelon, who in his 24 years on the court has become known as almost an archetype of the activist liberal judge President Nixon has always vowed he would remove.

Although he has a strong interest in constitutional law, which will be more than challenged by the Presidential tapes case, it is in the area of criminal law that Judge Bazelon has earned much of his reputation.

David Bazelon believes passionately that there is a close connection between a criminal and the environment that produced him, and he has repeatedly argued against efforts to curb crime that fail to take this into account.

Landmark Decision

In his efforts to investigate and comprehend human motivation, Judge Bazelon has been a pioneer in the application of social science methods to criminal law. His landmark decision in 1954 that Monte Wayne Durham, a convicted burglar with a history of mental disturbances, should be confined to a hospital rather than a jail, modernized a century-old rule that a criminal was insane only if he could not distinguish "right from wrong."

"The right - wrong test, which considers knowledge or reason alone, is an inadequate guide to mental responsibility for criminal behavior," Judge Bazelon wrote in a decision that enunciated what came to be known as "the Durham Rule," which has become a widely accepted judicial standard.

The Durham Rule holds that a defendant should be judged not criminally responsible if he suffered a mental disease or defect at the time of the crime and the crime was a product of the ailment.

The Durham ruling pro-



Archetype of the activist liberal judge.

oked a storm of protest from law enforcement officials, who contended that Judge Bazelon had severely hampered their effort. A similar outcry occurred in 1957, when the Supreme Court upheld Judge Bazelon's argument that the rape conviction of Andrew Mallory should be thrown out because his confession had been extracted before he was presented to a magistrate.

Active With Democrats

Judge Bazelon's interest in social science, and particularly in psychiatry, is a natural one. "It's part of the interest of wondering why people act the way they do, which is the most fascinating question of all," he says. "After all," he adds, "I was a Depression boy."

He was born in Superior, Wis., on Sept. 3, 1909, the

youngest of nine children. His father, a shopkeeper, died two years later. The family, left penniless, then moved to Chicago, where David Bazelon went to high school.

Mr. Bazelon attended the University of Illinois for a year before transferring to Northwestern University, where he obtained a law degree in 1931.

Following his graduation, he practiced law in Chicago and served as an assistant United States Attorney. Active in the Democratic party, he was rewarded in 1946 with the appointment of Assistant Attorney General in charge of the lands division.

In 1949 President Truman nominated Mr. Bazelon to the Court of Appeals. When confirmed by Congress the next year he was, at 40, the youngest judge in the appellate court's history.

Judge Bazelon and his wife, the former Miriam M. Kellner, live in a two-bedroom apartment on the 12th floor of the Watergate apartments. They have two sons, James, a graduate student in history, and Richard, a lawyer in Philadelphia who is married to a psychiatrist.