

## Is the Pardon Unpardonable?

To the Editors:

The Supreme Court was widely praised in the "tapes" case for its holding that no man was above the law. President Ford, with all good intentions and even with personal magnanimity, has dealt this principle a serious blow. What are we now to do about John Mitchell, who may have already suffered as much as Richard Nixon and is still being prosecuted, or with the other underlings who, as far as anyone can tell, really executed orders from above? This effort to heal the wounds of Watergate has inflamed the existing and far more serious wounds in the principle of equality before the law. Even if one decided to achieve some equality by pardoning all of those who are accused of doing the President's bidding, there stand thousands of others accused of criminality. They have also suffered, but they may differ from Richard Nixon primarily in more forthrightly acknowledging their guilt, as do most embezzlers, or in having acted out of conscience, as have many of our draft evaders. Presumably they, too, would be content with being judged by history if they were not prosecuted.

This affront to the sense of justice—and that is essentially what it is—is not, to be sure, fatal to our criminal-justice system. But this action certainly does add to the all too popular view that our criminal law is a mass of hypocrisies. It is interesting to note that California's Governor Ronald Reagan, who applauded the refusal to allow prosecution of Richard Nixon on the ground that "he has suffered as much as any man should," had two days earlier announced his intention to veto a bill lowering the possible penalty for possession of small amounts of marijuana from ten years' to six months' imprisonment. Is it any wonder that the poor, the ethnic minorities and the young, who are the real consumers of the criminal law, regard it as stacked in favor of the rich and powerful?

John Kaplan  
Professor of Law  
Stanford University  
Palo Alto, Calif.

President Ford has insulted every law-abiding citizen of this country.

Muriel Swango  
Quincy, Ill.

President Ford, by his unexpected action, has destroyed his own credibility.

In 1960, while I was Governor of California, I had a similar situation, which hurt me all the days of my governorship. I am referring to the case of Caryl Chessman.

Mr. Chessman had been convicted of raping two girls on two separate occasions at the point of a gun. As attorney general I had fought hard for affirmation of the conviction and the execution of Mr. Chessman. I then became Governor and was faced with a difficult problem—not of justice but of clemency (mercy). I felt Mr. Chessman was guilty, but that the death penalty

was too severe because it had been so long delayed. On the very eve of his execution I granted a 60-day reprieve. This was attacked by almost every newspaper in the state of California. You would have thought I was guilty of the offenses rather than the person to whom I gave the reprieve. Wherever I went I was booed. I was in somewhat the same position in which President Ford now finds himself. My first year

had been a great success and I enjoyed a high popularity rating in the polls. After this act of mercy, I never really recovered. I did defeat Richard Nixon in 1962, but if I had not commuted Mr. Chessman's sentence, I don't think Richard Nixon would ever have been a candidate against me.

Jerry Ford has unquestionably hurt himself with the American people. A great many think there might have been a deal, or if not a deal then his timing was so stupid and unintelligent that he hasn't got what it takes to be President. Whatever the situation, Ford has crossed the Rubicon as I did, and he will pay the heavy penalties of never regaining the popularity he had during the first weeks of his presidency.

Edmund G. Brown  
Beverly Hills, Calif.

The final cover-up.

W. Ward Fearnside  
Wellesley Hills, Mass.

I'm satisfied that justice has been served. I have mixed emotions, but it is undoubtedly good for the country that we do not have to continue as a divided nation. History will take care of Nixon without a formal judicial finding. His Administration will go down as one of

the worst in history because of corruption. The pardon of Nixon should be matched by the granting of unconditional amnesty to those who resisted service in the Viet Nam War. The young men who refused to take part in that war for reasons of conscience have an even higher right to amnesty and pardon than Nixon.

Joseph Crangle  
Chairman  
Democratic State Committee  
Buffalo

America's greatest President was a man of compassion. A century later we have a new President who is also a man of compassion. Long after the vultures and biodegradables have departed, the pardon of Richard Nixon by President Ford will go down in history as the mark of a man who is both courageous and decisive.

A.E. Alexander, M.D.  
New York City

Justice may certainly be tempered by mercy, but there can be no such thing as mercy until justice has been accomplished by the courts. Since it circumvented justice, Mr. Ford's act was merely indulgent favoritism, a bland and unworthy substitute for mercy. Real mercy could have modified Richard Nixon's legal fate, but it would not have shielded him from the law and his responsibility to disclose the truth.

Particularly troubling to me as a Christian is the fact that President Ford appeals to his conscience "as a humble servant of God" in granting this pardon. Unlike Mr. Ford, I serve a God who is a God of justice as well as a God of mercy. By him, kings and paupers shall one day be judged alike.

With Mr. Nixon irrevocably pardoned, the moral basis for pursuing his co-conspirators is undermined, and the cases themselves are jeopardized. The Executive Branch has rendered the Judicial Branch incapable of performing its proper function under the law. So it remains for Congress to overrule the President, reopen the impeachment probe and thus resolve the question of Richard Nixon's culpability.

James D. Denney  
Paramus, N.J.

I nominate J.F. terHorst for Man of the Year.

Jack Gaines  
Stinson Beach, Calif.