



President's Right To Grant a Pardon

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MAY A President of the United States, suffering from flexible morals, grant an unconditional pardon to his best friend who has been convicted of murdering six small children?

Yes, says the Supreme Court—and the Supreme Court is right.

The Constitution says the court had no choice but to rule that Presidents have unlimited powers to grant pardons and reprieves and in so doing may freely discriminate between individuals granted equal rights by the same Constitution. The 6-to-3 decision was delivered in the case of an Army master sergeant, Maurice Schick, who was convicted in Japan of the murder of an 8-year-old girl. President Eisenhower commuted the death sentence to life imprisonment and ruled that Schick never be paroled.

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BUT THE Schick case was only the vehicle for a ruling which ended the argument over whether President Ford had the authority to give Richard Nixon an unconditional pardon. Mr. Ford did have and still has that authority, said the court's majority.

It is feckless to argue whether a President should have such authority. That's for discussion in political science courses. Section 2 of Article 2 of the Constitution says of the President: "he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." That's all. No ands, ifs, or buts.

Sure such absolute power invites discrimination. But as Chief Justice Warren Burger wrote for the majority in the Schick case, what else? Or in Burger's words, "Individual acts of clemency inherently

call for discriminating choices because no two cases are the same. . . . Considerations of public policy and humanitarian impulses" supported a broad interpretation "which does not otherwise offend the Constitution."

Mr. Ford's pardon of Mr. Nixon was an act of public policy. Although he should have stayed his hand until the Watergate dust settled, Mr. Ford was right in deciding that the spectacle of a former President standing in the dock would be traumatic to the national interest. Mr. Nixon got away with his role in Watergate, but the Republic was spared an experience that might permanently have divided the citizenry.

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DEFENSE COUNSEL for John Mitchell, H. R. Haldeman, John Ehrlichman and other Watergate figures had a point when they argued that the pardon was unfair to their clients. They insisted that the defendants were acting under Mr. Nixon's orders, that they were doing what they were told.

However, defense counsel were only half right. It is true that when a President tells a subordinate to do something, his office gives him an eminence and authority not possessed by some straw boss in a cuspidor factory. But when men have made their way that close to the ultimate power, the citizen has a right to expect them to be a little better than the rest of the herd. The question here is one of right and wrong, and the defendants all were old enough and smart enough to know the difference.

If Richard Nixon is guilty, that does not per se make his hired hands innocent.