

Constitution Sets Executive Clemency

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WASHINGTON, May 18 — Executive clemency, which became an issue in the Senate Watergate hearings today, is one of the few executive powers made explicit by the Constitution, which provides in Article II, Section 2, that the President may "grant reprieves and pardons except in cases of impeachment."

James W. McCord Jr. told the Senate's Watergate investigating committee today that he declined successive offers of executive clemency by a Nixon administration official who told me that he was conveying a message from the very top level of the White House.

That is the level at which the clemency power resides.

Executive clemency for Federal offenders takes the following forms:

¶ **Reprieve** — the postponement, by Presidential directive,

of the execution of a sentence imposed by a Federal court.

¶ **Remission of a fine** — the expunging, again by Presidential order, of a fine imposed upon conviction for a Federal offense, but not yet paid. Fines already collected by the Treasury cannot be refunded except by an act of Congress.

¶ **Commutation** — the shortening, by personal order of the President, of a sentence already imposed on an individual convicted of a Federal crime.

¶ **Pardon** — the bestowing of forgiveness by the President, after a prescribed waiting period, on an individual who has finished serving a sentence for the commission of a Federal felony. Misdemeanors are not pardonable, since they do not result in the loss of civil rights. In some states, a Federal pardon is required before the franchise and other rights can be restored; in others, a pardon may speed the restoration considerably.

The first two actions are

scarcely ever taken by the President, chiefly because they are so rarely requested. Requests for commutations or pardons are more common, but over the last 20 years only about one application in every three has received Presidential approval.

President Nixon has been less free with executive clemency than were Presidents Eisenhower, Kennedy and Johnson. During his first four years in office, for example, the Justice Department received 2,151 applications for clemency, but Mr. Nixon signed only 474 pardons and 50 commutations, or about one in four.

Any inmate in a Federal prison is free to file a request for commutation from the day he arrives. The Justice Department then examines the disparity of his sentence — how it compares with others levied for similar offenses — and takes other personal factors into account before sending the application to the President with the Attorney General's recommendation.

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