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A Bad System

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IN THE NATION

Charles Colson, who entered a guilty plea under terms of an arrangement with Leon Jaworski, the special Watergate prosecutor, appears to have received a slightly stiffer sentence than Dwight Chapin, who spurned a guilty plea and insisted on trial.

Judge Gerhard A. Gesell sentenced Mr. Colson to one to three years in prison and a $5,000 fine for the one count of obstructing justice to which Mr. Colson confessed. Earlier, when Mr. Chapin was found guilty of two counts of lying to a grand jury, Judge Gesell sentenced him to ten to thirty months in prison (Mr. Chapin is appealing).

While it is hard to compare the gravity of offenses, and the public cannot be sure what other charges Mr. Colson might have been convicted of had he not made his plea bargain, his penalty is at least a partial answer to critics who are charging Mr. Jaworski with being too generous in his plea bargaining with the Watergate defendants.

Mr. Jaworski can point out, moreover, that Judge Gesell could have given either Mr. Colson or Mr. Chapin a stiffer sentence than he did. Neither reply is likely to still the voices of the numerous people—Attorney General Saxbe is the altest—who want to see Mr. Jaworski and the courts "throw the book" at the Watergate defendants.

They argue, with much force, that the crimes alleged are also serious breaches of public trust, and as such should be penalized more, not less, severely then ordinary violations of law. Despite Mr. Chapin's example, they believe that defendants who insist on a trial, and are found guilty, are likely to receive tougher sentences; G. Gordon Liddy, for example, is doing six to twenty years for his part in the Watergate break-in. Plea bargains, moreover, are arrived at in confidence and can leave the public confused as to exactly who did what; Mr. Colson's guilty plea on a narrow charge does not tell much about what appears to have been his broad role in White House undercover activities.

Mr. Jaworski and his staff can and do reply that they do not have the manpower to bring every Watergate defendant to trial within a reasonable period. For each guilty plea, they have exacted a pledge that the defendant will provide evidence and testify at other defendants' trials—something that could not have been guaranteed by putting the guilty pleader on trial. Moreover, a plea bargain insures a finding of guilt and at least some penalty, when in a trial everything from a balky jury to insufficient evidence might result in a not-guilty verdict (and Mr. Nixon's refusal to provide evidence might result in some cases having to be dismissed). Plea bargaining, its defenders claim, is as American as cherry pie; the criminal justice system could not function without it.

All these arguments and counter-arguments seem more or less to cancel each other out, leaving a far more serious criticism of Mr. Jaworski's conduct of the Watergate cases. It is that plea bargaining and light sentences (thirty days suspended for Richard G. Kleindienst, the former Attorney General, on a misdemeanor charge) mean that serious political crimes by high public officials are being treated lightly, in comparison to the long prison sentences commonly handed out for "ordinary" crimes—robberies, muggings and the like.

The most glaring example of that was not Mr. Jaworski's doing, but that of former Attorney General Elliot Richardson, who obtained Spiro Agnew's resignation as Vice President only by allowing him to plead *nolo contendere* to a minor tax evasion charge and thus escape severe sentence. Mr. Richardson's understandable priority was to take Mr. Agnew out of the line of Presidential succession; but he did it in such a way as to emphasize the fact, as I wrote at the time, "that prison is for the poor and the powerless, while mercy is for those who can swing it."

That happens to be, in most cases, a bitter truth of the American criminal justice system; and no doubt there are millions of Americans—primarily poor, black and Spanish-speaking persons—who know they would serve years in prison for offenses minor by comparison to those for which some Watergate defendants are getting relatively light sentences.

In fact, however, the Watergate sentences make more sense than the draconian penalties handed out to people convicted of robberies and assaults and other such crimes. Sending such people to prison for long terms usually results in more frequent and more serious criminal behavior after their release. Long incarceration is the most inhumane and unproductive way to deal with law-breakers, besides being often out of all proportion to the crime.

Rather than insisting that the Watergate defendants ought to get the same medicine handed out to street muggers, therefore, Mr. Jaworski's critics —especially Mr. Saxbe—might do better to seize upon the situation to point out the obvious inequities and the self-defeating nature of criminal sentencing in America. To put Charlie Colson in "the joitn" for six years instead of three might remove some of the inequity of a bad system, but it would do nothing constructive to change the system itself.