BY BILL MOYERS

Mercy Without Justice

When Richard Nixon resigned I expressed to several friends a hone When menare whom resigned a hope pressed to several friends a hope that he would not have the pleasure of seeing the spirit he brought to public seeing the spirit he brought to public life live on in the gloating attitudes of his enemies. For 25 years the man had his enemies. For 25 years the man had his enemies, for 25 years the man had how he was going, and it would be massaged the baser instincts of politics would be enough, I thought, simply to be rid of him, without rancor. Let the law take its him, without rancor. Let the law take its eourse, but let the vindictive spirit so with him, the harm he had wrought with him, the harm he who fought with him, the end to imitate him. him came in the end to imitate him.

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. "mistakes and misjudgments" and cooperated in making the whole story public. But with Spiro Agnew lately insisting that the charges against him were never that the charges against him were never expect from Nixon. Already his apologists are quoting the Supreme Court pronouncement in 1886 that a pardon makes and the offender "as innocent as if he had 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

keep our skepticism intact. There is noth-ing quite so suffocat-ing of liberty as an overwrought con-science in a "humble servant of Cod" who,

servant or coo wno, arriving in high of fice, confuses his will for that of Providence of the London dence. A few centuries of that kind of dence. A few centuries of that kind of thing convinced Western man to find a better way to resolve differences in so-ciety than by submitting to the personal chapel of a prince. We call it law, chapel of a prince. We call it law.

enaper of a prince, we can it law.

To succeed, the process of law needs to be persuasive enough for all of us undustratible to make a habit of it. In the chapel of a prince of as a suggested annited the offense. Suggested annited the offense suggested annited the offense suggested annited the offense suggested annited the former president suggested annited the former president suggested annited the process of all of us. To succeed, the process of a course, but let harm he now with him; with nim; the narm he had fought could only increase if those who fought come only increase it chose with him came in the end to imitate him.

That was a month ago, and I assumed 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 told, so we could know more fully how to discover to be and how to quark toro, so we could know more rany now Watergate came to be and how to guard avaiergate came to be and now to guard against its recurrence. Once the trials of against its recurrence. Once the mais of Haldeman, Ehrlichman and their cohorts Haldeman, Ehrlichman and their conorts were behind us, the special prosecutor, armed with evidence from Nixon's own tapes, could issue a full report. The special property of the Senate Watermate conditions of the Senate Watermate. tapes, could issue a rull report. The conclusions of the Senate Watergate conconcussons or the senate voluciary Commitmittee and the House Judiciary Commitmittee and the House Judiciary Commit-tee are already a part of the record; this last effort would complete the task of laying out an account of high crimes laying out an account of president against the public trust by a President and his counselors. There would come a against the Phone Huse by a rresident and his counselors. There would come a and his counselvis, there would consider moment, then, when a pardon for Nixon would be in order; we could leave him to his failed hopes and turn to the happy or instrumed hopes and turn to the napper prospect of politics without him. With prospect of pontics without min, with so ample an investigation by Congress, the 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.

Now I am not so sure. The manner of Now 1 am not so sure. The manner of President Ford's decision to pardon Nixon resident rolus decision to paron servicis a serious setback to our recovery from is a serious serious to our recovery from the Watergate mentality. It resurrects the the Watergate mentanty, it resurrects the huge fiction long nurtured in the White House—that whatever pleases 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 the best binding are the binding area. suggests that Geraid rord, 100, is whing to put himself above the binding protectives of society. A President's power to produce to continuous continuous but a produce to continuous the produce to the continuous continuous to produce the continuous cont cedures or society. A rresident's power to pardon is of course constitutional, but to pardon is or course constitutional, but Ford used it arbitrarily, prematurely and imperiously. He pleads the need to show mercy. But mercy without justice is forgations.

In the case of Watergate, justice rean the case of watergate, justice for quires neither Richard Nixon's hide nor is favoritism. dames menner menare resours mue nor his contrition; it requires that safeguards his footbase of the safeguards. his common; it requires that sateguards be fashioned against a return of the spirit of lawless absolutism which he inspired

that his guilt is not in unthe minds of other people. BALONEY

Why did Ford change his position so Why did rord enauge his position so suddenly? Well, he said, by failing to suddenlyr vven, he said, by taking to pardon now, "ugly passions would again pardon now, ugy passions would again be be roused, our people would again be polarized in their opinions and the credposarzed in their opinions and the credibility of our free institutions of governnoncy or our rice institutions of government would again be challenged at home and abroad." This is baloney from the man tube for works are the insisting and abroad. This is baloney from the man who has weeks ago was making that society is held together by the glue of truth. The season's award for ugly passions goes to Nixon zealots like Rabbi Sions goes to Nixon acaious are naunt Korff. And if you want to know who polarized the nation, compare the demanlarized 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 conditable of our feet institutions. "the credibility of our free institutions, "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 considered but was brought by accounted to the constitutions, and the constitutions of the constitutions, and the constitutions of the constitutions of the constitutions, and the constitutions of the constitutions, and the constitutions of the constitutions of the constitutions, and the constitutions of the consti or impeaciment. The nepuloic not only survived but was buoyed by a powerful survived but was buoyed by a powerful surge of self-esteem in a Congress that

surge or self-esteem in a Congress that decided not to shirk its duty. Tet Ford seems to be selling short the majority of people who have borne a series of incredible grants for the series of the majority of people will have bothe a series of incredible events for two years series of increating events for two years now with considerable maturity. If anynow with consucration matterly, in any one has an excuse to rage, it is the peoone has an excuse to rage, it is the people 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.

double-crossed and a density that should give an honest accounting.

Another disturbing part of Anothe statement was his compulsion to let us statement was his compusion to let us know that in making his decision he searched for the guidance of God "and my own conscience." Maybe the public my own conscience. Maybe the public such piets fetching but our experimy own conscience. Mayoe the public finds such piety fetching, but our experiand such piety retening, out our experience with officials who make a public writue out of private prayer hasn't been very encouraging, and we had better

last decade, kicking in high place-become fashionable in high place. become rasmonane in mgn piaces, the disorders and illegalities of the Vietnam era and the pernicious effects of Watergate, Gerald Ford could have inwatergate, Gernid Ford count mave inspired a renewed winingness to submit freely to the legitimacy of law. But by treating the Nixon affair so capriciously, he has added to the shambles he has added to the shambles.

WILLING TOOL Why he did so remains a puzzle; none Why he did so remains a puzzie; none of his explanations hold up. But we should not forget Ford insisted from the beginning that Nixon had nothing to do beginning that Nixon had nothing to do beginning that Nixon had nothing to do with Watergate, despite mounting evidence. Nothing in the record suggests he was insincere. Furthermore, his whole he was in Contract had heer event in ne was insincere. Furthermore, his whole career in Congress had been spent in partisan causes and in serving political friends like Melvin Laird and Richard Priends like Melvin Laird and Richard and Richard like Melvin Laird and Richard Richard like Melvin Laird and Richard Ric nienus uke meivii Lairu anu nicharu Nixon who found the genial Ford a willing tool for their intrigues. A man who ing tool for their intrigues. A man who has spent that much time on the Hill would know something of the power of would know sometiming of the power of legislatures to grant pardons in the form iegislatures 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 acts of the public interest that might be illegal. might be megal. For course more made something like that in mind. I suspect that he believes his old friend from the that he believes his old mend from the Chowder and Marching Club did no Cnowder and Marching Cau day by wrong, that he was brought down by Bawed subordinates, or at least that the nawed suppremates, or at least that the wrong he did was for a good cause. A wrong ne and was for a good cause. A pardon, then, would come as naturally as paroun, 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 it is not very elevating, but the game is played that way and men like Ford 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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