

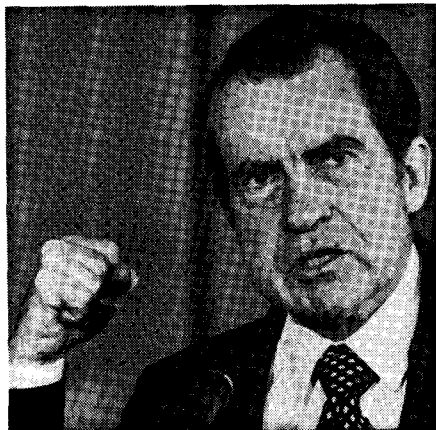
A CASE FOR AMNESTY

by James Reston, Jr.

President Nixon has denied that there is a significant amnesty problem: He has insisted that "only a few hundred deserted the country" during the Vietnam conflict. Yet surely the President knows that nearly 100,000 men deserted the armed forces in the third year of his presidency alone.

The President has also insisted that amnesty means "forgiveness"—which he rightly said he was in no position to provide—rather than forgetfulness or legal oblivion. This further distortion has mired the amnesty discussion in moral obfuscation and has bought the President a little time.

In his press conference of March 2, 1973, the President introduced a new



Wide World

Nixon—Vindictive toward the weak.

interpretation: "If at the end of a war," he said, "we broke every precedent this country has had, this will be the first time in history that amnesty has been provided for those who deserted or evaded the draft."

Can American history simply be denied or rewritten in this way?

What the history books tell us is that nineteen American Presidents have declared or favored amnesty. Most of these instances were related to desertion. In the post-Civil War period, the offense was not desertion but treason—direct, armed, organized insurrection against the established American government. The offenses being considered for amnesty today are not nearly so grave.

James Reston, Jr., is a novelist and the author of The Amnesty of John David Herndon. He is presently collaborating with Frank Mankiewicz on a book on Watergate.

Precisely because they dealt with an even graver offense than desertion, the amnesties granted after the Civil War, during Reconstruction, are relevant to our own post-Vietnam period. For Vietnam has so far been the most divisive war in the twentieth century, as the Civil War was the most divisive of the nineteenth. If the Civil War created first of all a geographical division, the Vietnam war created a generational one—that is, a breach between the young who fought the war and the old who directed it or were unaffected by it.

Admittedly, comparative history is a ticklish business: No two ages are alike. But the similarities between the post-Civil War and the post-Vietnam eras are unmistakable. In both periods a weak, insecure President presides over the reconciliation of the nation. Andrew Johnson's historical standing was enhanced by his generosity toward the South. Our own President has a similar opportunity in the amnesty issue.

THE UNITED STATES is now entering its second great period of reconstruction.

Six lessons drawn from the first reconstruction have direct bearing on current attempts at reconstruction:

- Moral standing: Andrew Johnson has the distinction of being the only Southern congressman who refused to follow his state into secession. As a Tennessean loyal to the Union, he was in a good position to make judgments of clemency concerning fellow Southerners who had become rebels.

In trying to reconcile North and South after the war, Johnson was guided by three principles: First, he sustained the note of generosity that Lincoln had struck in his second inaugural address—"with malice towards none . . . charity for all." Second, both Lincoln and Johnson reserved the charge of treason for the leaders of the Southern rebellion, not the common foot soldier. Third, Johnson shared Lincoln's view that defection en masse from the Union required a special presidential solution.

- The impracticality of conditional amnesty: Andrew Johnson's first conditional amnesty, only seven weeks after Appomattox, pardoned the majority of Southerners except for some 20,000 from the Confederate leadership. He believed that Southerners had been betrayed into insurrection by their aristocracy and that the common man was thus exonerated from criminal responsibility.

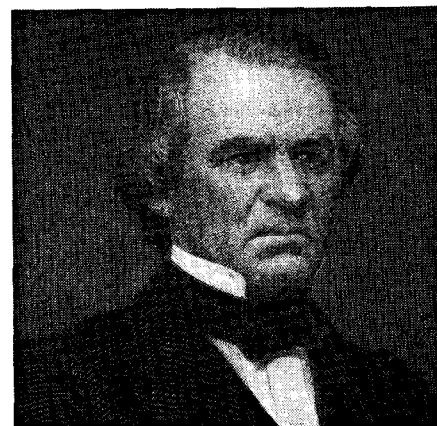
He lavished his wrath on the planters first. To a meeting of Radical legislators, he said:

I can only say you can judge my policy by the past. . . . I hold this. Robbery is a crime; rape is a crime; murder is a crime; treason is a crime; and crime must be punished. The law provides for it, and the courts are open. Treason must be made infamous, and traitors must be impoverished.

But how was he to judge one instance of treason among thousands? What was to be the criterion for judgment?

Johnson demanded an oath of allegiance to the United States and tried to force the planters to petition him for leniency. He wanted the aristocracy to beg for mercy and "so realize the enormity of their crime."

- Remorse: Remorse is fundamental to a conditional amnesty. What followed



Bettmann Archive

Johnson—Pardoned all but the leaders.

Johnson's first amnesty declaration was a flood of cynical applications for pardon. Initially the President granted only a few pardons. But as time went on, Johnson found that he needed the aristocracy to restore order in the South, and he began to issue pardons wholesale. He even delegated authority to a pardon clerk who was an ex-confederate colonel.

This gave rise to the infamous system of pardon brokers, people who, for \$150 to \$500, sped their clients' applications through the proper channels. Some brokers pressed their cases through Johnson's son Robert, who was a drunk. By July 1866 some 13,500 amnesty petitions had been approved.

- Reconstruction vs. restoration: The clash between President Johnson and the Radical Congress developed over differ-

ing ideas of what, exactly, "reconciliation" should entail and eventually led to impeachment proceedings. Johnson rejected the term *reconstruction*, preferring, instead, *restoration*. He did not see the need for fundamental social change in the South: With the institution of slavery abolished, the South needed only to be brought back into the Union as painlessly as possible.

- The inevitability of universal amnesty: As Andrew Johnson's political position deteriorated and as sentiment for impeachment grew, he sensed the need for decisive action. In 1866 he made his "swing round the circle," giving speeches in New York, Chicago, Cincinnati, and points in between. The tour was a disaster, for Johnson was humbled by a crude brand of political sabotage. The opposition planted hecklers in the crowds, and Johnson traded insults with them from the stump.

But the President's plea for reconciliation was genuine. In New York he expressed his view of the American "family":

[Southerners] are our brethren. They are part of ourselves. They are bone of our bone and flesh of our flesh. . . . We have come together again; and now, after having understood what the feud was, the great apple of discord removed, having lived under the Constitution of the United States, they ask to live under it in the future. . . ."

In the last year and a half of his presidency, during the prolonged anguish of impeachment, Johnson was President in title only. Congress passed reconstruction legislation at will and easily overrode presidential vetoes. Still he continued to pardon. On September 7, 1867, he proclaimed a second amnesty, after which only about 300 men remained unpardoned; and on July 4, 1868, two months after the last effort at conviction failed, he declared an amnesty that, in effect, exempted only one man, Jefferson Davis.

Finally—and most significant for the post-Vietnam era—Andrew Johnson declared his universal amnesty proclamation of December 25, 1868. The country favored amnesty by then, but it did not thank Johnson for his action. Only history would do that.

- "Waving the bloody shirt": The chapter on amnesty after the Civil War might have ended with the destruction of the President and the reconstruction of the nation. But while Johnson's universal amnesty erased the possibility of criminal charges, it did not restore to pardoned persons the right to hold office. Only Congress could do that. So the amnesty debate dragged on. It continued, in fact, for more than thirty years.

President Grant recommended that

Congress restore all rights, but his proposal failed in the Senate because of the ploy known as "waving the bloody shirt." As the country wallowed in the corruption of the Grant administration and reconstruction degenerated, discredited Republican politicians harped on the 300,000 Union dead in the war. The tactic was intended to arouse old Civil War passions and thus prop up bankrupt policies.

In 1876 Sen. James G. Claiborne of Maine gave the most famous bloody-shirt speech of all. He recalled the horrors suffered by Union soldiers held captive within the Confederacy's An-

"Today the President's moral stature is suspect. He can ill afford to pass judgment on others. . . . For Nixon to take any stance that presumes moral superiority is absurd."

dersonville prison and compared them to the mass murders ordered by the Duke of Alva, the massacre of Saint Bartholomew, and the excesses of the Spanish Inquisition. His speech was a tour de force, and the amnesty bill of 1876 failed. Later Jefferson Davis said he did not want a "spurious amnesty" anyway. The matter lay dead for the next twenty-two years—until 1898—when Congress, under McKinley, passed the universal amnesty act.

Is this all academic? Perhaps it was in the days before Watergate. Then we had an all-powerful, arrogant President who seemed personally affronted by the suggestion of amnesty.

Today the President's moral stature is suspect. He can ill afford to pass judgment on others. He bears responsibility for four more years of war and for the continued bombing of Cambodia, which the American people oppose 2 to 1. For Nixon to take any stance that presumes moral superiority is absurd.

Unlike Andrew Johnson, he has in the past been vindictive, not toward powerful offenders, but toward the weak. And the war dissenters in exile, though powerless, will not submit to a conditional amnesty that assumes wrongdoing on their part and high moral standing on the part of the President and Congress.

If the exiled dissenters have been strident, it is only a just reaction to the President's contemporary version of waving the bloody shirt. At his March 2 press conference, he could think of "no greater insult to the memories of those who

fought and died" than to provide amnesty for those who resisted. But as Dalton Trumbo asks, "What do the dead say?" It's an old device: Pit one victim against the other, then no one asks whether all these victims were necessary in the first place.

THE PRESIDENT could effect a rapprochement with the American people by declaring universal amnesty. No one wants fanfare to attend repatriation. We expect only a quiet reassimilation of these men into American life.

More than ever, the amnesty issue must be cleared of emotional roadblocks, the first of which has to do with the notion of criminality. No compromise can come of the President's claiming the exiles are criminals under the draft or desertion laws and the exiles' claiming the President is a criminal under the Nuremberg statutes. The second roadblock is the idea that amnesty would be an admission by President Nixon that the blame was all his. Since he is congenitally incapable of admitting his mistakes, Nixon must be shown that he can follow the proper course of action without having to confess wrongdoing.

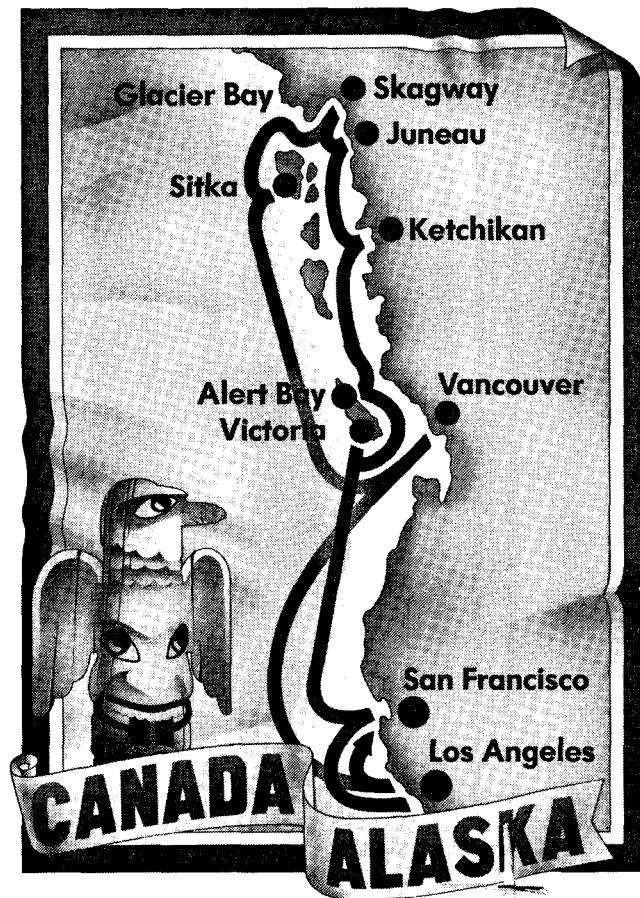
It is here that history becomes important: It can provide a way around the seemingly irreconcilable moral questions attendant on the amnesty debate. That a new age has begun, that the President must have a new image in peacetime, that reconciliation is the first priority after so long and divisive a war—these are arguments that get the President off the moral hook.

Reconciliation, to be sure, will require a measure of humility from the President. He may have to set aside some of his cherished views on the obligations of citizens, realizing that other Presidents have done so in the past for the good of the country—nineteen of them opting for amnesty.

Then, with this sense of history, with this urgent need for reconciliation and the restoration of faith in government, the second reconstruction can begin. It can begin with a speech that would follow Andrew Johnson's universal amnesty proclamation of 1868:

I, Richard Nixon, President of the United States, by virtue of the power and authority vested in me by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare unconditionally and without reservation, to all and to every person who directly or indirectly refused cooperation in the late war in Vietnam, a full pardon and amnesty for the act of war resistance; namely draft evasion, desertion, or the stain of unfavorable military discharge, with the restoration of all rights, privileges, and immunities under the Constitution and the laws that have been made in pursuance thereof. □

Explore the last frontier this summer aboard The Yacht.



There's a corner of the earth where you can still find fresh air, clear water and blue skies.

British Columbia and Alaska.

Where the only skyscrapers are glaciers. And the closest thing to a neon sign is the midnight sun.

P&O's glistening *Spirit of London* can take you there.

The 535 ft., British-registered *Spirit of London* combines all the spaciousness of a cruise ship with the luxury and style of a yacht.

She'll be making two-week cruises to Canada and Alaska through September, leaving from Los Angeles and San Francisco.

Exploring the magnificent icescape of Glacier Bay and calling at Vancouver, Victoria, Alert Bay, Ketchikan, Juneau, Skagway or Sitka.

The minimum \$745 fare for an inside double, or \$1,050 for an outside twin includes First Class cuisine, accommodation and entertainment. For more facts send for our color brochure. Or call your travel agent.



P&O, The British Cruise Line
165 Post Street
San Francisco, California 94108

Gentlemen: Please send me more information about *Spirit of London's* maiden voyages to Canada and Alaska.

Name _____
Address _____
City _____ State _____ Zip _____
Travel Agent _____



There's a new spirit at



DOWNRIVER TO ARMAGEDDON

by Russell Warren Howe

As Southeast Asia cools down, the southern African pepper pot is coming to a racing boil. Soon the ancient enmity between white privilege and black aspirations will blaze up into bitter, open warfare.

If present trends hold, the lid should blow off completely in southern Africa sometime in 1975. Then this troubled region will see the world's first major black versus white race war—the explosive finale to a half-century of pressure-cooker politics within and rubber-dagger power plays launched from without by the major powers.

Perhaps the best way to get at this looming, complex situation is to take a flying trip around the rim of the upcoming war, noting the influences emanating from centers as far apart as Dar es Salaam, Washington, Pretoria, Mozambique (see box, pages 22–23), and Peking.

Peking? Yes, Peking; China is strongly supporting various African resistance movements—especially those centered on the Indian Ocean seaboard. The People's Republic does most of the southern African guerrilla training (in Tanzania) and has taken over from Canada the task of training Tanzania's conventional armed forces. It has given Tanzania a naval facility in the harbor at Dar es Salaam, which Chinese, as well as Tanzanian, vessels can use, and is building the strategic Tanzara, or "Tanzam," railroad from Dar to Zambia's capital, Lusaka.

South Africa has threatened to strike at both the port and the railroad and has made reconnaissance overflights. But the Pentagon presumption is that, to protect its investment and its allies, China will deploy some of its new IRBMs and protective SAMs, either in the closed "guerrilla" district of southern Tanzania or on Pemba, a secure island dependency.

Russell Warren Howe is a British journalist who writes frequently about African affairs. He has been African correspondent for the Baltimore Sun and Washington Post.

These missiles will likely be test-fired, later this year, into the Indian Ocean.

Partly because of China, southern Africa could well become a hot spot that Moscow and Washington might try to defuse together. The Chinese, understandably, worry South Africa, too, and the fear takes on nightmare forms: U.S. envoy John Hurd, a wealthy Republican who was reprimanded by Secretary of State Rogers last year for holding segregated Fourth of July parties, recently related with amusement that South African Premier Johannes Balthazar Vorster had assured him there were 200,000 Chinese in Tanzania. Hurd pointed out that the CIA figure was only 20,000, but Vorster would have none of it.

PREMIER VORSTER has good reason, of course, for seeing black, brown, and yellow revolutionaries under every bed. South Africa, the world headquarters of racist sentiment, is a sprawling, standing target for future urban and rural guerrilla movements. In the long run—Mao's theories notwithstanding—urban terror seems likely to be more effective than rural warfare in South Africa. Pretoria points hopefully to its all-white forces, presumably impervious to subversion, and notes that guerrillas could not permanently occupy state machinery, key cities, or the means of production; but the urban guerrilla—in South Africa, Uruguay, Ulster, or anywhere else—does not want to "occupy." He merely seeks to demoralize and intimidate, creating a climate of "constructive anxiety." He hammers particularly at what insurrectional experts like Britain's Sir Robert Thompson have identified as the key target in this sort of conflict—quislings, notably police informers.

South African white-settler opinion

is pretty much unanimous in its racism but divided on practical policy. Partly this is because "Anglos" (who speak English) and "Afrikaners" (who speak pidgin Dutch) are, by common consent, largely separate communities in their job, social, and institutional lives. Violence would probably exacerbate their enmities, with each blaming the other for dovishness or hawkishness. By alienating the outside world, the cruder forms of overt repression would increase the trend for democracy-oriented white students to challenge their parents' mindless loyalty to the government. Meanwhile, "Coloreds" (Eurafricans), inspired by black America, are shedding their past Uncle Tom image for a new militancy.

The country's by now legendary obstinacy reflects the ideology of the ruling Nationalist party, or "Nats." The party is dominated by Afrikaners, a dour, vindictive, fanatically "religious" people who have always been suspicious of democracy. They backed the Nazis in World War II. Balthazar Vorster, who is today premier, went to the penitentiary as a Nazi agent. German radio promised the Nats Rhodesia, Botswana, Lesotho, and Swaziland and even said they could keep "Southwest"—the former German Southwest Africa, now Namibia—which South Africa still occupies illegally.

SOUTH AFRICA is also a regional threat to peace. From Italy, Britain, and especially France, Pretoria has acquired a modern air force, submarines, hundreds of tanks and armored cars, and missiles (ground-to-air, air-to-air, air-to-ground). The country makes its own light and medium arms, including bombs, mines, and napalm shells: Pretoria has not signed the nuclear non-proliferation treaty and claims it will have a nuclear missile warhead soon. There is no comparable aviation or armor in the area, so this powerful force could only be used for heavy-handed repression or for strikes against currently defenseless neighbors.

If South Africa did use this force in an egregious way, how might the major powers react? The concentration of most industry in the hands of a score of firms and the high visibility of tankers at sea—along with the limited number of Mozambican and South African ports that would be involved—make an oil blockade by the Soviet and American fleets, presumably under the U.N. flag, at least a possibility. Since South Africa (which has no indigenous oil supplies) has two or three years' oil stockpiled, the country would have time to adjust to the realities that this measure would imply. In turn, the goals of such a sanction would need to be plausible, in scope and time.

South Africa's current initiatives in