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Bill Moyers would like a few words with you...

BY BILL MOYERS



Mercy Without Justice

When Richard Nixon resigned I expressed to several friends a hope that he would not have the pleasure of seeing the spirit he brought to public life live on in the gloating attitudes of his enemies. For 25 years the man had massaged the baser instincts of politics. Now he was going, and it would be enough, I thought, simply to be rid of him, without rancor. Let the law take its course, but let the vindictive spirit go with him; the harm he had wrought could only increase if those who fought him came in the end to imitate him. That was a month ago, and I assumed that one day he would be pardoned

in government. This is more likely to happen if Nixon acknowledged that the White House scandals were more than "mistakes and misjudgments" and cooperated in making the whole story public. But with Spiro Agnew lately insisting that the charges against him were never proven, we have a preview of what to expect from Nixon. Already his apologists are quoting the Supreme Court pronouncement in 1866 that a pardon makes the offender "as innocent as if he had never committed the offense." And last week the former President suggested that his guilt is not in his conduct but in the minds of other people.

BALONEY

Ford change his position so by failing to

keep our skepticism intact. There is nothing quite so suffocating of liberty as an overwrought conscience in a "humble servant of God" who, arriving in high office, confuses his will for that of Providence. A few centuries of that kind of thing convinced Western man to find a better way to resolve differences in society than by submitting to the personal chapel of a prince. We call it law.

To succeed, the process of law needs to be persuasive enough for all of us voluntarily to make a habit of it. In the last decade, kicking the habit has almost become fashionable in high places. After the disorders and illegalities of the Vietnam era and the pernicious effects of the... Gerald Ford could have in... willingness to submit... But by

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That was a month ago, and I assumed
then Nixon would one day be pardoned
by his successor. But I believed Gerald
Ford first would permit the tale to be
told, so we could know more fully how
Watergate came to be and how to guard
against its recurrence. Once the trials of
Haldeman, Ehrlichman and their cohorts
were behind us, the special prosecutor,
armed with evidence from Nixon's own
tapes, could issue a full report. The
conclusions of the Senate Watergate Com-
mittee and the House Judiciary Com-
tee are already a part of the record; this
last effort would complete the task of
laying out an account of high crimes
against the public trust by a President
and his counselors. There would come a
moment, then, when a pardon for Nixon
would be in order; we could leave him
to his failed hopes and turn to the happy
prospect of politics without him. With so
ample an investigation by Congress, the
courts and the Department of Justice of
what Watergate has come to mean, we
would have staked out some discernible
limits to arbitrary power.

FAVORITISM

Now I am not so sure. The manner of
President Ford's decision to pardon Nixon
is a serious setback to our recovery from
the Watergate mentality. It resurrects
the huge fiction long nurtured in the
White House—that "whatever pleases
the emperor has the force of law"—and
suggests that Gerald Ford, too, is willing
to put himself above the binding pro-
cedures of society. A President's power
to pardon is of course constitutional, but
Ford used it arbitrarily, prematurely and
imperiously. He pleads the need "to
show mercy." But mercy without justice
is favoritism.

In the case of Watergate, justice re-
quires neither Richard Nixon's hide nor
his contrition; it requires that safeguards
be fashioned against a return of the spirit
of lawless absolutism which he inspired

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BALONEY

Why did Ford change his position so
suddenly? Well, he said, by failing to
pardon now, "ugly passions would again
be roused, our people would again be
polarized in their opinions and the cred-
ibility of our free institutions of govern-
ment would again be challenged at home
and abroad." This is baloney from the
man who four weeks ago was insisting
that society is held together by the glue
of truth. The season's award for ugly pas-
sions goes to Nixon zealots like Rabbi
Korff. And if you want to know who po-
larized the nation, compare the demean-
or of Sirica, Doar, Jaworski and Rodino
to the tactics of Ziegler, Buchanan,
Clawson and Father McLaughlin. As for
"the credibility of our free institutions,"
it soared when in open debate, with the
world looking on, the House Judiciary
Committee came to grips with articles
of impeachment. The Republic not only
survived but was buoyed by a powerful
surge of self-esteem in a Congress that
decided not to shirk its duty.

Yet Ford seems to be selling short the
majority of people who have borne a
series of incredible events for two years
now with considerable maturity. If any-
one has an excuse to rage, it is the peo-
ple who voted for Nixon in 1972 and
were betrayed by him. Yet I sense no
thirst for revenge among them. There is,
instead, a desire to know how they were
double-crossed and a belief that Nixon
should give an honest accounting.

Another disturbing part of Ford's
statement was his compulsion to let us
know that in making his decision he
searched for the guidance of God "and
my own conscience." Maybe the public
finds such piety fetching, but our experi-
ence with officials who make a public
virtue out of private prayer hasn't been
very encouraging, and we had better

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nam era and the pernicious effects of
Watergate, Gerald Ford could have in-
spired a renewed willingness to submit
freely to the legitimacy of law. But by
treating the Nixon affair so capriciously,
he has added to the shambles.

WILLING TOOL

Why he did so remains a puzzle: none
of his explanations hold up. But we
should not forget Ford insisted from the
beginning that Nixon had nothing to do
with Watergate, despite mounting evi-
dence. Nothing in the record suggests
he was insincere. Furthermore, his whole
career in Congress had been spent in
partisan causes and in serving political
friends like Melvin Laird and Richard
Nixon who found the genial Ford a will-
ing tool for their intrigues. A man who
has spent that much time on the Hill
would know something of the power of
legislatures to grant pardons in the form
of indemnity—anticipatory pardon for
acts done in the public interest that
might be illegal. Ford could have had
something like that in mind. I suspect
that he believes his old friend from the
Chowder and Marching Club did no
wrong, that he was brought down by
flawed subordinates, or at least that the
wrong he did was for a good cause. A
pardon, then, would come as naturally as
patronage for an old colleague who has
lost his seat in Congress.

It is not very elevating, but the game
is played that way and men like Ford
come instinctively to abide by the rules.
The distance from the cloakrooms of
Congress to the Oval Office in the White
House, where higher loyalties should
prevail, is a long way to travel for men
swathed in old habits.

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...and once every month from now on, as
the former Presidential press secretary, newspaper
publisher and television interviewer joins
Newsweek's other regular roster of distinguished
columnist-observers: Shana Alexander, Pete
Axthelm, Milton Friedman, Meg Greenfield,
Clem Morgello, Paul Samuelson.