

Paying for Mr. Nixon's Legal Fees

WASHINGTON—In the nation's capital the superior court has run out of public funds with which to hire experienced trial lawyers to represent indigents in criminal cases. Since the Supreme Court requires that such defendants must have counsel, the District of Columbia's superior court must either choose between the possible wholesale release of criminal defendant or somehow get lawyers to work for nothing.

It would not be accurate to say that this is the whole truth, for there is an exception. The District does have one celebrated resident (Richard Nixon) who is getting hundreds of thousands of dollars' worth of free legal advice at the taxpayers' expense, although he is not an indigent but a millionaire.

This is the same President, it will be recalled, who in 1971 vetoed a bill to create the Federal Legal Services Corp. to provide funds for people too poor to afford a lawyer in civil cases, which is the kind of case Mr. Nixon has been involved in up to this point, although, of course, it could become a criminal case.

The situation in Washington is so acute that the chief judge of the superior court has written the Senate Appropriations Committee to say: "The Supreme Court has stated time and again that what is constitutionally required is not just legal representation of an accused but 'effective' legal representation. When that kind of representation has not been provided in any individual case, the appellate courts have not hesitated to reverse the conviction."

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The chief judge said that "we may see many such reversals if the present situation is allowed to continue," which could affect some 300 cases per week or 15,000 a year. For the immediate emergency the chief judge has called on the entire District of Columbia bar to give their services free. Even if they respond, it is not a practical solution, for most are not criminal lawyers.

"What are we say," asked the chief judge, "to an accused who is prosecuted by a skilled U.S. attorney and defended by a patent lawyer?" And he adds: "Can we expect the defendant... to believe that he has been treated fairly by the court system? What may well be at stake here is the confidence of this community in its system of justice."

Before the public funds ran out, the superior court was paying experienced criminal lawyers an average of only \$126 per indigent case. To tide it over until the next fiscal year, the court needs around \$1 million, which is probably what Mr. Nixon would have had to shell out if he were paying his own defense.

It is hard to estimate these kinds of costs but the prosecution of Daniel Ellsberg provides a clue. His defense fund is reported to have exceeded \$1 million, although, unlike Mr. Nixon he was involved in only one set of charges, Mr. Nixon's legal problems have only begun. They dwarf Ellsberg's.

Just in the last six months of 1973, the White House admitted to Sen. Walter Mondale (D-Minn.) the government spent \$290,418 for lawyers and legal services to begin preparation of Mr. Nixon's Watergate defense. This figure is supposed to include the salaries for lawyers and others assigned to the White House from other executive departments and agencies, as well as the administrative expense for the President's elaborate defense operation.

It might be well to remember that the White House first estimated the cost of government improvements to Mr. Nixon's San Clemente home at \$39,000. It is now admitted to be \$10 million, and some think it is closer to \$17 million. Who knows what the legal expense to the taxpayers will be before the probable impeachment proceeding

and other potential actions against Mr. Nixon's are over?

James St. Clair, who now heads up the White House law firm, keeps saying he is defending the "presidency," rather than the President. But it is Mr. Nixon, not his badge of office, that is under investigation. The Constitution says nothing about impeaching the Presidency.

Atty. Gen. William Saxbe said last January that the time might come when Mr. Nixon should take over the costs of defending himself. He said the government should not pay the bills for the defense at a trial of impeachment charges. He also thought it would be improper for the government to pay the defense bill even before a vote on impeachment, if the inquiry developed criminal allegations.

This line of thought does not appear to have impressed the White House. When pressed about it at a recent press conference, the President brushed it off, joking that if the attorney general ruled against him, "I'll find somebody to loan me the money."

When Spiro Agnew was prosecuted for his activities both before and after he became Vice President, he obtained outside counsel at his own expense, probably more than \$200,000. His lawyers were not on the public payroll even when they were raising constitutional questions in his behalf. Finally, Mr. Nixon's personal secretary, Rose Mary Woods, also hired her own attorney, as has everybody else on the President's staff who became involved in Watergate. Why should Mr. Nixon be the sole exception?