

By Tom Wicker

WASHINGTON, Jan. 9 — Herbert Kalmbach, natty in a three-piece suit, told a news conference he had “renewed appreciation and confidence in the essential fairness of America’s justice” and even hoped that his “actions have served to strengthen the pillars of justice.”

Jeb Magruder was welcomed home with yellow ribbons round the old oak tree—actually a cherry—in his suburban yard. Neighbors gathered to greet him with a friendly banner.

Mrs. John Dean said it was a great way to start the new year and that her husband had been “sufficiently punished.”

How easily is the world turned upside down! With an unexpected stroke of his pen, John Sirica—the old “hanging judge” himself, the scourge of Watergate—turned loose three of the

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major participants in the biggest political scandal in American history, one being seen by more and more people as having threatened the very foundations of democratic government.

Mr. Kalmbach’s response was worthy of a Kafka story. He got off with six months, mostly in quarters for Government witnesses, and as a result his confidence in the “fairness of American justice” is renewed. Some people spend more time than that in jail merely awaiting trial on minor larceny charges. Mr. Kalmbach, who sold an ambassadorship, fancies that his having pleaded guilty to a felony and a misdemeanor, as well as testifying against former colleagues, actually “strengthened the pillars of justice.” But first, he and the Watergate gang came as close as anyone has to pulling down those pillars.

As for Mr. Magruder’s neighbors, their generosity toward a good family and community man does them credit. Such generosity is virtually nonexistent, however, when the ordinary convict shuffles out of the prison gate in a state suit with a few grudging state dollars in his pocket and no job, little ability to get one, and no yellow ribbon round the stunted splinter that may pass for a tree in his ghetto neighborhood.

And if four months of minimum security confinement for John Dean is sufficient punishment for a man prosecutors say was the key man in the Watergate cover-up before he be-

came the key man in the prosecution, what is it when a high school dropout gets fifteen years in New York for possessing more than an ounce of marijuana? What is it when black radicals like Jim Grant and T. J. Reddy get 25 and 20 years in North Carolina on arson charges by witnesses paid thousands of dollars by the Federal Government? What is it when Martin Sostre spends five of his seven years in four New York prisons in solitary confinement for refusing to knuckle under to prison rites like mail seizures and rectal searches?

It is being suggested, of course, that, as in the case of Richard Nixon, who goes free on \$55,000 a year, the loss of high office and political power as well as public humiliation make up for soft prison terms (seven months for Mr. Magruder). Aside from the fact that anyone who goes to prison, whether for four months at Fort Holabird or ten years at San Quentin, suffers humiliation and the loss of his job and family associations, the outlook for clever, educated, well-groomed and facile men like these three is quite good in a celebrity-conscious and success-oriented society. Yesterday’s scandal is tomorrow’s lecture tour or best seller; old felonies can found new careers, as witness that busy entrepreneur, Spiro Agnew.

It is true enough that all these men ultimately helped the Government crack the Watergate case and convict the other culprits; but it also is true that they could have blown the whistle at any time but never did until faced with the necessity to save their skins as best they could.

In the cases of Mr. Dean and Mr. Kalmbach, bar associations could levy harsher penalties than the law has by barring them from legal practice. But to the millions of low-income, disadvantaged, unskilled and uneducated Americans, so many of whom have good reason to view the law with fear and distrust, the whole episode is likely to be another demonstration that there is one kind of justice for them, and another for affluent, educated persons with good lawyers and “standing” in their communities.

The rest of us, without further recriminations against Mr. Dean, Mr. Magruder, or Mr. Kalmbach, might take time to ask ourselves what a crime really is. A street mugging is abhorrent, a break-in demands severe punishment; but are betrayals of public trust and subversion of the laws by officials sworn to uphold them really to be considered lesser crimes, on the practical scale of the penalties that result?