

*"If destruction be our lot, we must ourselves
be its author. . . ."*

—ABRAHAM LINCOLN,
SPRINGFIELD, 1838.

The Roots Of Lawlessness

by HENRY STEELE COMMAGER

It was in 1838 that the young Abraham Lincoln—he was not yet twenty-nine—delivered an address at Springfield, Illinois, on "The Perpetuation of Our Political Institutions." What he had to say is curiously relevant today. Like many of us, Lincoln was by no means sure that our institutions could be perpetuated; unlike some of us, he was convinced that they should be.

What, after all, threatened American political institutions? There was no threat from outside, for "all the armies of Europe, Asia, and Africa combined could not by force take a drink from the Ohio or make a track on the Blue Ridge in a thousand years." No, the danger was from within. "If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time or die by suicide."

This, Lincoln asserted, was not outside the realm of possibility; as he looked about him, he saw everywhere a lawlessness that, if persisted in, would surely destroy both law and Constitution and eventually the nation itself. In the end, lawlessness *did* do that—lawlessness in official guise that refused to abide by the Constitutional processes of election or by the will of

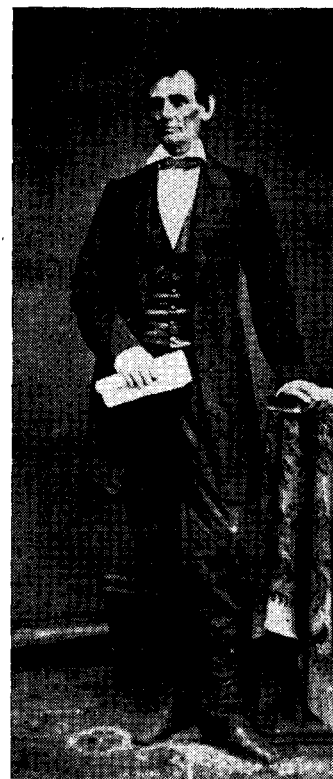
the Constitutional majority. It was to be Lincoln's fate to be called upon to frustrate that lawless attack on the nation, and to be remembered as the savior of the Union. And it has been our fate to be so bemused by that particular threat to unity—the threat of sectional fragmentation—that we have failed to appreciate the danger that so deeply disturbed Lincoln at the threshold of his political career.

The explanation of our confusion is rooted in history. The United States invented, or developed, a new kind of nationalism, one that differed in important ways from the nationalism that flourished in the Old World. One difference was the enormous emphasis that Americans, from the beginning, put on territory and the extent to which American nationalism came to be bound up with the acquisition of all the territory west to the Pacific and with the notion of territorial integrity on a continental scale. The idea that a nation should "round out" its territory, or take over all unoccupied territory, was not prominent in the nationalism of the Old World. Territory there, after all, was pretty well pre-empted, and there was no compelling urge to acquire neighboring land for its own sake.

In the Old World, threats to unity had been, for the most part, dynastic or religious rather than territorial. As proximity did not dictate assimilation, distance did not require separation. But in America space and distance ap-

peared to pose threats to the Union from the beginning. Some of the Founding Fathers, to be sure, continued to think of unity and disunion in Old World terms of interests and factions, rather than in terms of territory. This was perhaps because they had little choice in the matter or none that they could publicly acknowledge, for the United States was born the largest nation in the Western world, and the Framers had to put a good face on the matter. But Europeans generally, and some Americans, long familiar with Montesquieu's dictum that, while a republic could flourish in a small territory, a large territory required a despotism, assumed that the new United States, with boundaries so extensive, could not survive.

Jefferson and his associates were determined to prove Montesquieu mistaken. From the beginning, they formulated a counter-argument that size would strengthen rather than weaken the nation. Brushing aside the warnings of such men as Gouverneur Morris, they boldly added new states west of the Alleghenies. They made the Louisiana Purchase, seized West Florida, and looked with confidence to acquiring all the territory west to the Pacific; thus, the Lewis and Clark expedition into foreign territory, something we would not tolerate today in our territory. Territorial expansion and integrity became a prime test of the American experiment, and within a few years what had been a test became, no less, a providential command: Mani-



—Bettmann Archive

HENRY STEELE COMMAGER, educator, historian, and man of letters, is at present writing a book on the Enlightenment in Europe and America.

fest Destiny. From this flowed naturally the principle that the proof of union was territorial, and the threat to union territorial.

A second American contribution to the ideology of nationalism was, in time, to become its most prominent characteristic: the notion that national unity required not merely territorial unity but social and cultural. In the Old World, the only cultural unity that had any meaning was religious: The principle *Cuius regio eius religio* was dictated by the fact that the ruler's religion determined the religion of the state. But class distinctions were taken for granted, as were profound differences in cultural and social habits—in speech, for example, or in such simple things as food and drink and dress and games.

Americans changed this pattern around. They rejected the principle of religious unity—doubtless in large part because they had no alternative—and then substituted cultural for religious unity. Americans were not expected to pray alike, but they were expected to talk alike, dress alike, work alike, profess the same moral code, and subscribe to the same legal code. Eventually, as we know, they were expected to eat the same food, drink the same liquors, play the same games, read the same journals, watch the same television programs, and even have the same political ideas—expectations never seriously entertained by, say, German or Italian nationalists.

American nationalism thus became, at a very early stage, a self-conscious affair of imposing unity upon a vast territory, a heterogeneous population, and a miscellaneous culture. Because there was indeed land enough to absorb some forty million immigrants, because those immigrants were so heterogeneous that (with the exception of the Germans and, in modern times, the Negroes) they were unable to maintain a cultural identity counter to the prevailing American culture, and because, in provisions for naturalization and opportunities for active participation, the political system was the most hospitable of any in the world, an artificial unity became, in time, a real unity. Americans managed to achieve a single language with fewer deviations than were to be found in England, Germany, or Italy; to achieve a common education—not universal, to be sure, but more nearly universal than elsewhere in the nineteenth-century world; to create a common political system, each state like every other state; and, *mirabile dictu*, to conjure up a common history and a common past.

The threat to union, as Lincoln saw it in 1838, was not sectional or economic or social or even moral; it was

quite simply the “spirit of lawlessness.” As early as *Notes on Virginia* (1782), Thomas Jefferson had confessed that he trembled for his country when he reflected that “God is just and his justice cannot sleep forever,” and throughout his life Jefferson saw slavery as a moral threat, but in this he was more farsighted than most. The threat to union posed by slavery was unprecedented; it was a product of that elementary fact by now so familiar that we take it for granted: that deep economic, social, and moral differences assumed a geographical pattern, and that the American Constitutional system, namely federalism, permitted them to take a political pattern as well. As it happened, the sectional pattern of slavery was in mortal conflict with a very different sectional pattern, and it was this conflict that proved in the end fatal to the thrust for Southern independence: the sectionalism created by the Mississippi River and its tributaries. That, as it turned out, was the decisive fact that preserved the Union; when, in the summer of 1863, Lincoln wrote that “the signs look better,” what he noted first was that “the Father of Waters goes again unvexed to the sea.”

Suppose slavery had rooted itself vertically in the Mississippi Valley rather than horizontally across the South from the Atlantic to Texas. That would have given sectionalism a more rational base than it had in the South—a base that in all likelihood would have been impregnable.

Here we have one of the assumptions about American history that gets in the way of an appreciation of our distinctive characteristics. Because thirteen American states, hugging the Atlantic seaboard, became a single nation spanning a continent, we either take American unity for granted or consider fragmentation only in terms of the experiment in Southern nationalism, which misfired. But there was nothing foreordained about the triumph of unity. Why did not the vast American territory between Canada and the Gulf of Mexico go the way of Latin Amer-

ica, which, with a common religion, language, and territory, nevertheless fragmented into numerous independent states?

The spectacular nature of the American achievement has bemused almost all students of American nationalism and dictated most interpretations of the problem of American unity. The transcendent fact of slavery and of the Negro—so largely responsible for creating a sectionalism that did not yield to the ameliorating influences of economy, social mobility, cultural uniformity, and political compromise—has distracted our attention from other threats, if not to union then to unity. Because we had a civil war, precipitated by sectional fragmentation, we did not imagine that we could have a revolution based on social fragmentation.

We are tempted to say of Lincoln's Springfield address that it was shortsighted of him not to have seen that the threats to union were slavery and sectionalism—something he learned, in time. We should say rather that he was farsighted in imagining the possibility of a very different threat to union: an internal dissension and lawlessness that bespoke a breakdown in cultural and moral unity. This is what confronts us today: blacks against whites, old against young, skinheads against eggheads, militarists against doves, the cities against the suburbs and the countryside—hostilities that more and more frequently erupt into open violence.

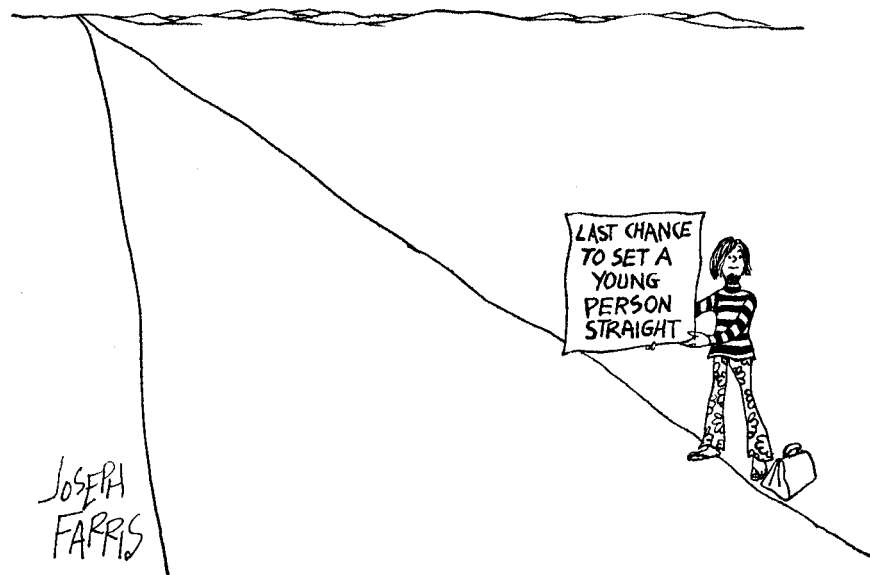
Two considerations warrant attention. First, that what Lincoln described was in fact normal—we have always been a lawless and a violent people. Thus, our almost unbroken record of violence against the Indians and all others who got in our way—the Spaniards in the Floridas, the Mexicans in Texas; the violence of the vigilantes on a hundred frontiers; the pervasive violence of slavery (a “perpetual exercise,” Jefferson called it, “of the most boisterous passions”); the lawlessness of the Ku Klux Klan during Reconstruction and after; and of scores of race riots from those of New Orleans in the 1860s to those of Chicago in 1919. Yet, all this violence, shocking as it doubtless was, no more threatened the fabric of our society or the integrity of the Union than did the lawlessness of Prohibition back in the Twenties. The explanation for this is to be found in the embarrassing fact that most of it was official, quasi-official, or countenanced by public opinion: exterminating the Indian; flogging the slave; lynching the outlaw; exploiting women and children in textile mills and sweatshops; hiring Pinkertons to shoot down strikers; condemning immigrants to fetid ghettos; punishing Negroes who tried to



exercise their civil or political rights. Most of this was socially acceptable—or at least not wholly unacceptable—just as so much of our current violence is socially acceptable: the 50,000 automobile deaths every year; the mortality rate for Negro babies twice that for white; the deaths from cancer induced by cigarettes or by air pollution; the sadism of our penal system and the horrors of our prisons; the violence of the police against what Theodore Parker called the “perishing and dangerous classes of society.”

What we have now is the emergence of violence that is not acceptable either to the Establishment, which is frightened and alarmed, or to the victims of the Establishment, who are no longer submissive and who are numerous and powerful. This is the now familiar “crime in the streets,” or it is the revolt of the young against the economy, the politics, and the wars of the established order, or it is the convulsive reaction of the blacks to a century of injustice. But now, too, official violence is no longer acceptable to its victims—or to their ever more numerous sympathizers: the violence of great corporations and of government itself against the natural resources of the nation; the long drawn-out violence of the white majority against Negroes and other minorities; the violence of the police and the National Guard against the young; the massive and never-ending violence of the military against the peoples of Vietnam and Cambodia. These acts can no longer be absorbed by large segments of our society. It is this new polarization that threatens the body politic and the social fabric much as religious dissent threatened them in the Europe of the sixteenth and seventeenth centuries.

A second consideration is this: The center of gravity has shifted from “obedience” to “enforcement.” This shift in vocabulary is doubtless unconscious but nonetheless revealing. Obedience is the vocabulary of democracy, for it recognizes that the responsibility for the commonwealth is in the people and appeals to the people to recognize and fulfill their responsibility. Enforcement is the language of authority prepared to impose its will on the people. Lincoln knew instinctively that a democracy flourishes when men obey and revere the law; he did not invoke the language of authority. We are no longer confident of the virtue or good will of the people; so it is natural that we fall back on force. The resort to lawless force—by the Weathermen, the Black Panthers, the Ku Klux Klan, the hardhats; by the police in Chicago; by the National Guard at Orangeburg, South Carolina, and Kent, Ohio; or by highway police at Jackson,



Mississippi—is a confession that both the people and their government have lost faith in the law, and that the political and social fabric that has held our society together is unraveling: “By such examples,” said Lincoln at Springfield, “the lawless in spirit are encouraged to become lawless in practice.”

It has long been our boast—repeated by the President’s Commission on Violence—that notwithstanding our lengthy history of violence we have never had a “revolution,” and that our political system appears to be more stable than those of other nations. Our only real revolution took a sectional pattern and was not called revolution but rebellion; since it was rationalized by high-minded rhetoric, led by honorable men, and fought with gallantry, it speedily took on an aura of respectability, and to this day Southerners who would be outraged by the display of the red flag of rebellion proudly wave the Stars and Bars of rebellion.

Thus, like most of our violence, violence against the Constitution and the Union, and by implication against the blacks who were to be kept in slavery, is socially approved. Where such violence has been dramatic (as in lynching or industrial warfare), it has not been widespread or prolonged; where it has been widespread and prolonged (as in slavery and the persistent humiliation of the Negro), it has not been dramatic. Where its victims were desperate, they were not numerous enough or strong enough to revolt; where they were numerous (never strong), they did not *appear* to be desperate, and it was easy to ignore their despair. Now this situation is changing. Lawlessness is more pervasive than ever; the sense of outrage against the mal-

practices of those in power is more widespread and articulate; and the divisions in society are both deeper and more diverse, and the response to them more intractable.

One explanation of our current malaise is that it seems to belong to the Old World pattern rather than that of the New. Much of the rhetoric of the conflict between generations is that of class or religious wars—class war on the part of, let us say, Vice President Agnew; religious protest on the part of Professor Charles Reich and those involved in what he calls “the greening of America.” If this is so, it goes far toward explaining some of our current confusion and blundering: the almost convulsive efforts to distract attention from the genuine problems of environment, social injustice, and war, and to fasten it on such phony issues as campus unrest or social permissiveness or pornography. What this implies is ominous: Our society is not prepared, either by history or philosophy, for the kind of lawlessness and violence and alienation that now afflict us.

Why is this so ominous?

Traditionally, our federal system could and did absorb regionalism and particularism, or channel these into political conduits. More accurately than in any other political system, our representatives represent geographical places—a specific Congressional district or a state—and our parties, too, are organized atop and through states. Our system is not designed to absorb or to dissipate such internal animosities as those of class against class, race against race, or generation against generation.

A people confident of progress, with a social philosophy that assumed that
(Continued on page 63)

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Vietnam: What Is Left of Conscience?

EDITOR'S NOTE: *The following guest editorial is by Bill Moyers, who served as White House press secretary under President Johnson until January 1967, when he left that post to become publisher of Long Island's Newsday. Since last April, Mr. Moyers has been traveling around the country gathering material for his new book Listening to America, which will be published next month by Harper Magazine Press.*

We do not yet know the full extent to which the war in Vietnam has affected our moral sensibilities, but we do know enough to be troubled. News of continuing death and destruction appears fleetingly in the press and is quickly forgotten. In a recent national poll, people said they are more concerned with the economy than with the war. When during a television interview reporters finally asked President Nixon a question about the war, he wondered aloud, with a smile, why they had taken so long to bring it up. A consensus has been reached that the war is winding down, at least our active combat role in it; last month when 300 bombers roared over the countryside of Indochina dropping tons of bombs, barely a peep was heard in the land. There was relatively little outrage over the Cambodian invasion until four students were killed by the National Guard at Kent State. Campuses are quiet, I suspect, because the threat of the draft is disappearing. Americans do not seem able to sustain indignation over a situation that does not cost them personally. We do not mind war

as long as we do not have to look at its victims.

A committee of the American Association for the Advancement of Science recently reported that chemical herbicides used by the United States have poisoned some five million acres of South Vietnam—one-eighth of that country; that we have used six pounds of herbicides per Vietnamese, including children; and that the defoliation program, intended to deny food to the Vietcong, often destroyed the crops of the Montagnards, who are supposed to be on our side. Pictures of once fertile mangrove forests look like pictures of the moon. The report was like a rock dropped into a bottomless well. After the first burst of news coverage, hardly anyone paid any attention to it.

When Col. Robert A. Koob was selected foreman of the court-martial panel for the trial of Sgt. Charles E. Hutto, one of the soldiers at Mylai, he was asked by the chief government prosecutor if an enlisted man should be prosecuted if he shot an unresisting prisoner of war at the order of an officer. Colonel Koob was quoted by *The New York Times* as replying: "Since the time I entered the service, I was taught that a soldier was trained to shoot and kill. Haven't we trained soldiers to be responsive to orders?" Koob was also quoted as saying that "this is not a conventional war. We have to forget propriety."

The problem with the colonel's statement is that nations always "forget propriety" in the waging of war, whether they are sending V-2 rockets into London or dropping an atomic

bomb on Hiroshima. In all wars, men have observed Seneca's proposition: "Deeds that would be punished by loss of life if committed in secret are praised by us when uniformed generals carried them out."

However, there are exceptions: Lieutenant Calley and others are on trial for what allegedly happened at Mylai. But even here something seems amiss. What do we learn about ourselves when we realize that for all the outcry over events at Mylai and Kent State the public remains quiet over the bombs that continue to fall indiscriminately—they might as well be labeled "Occupant"—on Indochina? Are we indifferent to the destruction our newspapers are unable to describe? Why is it that men like Calley should bear the brunt of punishment for what has been an official policy of mass and impersonal devastation waged in our name in Vietnam? Are they more guilty than the men who fly the bombers? Than the men who give the orders from Saigon or CINCPAC in Hawaii? Than the men who make the policy in Washington? Than all of us?

I do not know how to deal with the dilemma of such questions. Collective guilt, like a trillion-dollar economy, is of such scope as to stagger my mind. I grew up believing in personal responsibility and individual guilt. Much of the country did, too, which perhaps explains why so many seem so little troubled by the anonymous and abstract manner in which we have destroyed so much of Vietnam in order to save it; in the diffusion of responsibility there is comfort. Perhaps it also explains our willingness to permit the Calleys to be scapegoats through whose sacrifice the rest of us arrive at some atonement. Seeing Calley on television as he is entering or leaving the place of trial, I sometimes find myself wishing the worst for him; the acts of which he stands accused seem so heinous a departure from propriety. But in the next moment, realizing that I have never been in war, have never been asked to kill for society, I am engulfed by sympathy for him, not willing that he alone of all of us should be judged. Perhaps it is these moral doubts to which Colonel Koob unwittingly referred when he said Vietnam is "not a conventional war." Americans have fought brutally in other wars. This is just the first time we have been forced to concede the brutality so frankly and publicly, the first time we have fought with a nagging conscience openly displayed on television, the first time we have acknowledged in such a wholesale way the discrepancy in justice for the individual soldier who kills in our behalf and the anonymous men who from 30,000 feet carry out official policies of