## President Held to Have Wide Power on Pardon

12/24/14 By John P. MacKenzie

Washington Post Staff Writer

such broad powers to grant hower had the constitutional pardons and reprieves that power in 1960 to commute the they may discriminate among citizens and are free to place conditions on clemency, the Supreme Court said yesterday.

In a 6-to-3 ruling, the court gave the widest latitude to the chief executive when he exercises his perogative of forgiving individuals and commuting prison terms.

The decision, which came in a military court-martial case, was issued at a time of continuing debate over executive clemency and some challenges to the way it has been used by President Ford. Although it did not end the controversy about when the pardon power should be invoked, it laid to rest any remaining questions other appeal to the President about the sweep of that power. himself.

At issue before the court

American Presidents have was whether President Eisendeath sentence of Maurice Schick, an Army master sergeant convicted in Japan for the brutal murder of an 8year-old girl, and to add the condition that Schick never be

> Chief Justice Warren E. Burger, tracing the clemency power directly to the royal power of English kings, said the authority was so sweeping that it "cannot be modified. abridged or diminished by the Congress."

Burger, writing for the majority, sustained Schick's conditional reprieve and said his only recourse would be an-

See PARDON, A7, Col. 1

## PARDON, From A1

Schick, now an inmate at the Lewisburg federal penitentiary, has served 20 years in power.' prison. If he were under a conventional life sentence, he would have been eligible to seek parole five years ago.

Lawyers for Schick argued that the commutation itself icy and humanitarian impulrested on the validity of the ses" supported the broad in- includes pardons for individuunderlying death sentence. But only Justices Thurgood Marshall, William O. Douglas and William J. Brennan Jr. voted to overturn the life sen-said. tence on the basis of the 1972 ruling that halted all executions in the United States.

Burger said that only by executive grace did Schick live liam H. Rehnquist. long enough to see the 1972 ruling and he could not now terpretations prevailing when sis for a suit under federal complain about the same clem- President Ford pardoned Rich- laws designed to safeguard citency that prolonged his life.

ination in so sweeping a tioned its timing rather than Burger "Individual acts of clemency Nixon pardon was uncondi- such disputes because the utilinherently call for discriminat-tional.

ing choices because no two A lawsuit by former Teamcases are the same." Individ- ster president James R. Hoffa ual treatment was "the very challenges the condition imessence of the pardoning posed by Nixon that Hoffa

the exercise of the pardoning leaving prison. power," Burger said. "Considerations of public pol-

Burger was joined by Jus-

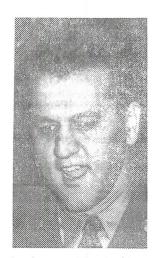
The opinion confirmed in-As for the potential discrim- but critics of that action ques- ment action. said, Mr. Ford's authority. The rights laws do not apply to

stay out of union office. Hoffa Any court-imposed restric- claims also that he was not adtions "would tend to inhibit vised of that condition before claims also that he was not ad-

Mr. Ford's program of clemency for Vietnam war draft resisters and military deserters terpretation, permitting "the als alrady punished and the attachment of any condition use of prosecutorial discretion which does not otherwise of to drop charges of selective fend the Constitution," Burger service law violations against individuals not yet prosecuted.

In another case, the court tices Potter Stewart, Byron R. dealt a setback to lawyers for He said the fact that Metro-White, Harry A. Blackmun, consumer groups and the poor Lewis F. Powell Jr. and Wil- as it ruled, 6 to 3, that a customer service disconnection by a utility cannot be the baard M. Nixon in September, izens against arbitrary govern-

Justice Rehnquist said civil



MAURICE SCHICK ... plea rejected

politan Edison Co. of York, Pa., was state-regulated, had a "partial monopily" on electricity service and was permitted by state law to cut off a customer's power without notice did not amount to action by the state government sufficient to trigger the federal

Justices Marshall, Douglas ity action is not "state action." and Brennan again dissented.