

The Politicians' Big Equal-Justice-Under-Law Baloney Picnic

By Russell Baker

Some years ago a colleague of mine, a reporter, was sent to the Maryland Penitentiary to witness the hanging of three felons, two of whom were black. The white man was hanged first, which prompted my colleague to note in his story that in Maryland, even on the gallows, the white man went first.

The editor excised this observation, of course, on a number of journalistically justifiable grounds, but I have been reminded of it again this week by the uproar over the Nixon pardon and the contention that President Ford has betrayed the principle of "equal justice under law."

In Maryland at that time it was so universally understood that white men went first, law or no law, that it was considered childishly flippanant to

burden a routine hanging story with such incidental sociological data.

By the same token, one assumes that most Americans today are so thoroughly aware of the double standard at law that they would scarcely lift an ear at news that it had been applied in the case of a former President.

Much of the complaining about a betrayal of "equal justice under law" can probably be dismissed as political cant whose purpose is to undermine President Ford's high standing in the popularity polls. As political baloney it is probably tolerable if we keep in mind that it comes from people uniquely positioned to be excused from the harshest rigors of the law in matters ranging from drunken driving and assaulting policemen upward through the bloodless felonies. A politician crying for equal justice under law is as absurd as a Mafia capo demanding an honest judge.

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What is truly disturbing, however, are the many reports we have had this week of teachers asking our statesmen how they can go on teaching the young about equal justice under law after the Nixon pardon.

The alarming suggestion here is that teachers have been telling children all along to expect equal justice under law. Such teaching is like encouraging belief in Santa Claus and has no place in the educational system, at least after the second or third grade.

There can scarcely be a sensible adult alive who does not instinctively know that the law will be his support or his enemy in proportion to the strength of his position in the community, which is to say in propor-

tion to his wealth or to his power.

If you are stopped by the cops for weaving boozily through late-night traffic, you will be far wiser to be a Congressman in a large new car than an unemployed hod carrier in a 1950 Chevrolet with one fender missing; and if teachers are teaching anything else after the third grade they ought to be sent back to teachers college.

Parents generally instruct their young wisely in these matters. Blacks often train their children for survival by teaching them to fear the law. Middle-class whites caution their sons against driving the New Jersey Turnpike with long hair. The rich teach the wisdom of immediately calling a lawyer.

None of this is to say that the ideal of equal justice is not occasionally realized. It is, sometimes, but a person would be foolish to count on it. Doubtless a thorough culling of the

annals of crime would turn up the names of one or two rich men who have been hanged, but no names come immediately to mind.

Execution, in fact, has been so distinctively a poor black man's punishment that the Supreme Court recently condemned it on the ground that it constituted too flagrant an exercise of inequality under the law. The enduring pressures for its restoration suggest, however, that strong public appetite for unequal justice under law still thrives despite this week's outcry against seeing the same great principle applied to Mr. Nixon.

Equal justice under law, it would seem, ought to be more equal in some cases than in others.

It is doubtful that Americans really want equal justice under law; that the white majority really wants to be subjected to the same code of policing, trial and sentencing that applies to the

black minority, or that well-to-do executives behind the wheel with too many martinis really want to be put in jail with beery hod carriers instead of being taken home and put to bed; or that rich men who might "make a mistake," as Mr. Nixon has made, really want to be caged at Atlanta with uncouth youngsters from the streets whose mistakes are made with burglar tools and hand guns instead of tax forms and bank accounts.

Law reflects a nation's consensus about how society ought to be organized, and in its present state in this country it reflects a contentment with a justice that grants special dispensation for money and power. Instinctively, we all recognize this and govern our actions accordingly. If we know the rules of the game, and subscribe to them, what is it but hypocrisy to complain because they are applied among Presidents?