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INTRODUCTION

(1)

Abraham Lincoln is a man remembered for many things. Even though 120 years have passed since the close of the Civil War and Lincoln's death, he is still remembered as his nation's saviour. He is known as an individual who led his nation through the greatest crisis it ever faced, and, in the process, purified American democracy by destroying the institution of slavery.

In spite of the extent of Lincoln's reputation, he is not well known for what is perhaps his most important contribution to the American experience--his impact on the structure and dynamics of the federal government.

Prior to Lincoln's Presidency, the proper relation of the federal Union and the state governments was in doubt. Was the national government supreme in those matters which the Constitution delegated to it or did the state governments have complete control of all matters within their respective areas? More importantly, where was the allegiance of the people and sovereignty of the nation centered--the state governments or the federal Union? These were not merely abstract issues. In 1832, the nation was almost violently ruptured during the "nullification" crisis in South Carolina--a series of events and issues at the heart of which was the question of state versus federal jurisdiction.

Lincoln's Presidency resolved this question. In dealing with the secession crisis, Lincoln was forced to use every power that was available to him--as well as many that did not appear available at first glance.

The federal victory assured the institutional ascendancy of the national government, and, through his use of executive power, Lincoln widened the boundaries within which the government could operate in the future.

Nowhere was this change more apparent than in the Presidency itself. In the years after the Civil War, various Presidents wielded authority that was, at times, far in excess of the amount of power that Presidents had available to them prior to the Civil War. Certainly the gravity of certain events and the increasing complexity of American society served to justify this increase in authority, but justification was also found in the powerful executive precedent which Lincoln had set.

By taking actions such as the suspension of Habeas Corpus and the initiation of a draft, Lincoln stretched the limits of the office in which his successors would make national policy for future generations. Of course, the impact of his actions upon the Presidency was a subject that was secondary in his mind to the central concern of winning the Civil War.

Nevertheless, Lincoln's effect on the Presidency is a topic that is relevant to any generation of Americans. The differences between today's Presidency and that of the antebellum period are due, in large part, to him. It is, therefore, important to understand something about both Lincoln and his tenure in office.

This is an examination of Lincoln and the Presidency. In essence, it is an attempt to assess Lincoln's attitudes toward executive power and the general government prior to his inauguration, to determine whether he adhered to those attitudes while in office, and, finally, to gauge the extent to which he altered the executive's role in government.

(2)

Abraham Lincoln believed wholeheartedly in republican government, and, to a great extent, his own life reflected the benefits that such a system confers upon both the individual and society. Born and raised in the backwoods of the frontier, he flourished in an open community that allowed him to rise as high as his own resourcefulness would propel him. As matters turned out, he reached the nation's highest station, and, throughout his career, praised the virtues of the Republic that had offered him such opportunity.

Like many other men of his day, Lincoln was very concerned with strengthening and preserving America's "experiment" in freedom. He feared that, at some point, this system might be subverted and liberty extinguished. To Lincoln, the most obvious scenario in which such a disaster might occur was one in which the executive became too powerful, and eventually set himself up as a despot.

Thus, Lincoln had always favored a weak executive, not only because this would prevent a dictator from arising on Pennsylvania Avenue, but also because it would make Congress the dynamic and dominant branch of government. He believed that Congress, with members from all over the country, best represented the people, and was, therefore, best suited to make policy. The President's role, in his view, was simply to implement that policy.

Later in life, however, Lincoln himself was elected President, and, due to sectional hostilities, he was faced with a rebellion by the Southern states. He spent his entire term in office trying to crush that rebellion, and, in the process, he became, at least on the surface, a very different

executive from that which his earlier attitudes had dictated.

He employed, at times, a policy of censorship and arbitrary arrests. He trampled on Congressional prerogatives concerning the use of funds and the composition and summoning of military forces. He instituted, on his own authority, a draft, and he also emancipated the slaves upon his own authority. He often ignored the judiciary. In short, he seemed, to many of his contemporaries, to have become the dictator that he himself had feared.

The questions that immediately come to mind concerning Lincoln's Presidency are whether or not he strayed from his previous belief in a weak executive and to what extent, if any, did his tenure in office alter the executive function. Did Lincoln, one wonders, somehow change upon his election in 1860 or were other factors responsible for his heavy-handed use of Presidential authority? Have other Presidents found justification for extreme action in Lincoln's acts?

Full consideration of these questions leads one to the conclusion that Lincoln did not, ultimately, stray from his previous beliefs. Certainly, many of his actions contradicted those beliefs, but to consider only his actions, and not his objectives, is to see only half of the picture. Lincoln behaved in the manner that he did because it was the only way to preserve the Union and the experiment in popular government in which he believed so strongly. To employ his own logic: If he had adhered strictly to his previous principles, he would have lost everything that was considered good under those principles. By acting outside his beliefs, Lincoln preserved for all time the republican system in which his principles would flourish.

He also altered the Presidency forever by establishing the precedent of crisis leadership. Reflecting upon Lincoln's success in the Civil War, later generations saw a justification for extreme action in the midst of grave danger to the nation. Indeed, in the wake of Lincoln, the use of harsh emergency powers to ensure national safety was looked upon as a legitimate executive function. Thus, along with a unified government and a free society, Lincoln also left behind him the notion of a "crisis" Presidency. If Lincoln's conception of the Presidency changed at all, it was only in the sense that he too came to believe that the executive should become strong if the Union were threatened. After all, he pioneered that form of leadership.

Thus, in the final analysis, Lincoln really did believe in republican government and a weak executive. He merely had the moral courage and intellectual flexibility to realize that he would have to "think and act anew" to preserve those values.¹ His plunge into executive power was not a case of thoughtless indulgence in expediency. Rather, it was an application of power that was minutely measured to meet the task at hand, and it was carefully controlled in order to minimize any potential damage to republican principles.

CHAPTER ONE

LINCOLN'S ATTITUDES TOWARD THE PRESIDENCY PRIOR TO TAKING OFFICE

To discuss Lincoln the politician, however, is only to scratch the surface of his Whiggery, which sprang from the very depths of his being. To understand Lincoln the Whig, we must begin by trying to understand his ambitiousness....Yet we also know that there was an authentic humility about the man. In him, ambition meant not simply winning political office but transcending his early limitations. The kind of ambition that possessed Lincoln was no cheap desire to lord it over others but a driving urge to develop himself, to fulfill his destiny in ways that life as a farmer like his father never could. Winning elections validated his program of self-improvement by showing that he had made himself 'worthy' of others' esteem. And, at least as early as 1848, he had his eye on the presidency.

-Daniel Walker Howe,
The Political Culture of the
American Whigs

Abraham Lincoln's political views were inextricably mixed with the stuff of his personal life. Lincoln rose through hard work and study in an environment of freedom, and he believed that every other citizen should have the same opportunity. Similarly, Lincoln valued his own personal freedom highly, and, therefore, he felt that society should be ever vigilant against such threats to freedom as imperious Presidents.

When Lincoln decided to act upon his beliefs and speak out on the issues of his day, he chose to affiliate himself with opponents of the Democratic party, later known as the Whigs. To his mind, the industrious and freedom-loving Whigs best represented his values. On the other hand, the Democrats did not appeal to Lincoln. In his opinion, they not only hampered the development of individuals and society, but they also elected Presidents, such as Jackson and Van Buren, who acted in a manner that Lincoln considered dictatorial.

It was against this background of personal development and the political conflicts of the Jacksonian era that Lincoln developed his attitudes toward the Presidency, and, therefore, Lincoln's youth in the Jacksonian era is an appropriate point at which to begin this study.

(1)

It was a common practice in the Presidential campaigns of Lincoln's day for political parties to put out short biographies of their candidates to show them in a favorable light. Soon after Lincoln's nomination in 1860, the requisite authors were hard at work compiling an account of the Republican nominee's life. Very early in their endeavors, however, the biographers discovered that they knew very little of Lincoln's youth and

virtually nothing about his childhood.

Lincoln was, therefore, asked to provide some information, and, in an interview with the Chicago Tribune's John L. Scripps, he summed up his childhood by quoting from Gray's "Elegy . . . the short and simple annals of the poor."²

Born on February 12, 1809, Lincoln grew up in conditions that were average for frontier America. He lived with his family in a log cabin and engaged in the hard-working life of the wilderness. He helped his father with chores about the cabin, such as chopping wood, and he helped with the farming by handling the plow or planting seeds. Lincoln had no real chance for a formal education. When time and the condition of the farm allowed, he attended rudimentary rural schools, and, since he was in school on a very erratic basis, he referred to it as education "by littles." He later wrote that "the aggregate (sic) of all his schooling did not amount to one year."³

In spite of this lack of formal training, Lincoln proved to be an eager student and a voracious reader--mastering such relatively difficult works as Robinson Crusoe and Parson Weem's Life of Washington.

In 1830, in Lincoln's twenty-first year, his family moved to Illinois. Lincoln went with them, but, when he was twenty-three, he left home. He went to the village of New Salem in Sangamon County, and it was there that Lincoln began to demonstrate the intelligence and ambition that would fuel his rise as a successful attorney and politician.

Lincoln quickly found a niche for himself in New Salem, and he befriended the most intelligent men in the village. Soon after his arrival, he decided, as he expressed it to a friend, that he wanted to "get hold of something that was knotty," and, at the age of twenty-three, he announced

himself a candidate for the Illinois House of Representatives. In a campaign letter, Lincoln admitted that he was "Young and Unknown," but he set for himself the goal of "being esteemed of my fellow men."

Although he lost the 1832 election, Lincoln won two years later and began a legislative career that ended after he finished a single term in Congress. In addition to serving in the legislature, he began studying law. Unlike most law students of his day, however, Lincoln did not study as an apprentice with a practicing attorney. Instead, he borrowed books from legislative colleagues and friends and taught himself the law. By 1836, he had absorbed enough knowledge to merit a license to practice with one of his fellow legislators, John T. Stuart.⁴

The salient themes of these early days of Lincoln's life are personal industry and ambition. By the age of 27, he was both an attorney and a member of the Illinois legislature, and he had accomplished all of this with less than a year of formal education. Indeed, when one considers the lack of facilities and leisure time in frontier Illinois, the depth of Lincoln's determination and ambition becomes clear. It took an incredible amount of diligence and sheer scrounging for resources to conduct either a legislative career or a legal education, and Lincoln managed to do both. In an era of the rugged individual, Lincoln was very much a self-made man.

(2)

While Abraham Lincoln worked to establish himself in frontier Illinois, America was in the midst of a heated political debate. The early nineteenth century saw the formation of the second American party system. On the one hand, there was the Democratic party of Andrew

Jackson, Martin Van Buren, and James K. Polk, and, on the other hand, the Whig party of Daniel Webster and Henry Clay.

When Lincoln finally decided to speak out on the issues of his day, he did so in the context of the Whig-Democrat conflict, and it was under the strong influence of this partisan contest that he developed his views of government structure and the Presidency. Thus, in order to understand Lincoln, it is necessary to understand the political system in which he developed.

The Whig party, which Lincoln eventually joined, was formed both out of opposition to the Democratic party, founded around the Presidency of Andrew Jackson, and in support of a series of proposals that were designed to foster economic diversity and growth. Although the Whigs drew support from a remarkable number of sources within society--including some disaffected followers of Jackson, they cast an image that suggested the sober middle class. Their definition of the American Republic centered around a strong central government that would encourage individual and community improvement.

The Whigs translated their support of progress into proposed federal government programs meant to encourage economic development. In his study of the Whigs, Daniel Walker Howe described the Whig program in the following manner.

The Whig economic platform called for purposeful intervention by the federal government in the form of tariffs to protect domestic industry, subsidies for internal improvements, and a national bank to regulate the currency and make tax revenues available for private investment. Taken together, the various facets of this program disclose a vision of America as an economically diversified country in which commerce and industry would take their place alongside agriculture.

Long before the formation of the Whig party, these ideas were advanced as a combined program in Henry Clay's "American system." The Whigs felt that these proposals would promote progress, and they planned to implement them in order to develop the nation's enormous supply of human and natural resources. Not everyone, however, shared the Whig vision.

One of those who saw things differently was Andrew Jackson. Jackson served as President from 1829 to 1837, and he vigorously opposed many of the internal improvement projects as well as high tariffs and the formation of a national Bank. This was before the Whig party had come into existence, when these ideas were being touted as the "American system." Indeed, one of the primary factors that led to the organization of the Whig party was the opposition of Jackson and his followers--a group known even after Jackson's death as the "Jacksonians"--to the American system. The Democrats were those who supported Jackson and the Whigs formed out of opposition to the Democrats and in support of the American system.

Jackson feared that the young Republic was being subverted by wealthy special interests. He harkened back to the days of Thomas Jefferson and the first Republican party--to Jefferson's notion of an agrarian Republic based on the common man. He believed in a government that held service of all the people as its first objective, and he felt that an administration that catered to the whims of any single group or class was corrupt. Indeed, as Richard B. Latner notes in his study of Jackson's Presidency, "Jackson's principles reaffirmed the Republican party's concern for preserving liberty and republican government from the perilous influences of power and corruption." Jackson's philosophy was primarily "Jeffersonian in origin."

According to Latner, "Jackson displayed a keen sensitivity to the

corrosive effects of special privilege, monopoly, and excessive power." He hated the "few monied Capitalists" who, he believed, were trying to subvert the common man's government for their own selfish ends. Jackson and the Democrats viewed American democracy as a phenomenon best preserved by limiting the activities of the federal government. He felt that the central government should limit itself to those few concerns that were truly national in character, which really were important to all of the people. Anything more than this constituted, in his view, subversion of the central government to the advantage were of special interests.⁶

And where did Jackson find these subversive machinations, these elitist schemes? He saw them in the programs of the American system. He felt that such proposals were an attempt by the wealthy to employ the government's powers for their own benefit. He opposed, therefore, the Bank of the United States, a high tariff to foster industrial growth, and many of the road and harbor projects that were referred to as "internal improvements."

Consider, for example, this portion of Jackson's message vetoing the Maysville Road project--a proposed federal improvement located entirely within one state.

...such grants have always been professedly under the control of the general principle that the works which might be thus aided should be 'of a general, not local, national, not State,' character. A disregard of of this distinction would of necessity lead to the subversion of the federal system....In the best view of these appropriations, the abuses to which they lead far exceed the good which they are capable of promoting. They may be resorted to as artful expedients to shift upon the Government the losses of unsuccessful private speculation, and thus, by ministering to personal ambition and self-aggrandizement, tend to sap the foundations of public virtue and taint the administration of the Government with a demoralizing influence.⁷

Many of these proposed public works, like the Maysville Road, were in only one state, and, therefore, Jackson opposed them as the schemes of special interests.

Jackson felt similarly about the second Bank of the United States, and he fought tooth and nail against that Institution. He vetoed an effort to give the Bank a new charter, and withdrew federal deposits from the Bank. He did this, of course, because he feared that the Bank offered another avenue by which the rich elites might gain control of the government. The following section from a memorandum Jackson wrote on the Bank illustrates his position.

The present Bank is dangerous to Liberty:

1. Because in the number, wealth, and standing of its officers and stockholders, in its power to make loans or withhold them, to call oppressively upon its debtors or indulge them, build houses, rent lands & houses, and make donations for political or other purposes, it embodies a forceful influence which may be wielded for the aggrandisement of a favorite individual, a particular interest, or a separate party.
2. Because it concentrates in the hands of a few men, a power over the money of the country, which may be perverted to the oppression of the people, and in times of public calamity, to the embarrassment of the government.
4. Because it always is governed by interest and will support him who supports it. An ambitious or dishonest president may thus always unite all of its power and influence in his "support, while an honest one who thwarts its views, will never fail to encounter the weight of its oppositon.

As his arguments indicate, Jackson was very concerned that the Bank, far from encouraging economic growth, would only facilitate an increase in the personal fortunes and influence of a small group.

In order to protect the populace from such criminal plots, Jackson felt that he had to use his position as President to block the economic program of the "special interests," and, to this end, he used the power of his office, especially the veto, to frustrate his opponents. After all, Jackson reasoned, the President was elected to represent the whole nation, and therefore, it was his task to protect all of the people against the schemes of a greedy few. He believed, in short, that the nation-wide character of his constituency provided him with an implicit mandate to use his power.⁹

The Democrats, however, were not the only ones who feared the subversion of republican government. The Whigs feared the same catastrophe, but, as Daniel Walker Howe explains below, they saw the danger coming from a different direction.

Democratic and Whig spokesmen in Jacksonian America, often reading the same political writers, drew different conclusions. Democrats saw the chief threat coming from economic changes and the emergence of a plutocratic elite. Whigs saw a more important threat in the perversion of the political process by demagogues taking advantage of the loss of an independent spirit among the people.¹⁰

The Democrats feared a conspiracy of wealthy interests. The Whigs, on the other hand, feared a demagogue--a man able to claim dictatorial power because of an apathetic electorate.

More specifically, the Whigs feared a "Caesar" or a "Napoleon." The numerous examples of dictators coming to power through the support of the populace served as haunting reminders of the dangers which threaten a republic. Thus, Whig leaders such as Henry Clay often spoke out on their fears of dictatorship.

Remember, he (Clay) urged in a language reminiscent of Patrick Henry, that Greece had her Alexander, Rome had her Caesar, England her Cromwell, France her Bonaparte, and, that, if we would escape the rock on which they split, we must avoid their errors.

As the description of Clay's speech makes clear, he and his fellow Whigs wished to avoid the mistakes of previous societies which had fallen under the sway of an absolute ruler. What were these mistakes? Specifically, they stemmed from a lack of interest on the part of the populace in maintaining personal liberty. The Whigs reasoned that, because these societies had taken their liberties for granted and neglected to maintain a vigilant watch for transgressions on their freedom, demagogues had been able to take power.¹¹

Where the Democrats feared an oligarchical dictatorship arising from a wealthy elite in Congress and the financial community, the Whigs feared a dictatorship arising from the effects of an overly ambitious politician seated in the Presidential chair. Thus, where the Democrats desired a strong President to defend the common man against elitist conspiracies, the Whigs desired a strong Congress as a check against executive usurpation of power.

These ideas also derived from the Whig and Democratic views of republican government. At a very basic level, both sides held the same conception of republicanism because each believed in freedom for the people.

There was a strong streak of economics in the Whig philosophy that was absent from Democratic thinking. The Whigs believed that popular freedom included not only the right to do whatever one wished under the law, but also the opportunity--primarily economic--to improve one's self and position in society. In addition to the traditional task of protecting individual liberty, the Whigs envisioned a government that worked to create

economic opportunity--thus ensuring a fluid society. A strong central government was necessary to provide the force and planning necessary to foster such opportunity, and, since Congress, with members from all over the nation, was the branch of government most responsive to the people, the Whigs wanted Congress to hold the reins of that strong government. The President's chief role would be to administer and implement policy.

The Democrats believed in a society that was similarly free. But, unlike the Whigs, they did not see economic development and opportunity as essential to liberty, and they certainly did not want to see a strong central government for any reason. Instead, they inclined towards a laissez-faire policy in which, at most, state and local governments could foster economic growth. They regarded Whig economics as a sort of financial plot and, therefore, they supported a strong Presidency that would fend off the assaults of Whig legislators and preserve the government for the common man. Democratic Presidents of this era, like Jackson and Polk, made extensive use of their power. Not only did the Whigs object to such strong use of the executive office, but they also considered Democratic political rhetoric to be a base attempt to play on the fears of the uneducated masses--just as a demagogue would.¹² Thus, while Democrats saw their feared oligarchy in the Whig party, Whigs saw their apocalyptic demagogue in Jackson, Van Buren, and Polk.

Predictably, political arguments during these years were unusually heated--especially in Illinois, where economic development was an important issue. As Abraham Lincoln charted his course on the murky political waters of the 1830's, he toiled under the influence of these two philosophies which then dominated the national horizon.

(3)

When Lincoln announced his candidacy for the state legislature in 1832, he also made a decision concerning his political allegiance. He chose to run as an opponent of Jackson, and, when the Whig party formed later, he became a Whig. In a general sense, this political allegiance confirmed Lincoln's attitudes about a myriad of social, economic and political issues.

Thus, when seeking to examine the development of Lincoln's attitudes about the Presidency, it is important to examine Lincoln's career in opposition to the Jacksonians--to learn something about his particular "brand of Whiggery." This includes not only his thoughts about executive power, but also his concepts of democracy and government structure.

Even though Illinois was a primarily Democratic state, it is not at all surprising that the ambitious Lincoln eventually chose the Whig party. To begin with, Lincoln's Congressional district, the seventh, was the one anti-Jackson stronghold in the state, but more importantly, the salient aspect of Lincoln's personal life, his hard-fought rise in society, led him towards the Whig party.¹³

Like most people, Lincoln based his political ideology on his personal experience, and most of his life had been spent in clawing his way from the backwoods into the legislature and the courtroom. It is interesting to note that, although Lincoln always considered himself to have been born into the worst circumstances, his childhood and family, measured against the standards of the frontier, were actually a good deal better than he indicated.

Lincoln's family, for instance, was not filled with a bunch of nameless, under-achieving farmers. As Thomas Purvis pointed out in his study of Lincoln's family background, Lincoln's ancestors and those relatives alive

during his youth included Revolutionary War captains and Justices of the Peace. These were achievements and positions that heralded individuals of standing in the community, and there is little doubt that Lincoln knew about the exploits of his family. Lincoln's father, far from being the humbling oaf that his son described, was a respected and prosperous farmer. As Purvis states, Lincoln's "family background could only have been a source of pride and strength."

Furthermore, Lincoln's family was not really poor--at least not by the standards of the frontier. Certainly, Lincoln's childhood and youth were not easy. He worked very hard, and received little education. Yet, he had a roof over his head and food in his stomach, and, as a number of perceptive writers have pointed out, those factors alone made him better off than many people on the frontier.

Why, then, did Lincoln consider himself poor? Some writers, such as Purvis, feel that Lincoln created this aura of poverty in order to collect the political rewards that a "self-made" man received in those days. Although Lincoln certainly benefited politically from his image as a common man, there is a strong body of scholarship that suggests a far more basic reason for Lincoln's belief that he was poor. In this view, Lincoln considered himself poor because he used the upper-class as a reference group to compare himself with instead of the frontiersmen among whom he had grown up. Compared to the elite classes of Springfield, Lincoln was undoubtedly destitute.¹⁴

Considering the evidence, this "reference group" solution to the disparity between Lincoln's statements and the realities of his childhood seems the most plausible. As Stephen Oates relates in his biography of Lincoln, the future president mixed with many individuals of greater wealth

in the legislature, and he spent much of his time mixing in the social circles of the upper-class. Eventually, of course, Lincoln took his wife, Mary, from a very well established family of Springfield and Lexington.¹⁵

Upon meeting these individuals of greater wealth and prestige, Lincoln became very conscious of the shortcomings of his own background. It was much more than a matter of clothes, dwellings, or personal fortune. The difference that he felt most deeply was his lack of formal education--especially because many of his acquaintances had gone to college. Once, while riding on the "circuit" to handle law cases, Lincoln attended a science and inventions show at a local school. Upon returning from the show, he described the things that he had seen for his fellow lawyers, and, after ending his discourse, he made a typical remark concerning his want of education.

Yes, he (Lincoln) said, sadly, I now have an advantage over you in, for the first time in my life, seeing those things which are of course common to those who had, what I did not, a chance at an education, when they were young.¹⁶

Coming from the background that he did, Lincoln had a great deal of which to be proud, but it seems that he rarely dwelled on how far he had come. Instead, as the remark above indicates, he seemed to emphasize how far he still had to go in order to close the gap between himself and the upper-class that he wished to enter.

Although a discussion of Lincoln's attitudes concerning his background may seem tangential to a study of his Presidency, such a discourse is actually very important. Lincoln, even more than most people, developed his political views out of the experiences of his own life, and the central event of his early life is his rise from the lower to the upper class.

Because he felt that his family was poorer and less noteworthy than it really was, he was all the more keenly aware of the aspects of his personal rise through hard work and opportunity.

This strong awareness of his personal development and the reasons for it formed the real foundation of Lincoln's Whig political philosophy. In his study of Lincoln and the American dream, G. S. Boritt touched upon the relation between Lincoln's personal history and his political outlook.

Why should an enterprising young man who expected to get ahead in life reject the Whig view of the American system, which promised to pave his road and that of his countrymen? Lincoln sensed, to borrow the words of Marvin Meyers, that the Whigs tended to speak to the 'explicit hopes of Americans' and the Jacksonians to their "diffuse fears and resentments.'

As will be shown, economics, and a related vision of America, more than any other factor, made Lincoln a Whig from 1832 to 1854--and indeed to the end of his life.

As Boritt notes, the "enterprising" Lincoln was drawn to the Whig program of economic development. The Whigs proposed to build the raw Republic into an economic power with opportunity for all. This appealed to the ambitious Lincoln, who identified strongly with the notions of opportunity and development. A man of great intellect, he was also drawn to what he saw as the sober reasoning of the Whigs.¹⁷

Throughout most of Lincoln's career, therefore, he pursued the advancement of Whig candidates and policies. He fought for Whig programs in the Illinois House of Representatives, and he strongly supported the Whig party as a Congressman. And, even though Lincoln joined the Republican party after the demise of the Whigs, he carried many Whig principles with him into the new party. For the purpose of studying Lincoln's attitude about the Presidency, his career as a Whig is best examined from two

perspectives--his philosophy and his practical politics. Through using these two standpoints, Lincoln's views on the issues that would later become relevant during his Presidency are highlighted along with the depth and continuity between his philosophy and politics.

Lincoln was unquestionably a very principled man, and, if there was any idea in which Lincoln believed right down to the marrow of his bones, it was that the American republic was a sacred project that had to be improved and preserved for the future generations of all mankind.¹⁸ Lincoln understood very well that his own personal fortune in life was due to the opportunities of republican society, and he felt that everyone else should have the same chance. Thus, at the pure and basic level, Abraham Lincoln's philosophy was founded on the value of republicanism, concerned with the question of how best to preserve and enhance the young American Republic.

And, for Lincoln, republicanism was not a narrow concept. It meant a number of things. Primarily, Lincoln felt that it stood for full freedom of self-expression--political, social, and religious. It also stood for the freedom of economic improvement, which was something that Lincoln and his fellow Whigs felt the government ought to promote. Lincoln liked to say that republicanism entailed, in large part, ensuring that "all have equal privileges in the race of life."¹⁹ This did not mean that he thought everyone should be in the same social and economic class; he felt, instead, that everyone should have the right to raise themselves into the highest possible class. Some historians, such as G. S. Boritt, have even gone so far as to state that Lincoln promoted "the right to rise as the central idea of the United States."²⁰

While there is no question that Boritt is right in assigning an economic dimension to Lincoln's philosophy, the other aspects of self-expression, especially political freedom, were just as important. Indeed, Lincoln felt, as most politicians of his day did, that only when the people exercised their political liberties to the fullest would the government, a reflection of the popular will, be at its best. Traveling to Washington as president-elect, he told the throngs that gathered wherever he went that "if you, the PEOPLE, are but true to yourselves and the Constitution, there is but little harm that I can do."

Although Lincoln is known for many of the finest and most direct statements on the issues of his day, it is interesting to find that some of his best commentary exists, little known to the public, in his more obscure speeches and working papers. Consider the following "fragment on the Constitution and the Union" that Lincoln wrote in January of 1861. It is worth reproducing in full because, in his almost painstaking reasoning, Lincoln expresses his republican philosophy so well.

All this is not the result of accident. It has a philosophical cause. Without the Constitution and the Union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to all" --the principle that clears the path for all--gives hope to all--and, by consequence, enterprise, and industry to all.

The expression of that principle in our Declaration of Independence, was most happy, and fortunate. Without this, as well as with it, we could have declared our independence of Great Britain; but without it, we could not, I think, have secured our free government, and consequent prosperity. No oppressed people will fight, and endure, as our fathers did, without the promise of something better, than a mere change of masters.

The assertion of that principle, at that time, was the word 'fitly spoken' which has proved an 'apple of gold' to us. The Union, and the Constitution, are the picture of silver, subsequently framed around it. The picture was made, not to conceal, or destroy the apple; but to adorn, and preserve it. The picture was made for the apple--not the apple for the picture. So let us act, that neither picture, or apple shall ever be blurred or bruised or broken.

As Lincoln said, "the principle of 'Liberty to all'" is at the heart of the American experiment, and, to his mind, it was at once the foundation, pillars, and roof of American society and government.²¹

Lincoln's words indicate something else about his principles, too. He believed that the freedom espoused in the Declaration of Independence-- "the principle of 'Liberty to all'"--was more important than the documents and institutions by which the government was created. As he put it: "The picture (government institutions) was made for the apple (freedom)--not the apple for the picture." Yet, although Lincoln valued republican liberty above the mere machinery of government he did not feel that liberty could survive without government institutions. The picture, while of lesser value than the apple, was necessary to "adorn" and "preserve" the apple. Thus, for Lincoln, the foundations of American government--the Constitution and the Union--were inextricably bound up with the fate of liberty in the United States. While the Constitution and the Union meant nothing to Lincoln without freedom, he also knew that freedom could not survive without these supporting apparatus.

Furthermore, these words are significant because they demonstrate, outside of their meaning and sound, the extent to which Lincoln valued freedom as the foundation of his personal philosophy. Consider the time at which Lincoln wrote as well as the purpose for which he wrote that fragment.

It was January of 1861 and Lincoln was a president-elect from the all-Northern Republican party. Southerners were threatening to secede because the Republicans had captured the Presidency, and Lincoln's fragment was undoubtedly his attempt to sort out and express why he thought the Union was worth preserving. And, to Lincoln, as he stated in that fragment, it was not the institutions and the charters of government that were important. Instead, it was that "something back of these" government structures --liberty--that was important. The institutions and charters were framed to support and protect freedom. The real danger of secession, therefore, was not that the government might be destroyed. The institution meant nothing by itself. Rather, the reason Lincoln felt that ruining the government would be such a crime was because liberty, for Americans and all other men, would be ruined in the process. America's example to the world would be forever lost. Thus, Lincoln felt it essential to make sure that "neither picture, or apple shall ever be blurred or bruised or broken."²²

Lincoln feared that this fine experiment in Republican government might eventually be subverted. Like his fellow Whigs, he was terrified by the possibility that a demagogue might someday take over the government. He saw such a man arising because of an apathetic and disorderly populace, and he believed that, when the people ceased to value and respect government and law, the way was clear for some iron-fisted charlatan to assume power.

In 1838, sickened by a growing strain of mob violence highlighted by the killing of anti-slavery editor Elijah Lovejoy in Alton, Illinois, Lincoln delivered an address to the Young Men's Lyceum in Springfield in which he expressed his fear of lawlessness and dictatorship. The speech

was perhaps Lincoln's finest effort at oratory prior to the 1850's, and it was his strongest statement concerning the threat that popular disorder and overly ambitious men posed to the country.

Lincoln began by reminding his audience of their obligation to preserve the blessings of liberty. This portion of the speech illustrates his strong sense of responsibility as far as preserving and enhancing the Republic for future generations.

We, when mounting the stage of existence, found ourselves the legal inheritors of these fundamental blessings. We toiled not in the acquirement or establishment of them-- they are a legacy bequeathed us, by a once hardy, brave, and patriotic, but now lamented and departed race of ancestors. Their's was the task (and nobly they performed it) to possess themselves, and through themselves, us, of this goodly land; and to uprear upon its hills and its valleys, a political edifice of liberty and equal rights; 'tis ours only, to transmit these, the former, unprofaned by the foot of an invader; the latter, undecayed by the lapse of time, and untorn by usurpation--to the latest generation that fate shall permit the world to know. This task of gratitude to our fathers, justice to ourselves, duty to posterity, and love for our species in general, all imperatively require us faithfully to perform.

In expressing his desire to strengthen the Republic, Lincoln demonstrated not only the great esteem in which he held republican institutions, but he also showed his concern that something evil might befall the nation. If there had been no danger, he would not have seen any need to admonish his audience about their responsibility to transmit the Republic "undecayed" to future generations.

Lincoln did, however, see a possibility that republican government might indeed be destroyed. The danger was not the armies of foreign nations. No army, he felt, could defeat the United States "in a trial of a thousand years." Rather, he saw the danger coming from within: "we must ourselves

be" the "author and finisher" of the destruction of the Republic--if that were ever to occur.

Taking note of the recent incidents of mob violence, he expressed fear that the government would lose its "strongest bulwark"... the attachment of the people" because of "the operation of this mobocratic spirit." If "the growing disposition to substitute the wild and furious passions, in lieu of the sober judgement of Courts" was allowed to continue unchecked, he reasoned, the government would lose the respect and loyalty of decent citizens. Why should such people, he asked, remain loyal to a government that did not protect them? Would the populace not then be susceptible to the machinations of a wily and ambitious demagogue? At the very least, the disaffected citizens might see no harm in changing from one brand of chaos to another. How could things get worse?

Fearing that his own generation was perhaps unwittingly bringing about the destruction of the Republic in this manner, Lincoln described for his audience the kind of man who might emerge as a leader from such a tumult. This individual would aspire far beyond the highest stations society could offer. He would be of "the family of the lion, or the tribe of the eagle." He would thirst for challenge and glory, but, since the glory of creating the Republic was "a field harvested" by the Revolutionary generation, Lincoln believed that this demagogue would turn to other less benevolent ways to earn his place in history.

The question then, is, can that gratification be found in supporting and maintaining an edifice that has been erected by others? Most certainly it cannot.... Towering genius disdains a beaten path. It seeks regions hitherto unexplored. It sees no distinction in adding story to story, upon the monuments of fame, erected to the memory of others. It denies that it is glory enough to serve

under any chief....Distinction will be his paramount object; and although he would as willingly, perhaps more so, acquire it by doing good as harm; yet, that opportunity being past, and nothing left to be done in the way of building up, he would set boldly to the task of pulling down.

Thus, Lincoln feared that, since this zealous and intelligent man could not make a name for himself as a friend of republican institutions, he would seek notoriety as the sworn foe of them. If such a man, through the carelessness of the populace, ever became president, Lincoln saw little hope for the Republic.

Lincoln did not, however, fail to provide a solution to this potential threat. He offered his audience a defense against depotism that would also alleviate the mob violence that was sweeping the land. The essence of his solution was to encourage all Americans to respect the government and the laws.

The question recurs 'how shall we fortify against it?' The answer is simple. Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others.

Lincoln went on to embellish his advice with some fine oratory and verbal imagery, but his point was actually a simple one. Obeying the law is important not only because it is necessary to prohibit certain acts for the safety of all, but also because a Republic cannot function without responsible citizens and orderly conduct.²³

On this point of popular responsibility in a republic, several things may be said. The first is that Lincoln's belief that republican institutions demanded responsible behavior is strong testimony to the depth of his love for the Republic. He certainly believed in liberty, but he parted

company with the Democrats when it came to the "mobocratic spirit." Unlike the Jacksonians, he saw simplistic mob violence, even in its more mild forms, as irresponsible. Far from being grass-roots democracy, Lincoln saw it as a threat because through lawlessness and a lack of sober reasoning it paved the way for a dictator. Thus, it is certainly more apt to term Lincoln's political philosophy as "republican" than "democratic." This is not only because he held republican institutions as mankind's highest aspiration, but also because he espoused a more responsible, perhaps more pure, form of liberty as the only kind of freedom befitting a republic. He saw no constructive role for "mobocratic" behavior, and it certainly fell outside of his concept of liberty.

As a Whig, then, Lincoln's political and personal philosophy centered around the preservation and enhancement of republican institutions. They meant everything to him because he knew from personal experience how individuals, like himself, could thrive and improve with full freedom of expression. He revered the Constitution and the Union because these were structures that were cornerstones of the Republic, and he felt that American freedom could not survive without these supporting institutions.

Lincoln's concept of republicanism was deep and profound. He believed in enhancing the Republic through protecting the freedom of expression and encouraging economic development and class mobility. In Lincoln's view, American institutions were a precious blessing--something not to be taken for granted. In addition to ensuring rights, they demanded a responsible, sober outlook and a willingness to obey the laws. In these attitudes, Lincoln found himself in the company of the rest of the Whig party.

Of course, Lincoln did not adopt the Whig philosophy merely as an

intellectual lark. It was a philosophy that he intended to apply to the real problems of his day. Indeed, if it is true that philosophy is an attempt to reduce complex matters to basic principles, then it is also true, or at least it should be true, that politics is an attempt to apply one's basic philosophy to the complex realities of society. In Lincoln's case, the depth and continuity of the link between his personal philosophy and political positions was nothing less than extraordinary, and his practical expression of his principles exhibits much of the attitude toward American government and the Presidency that he developed during the years prior to 1861.

Not surprisingly, Lincoln supported the full Whig program of political and economic development of the Republic. Since Illinois was a frontier area that was growing at a phenomenal rate, the debate over the Whig economic program took on increased meaning as Illinoisans considered various methods of promoting economic development in the state. As Paul Simon points out in his study of Lincoln's career as an Illinois legislator, both Democrats and Whigs supported internal improvements because Illinois was badly in need of an infrastructure. Unfortunately, the legislators of both parties, including Lincoln, voted the state into a terrible debt in the process of building improvements. To Simon, Lincoln's support of the internal improvements scheme was a monumental blunder.²⁴

On other economic questions, especially the Bank, the debate was as furious as it was anywhere else, and Lincoln and the other Whigs fought hard to support the Bank--both in Illinois and on the national level. In fact, Lincoln delivered a particularly noteworthy defense of the U.S. Bank against a Democratic scheme to replace it with a Sub-Treasury system.²⁵

In addition to promoting his version of economic progress, Lincoln showed the depth of his belief in republican institutions by fighting many of the less popular battles that concerned political rights in a Republic. In those days, every politician in America supported political freedom--for adult white males. Very few, however, were willing to carry freedom's standard on behalf of immigrants, women, and even the lowly black slave. Lincoln was different in that he advocated treating these groups fairly long before it was politically popular.

On March 3, 1837, while the Illinois legislature passed resolutions against abolitionists, Lincoln, along with another representative from Sangamon County, Dan Stone, placed a protest against slavery on the official record of the legislature. Although Lincoln and Stone acknowledged that "the promulgation of abolition doctrines tends rather to increase rather than to abate its (slavery's) evils," they felt "that the institution of slavery is founded on both injustice and bad policy." Given the strong antiabolition sentiment in Illinois, which often exploded into savage violence, Lincoln's statement, while not a complete call for the end of slavery, represents nonetheless a significant early commitment in opposition to slavery.²⁶

This commitment is also apparent in Lincoln's attitudes about women and immigrants. Although Lincoln never made women's rights a major issue, he did state, in a letter to the Sangamo Journal in 1836, that he supported "admitting all whites to the right of suffrage, who pay taxes or bear arms, (by no means excluding females)." This shows his willingness to extend political power to all those who were willing to act responsibly. Later, in 1844, Lincoln was a part of a Whig committee in Springfield that drew up

resolutions condemning a series of anti-Catholic riots in Philadelphia in which the violence was primarily directed against Irish immigrants.

He further demonstrated his commitment to the rights of blacks and immigrants in a letter that he wrote in 1855 to his old friend Joshua F. Speed. In the letter, Lincoln vented his frustration and anger about the activities of the "Know-Nothing" party--a nativist movement that opposed the extension of rights to blacks and immigrants, especially Catholic immigrants.

I am not a Know-Nothing. That is certain. How could I be? How can anyone who abhors the oppression of negroes, be in favor of degrading classes of white people? Our progress in degeneracy appears to me to be pretty rapid. As a nation, we began by declaring that "all men are created equal." We now practically read it "all men are created equal, except negroes." When the Know-Nothings get control, it will read "all men are created equal, except negroes, and foreigners, and Catholics." When it comes to this, I should prefer emigrating to some country where they make no pretence of loving liberty--to Russia, for instance, where despotism can be taken pure, and without the base alloy of hypocrisy....

Lincoln railed against the narrow-minded views that the Know-Nothings held, and his way of fighting such opinion was by supporting measures that helped down-trodden groups such as blacks and immigrants. Indeed, by enlarging the boundaries of freedom to include the oppressed, he believed that he was enriching the Republic for all.²⁷

In addition to advocating proposals that would enhance political and economic freedoms, Lincoln argued in support of a particular kind of government structure which he felt would further strengthen and protect republican institutions. Since Congress has members from all across the land, Lincoln felt that it best represented the will of the people, and, therefore, he believed that Congress should be the dynamic and policy-making

branch of the government. The President, in Lincoln's view, was supposed to administer the policies that Congress made. He thought that the President was completely unfit to make national policy because he was only one man in an isolated office. He could not possibly know the wishes of the entire people as well as the Congress with its diverse membership. Thus, because of his conception of policy-making, Lincoln wanted the President to play a secondary role in government.

This fit in well with Lincoln's fear of a demagogue. After all, the Presidency was the place at which a dictator would arise. If that ever occurred, and, as long as the office was limited in scope, Lincoln believed that there was less chance that anyone could subvert the government.

During the terms of strong-willed Democratic Presidents, like Jackson, Lincoln had plenty of opportunities to criticize what he viewed as usurpations of power by the executive. The Democrats, although they believed in a weak federal government, supported the strong use of Presidential power to frustrate the machinations of special interests in Congress--or what Lincoln and the Whigs regarded as a legitimate economic program. The vetoes and other uses of executive power employed by Jackson and his Democratic successors caused Lincoln and other Whigs a great deal of consternation. In a speech in Springfield in 1839, Lincoln expressed his sentiments on the matter in a series of propositions, two of which concerned Jackson and his hand-picked successor, Martin Van Buren.

1st, That there had been a total change in the administration of the Government, within the last ten years; and that change had been for the WORSE. 2d. That a new and corrupt system of tactics had been introduced into the National administration, unknown to former administrations....

Lincoln believed that Jackson and Van Buren, both of whom made frequent use of executive power, had changed the government for the "WORSE" by enlarging the role of the Presidency. In fact, he regarded any administration in which the President dominated many of the policy decisions that were meant for Congress as a "corrupt system."²⁸

Lincoln argued, instead, for an arrangement under which the President allowed Congress a free hand in drafting legislation and making policy. The following section from a "fragment" he wrote on the candidacy of Zachary Taylor indicates that Lincoln thought that there were very few instances in which the President ought to become involved in Congressional policy-making.

Finally, were I president, I should desire the legislation of the country to rest with Congress, uninfluenced by the executive in it's (sic) origin or progress, and undisturbed by the veto unless in very special and clear cases.

Obviously, Lincoln did not want to see the veto or other forms of executive power used to promote an "administration" position on any issue, but, rather, he wanted such power used only "in very special and clear cases"--which were those instances in which the legislation in question might conflict with the Constitution.

This concern about the role of the Presidency in government was not a passing worry for Lincoln and the Whigs. Given the propensity of the Democrats towards a strong application of executive power, the proper place of the President was a constant issue. Consider, for example, the following resolutions which were issued by the Illinois Whig Convention of 1844. Lincoln was on the committee which drafted the resolutions.

That the establishment of a sound currency, the practical restriction of the veto power, so that it may not be wielded to the centralization of all power in the hands of a corrupt

and despotic Executive; the limitation of the presidential office to one term; the noninterference of all officers of the government as such, in elections; an economical, faithful and impartial administration of the government--and reform of all those abuses which have sprung out of the corrupt use of the power of appointments, are also objects which claim our approval, and challenge our untiring efforts to secure their accomplishments.

As a member of the Committee, Lincoln certainly endorsed the resolutions-- they agree to the letter with views which he expressed individually on other occasions. Indeed, the resolutions reflect his determination to oppose any Presidential efforts to make government policy outside of Congress.

Perhaps the clearest and most concise statement that Lincoln ever made concerning his view of the Presidency prior to 1861 is contained within a speech that he made on behalf of the candidacy of Zachary Taylor in September of 1848 in Worcester, Massachusetts.

He (Lincoln) maintained that Gen. Taylor occupied a high and unexceptionable whig (sic) ground, and took for his first instance and proof of this his statement in the Allison letter--with regard to the Bank, Tariff, Rivers, and Harbors, &c.--that the will of the people should do what--under the Constitution--they please, is a Whig principle. All that Gen. Taylor does is not only to judge and act for themselves. And this was no new doctrine for the Whigs. It was their 'platform' on which they had fought all their battles, the resistance of Executive influence, and the principle of enabling the people to frame the government according to their will... on that very ground, Gen. Taylor says that he should use the power given him by the people to do, to the best of his judgement, the will of the people.

In that speech, Lincoln not only enunciated his view of the Presidency in a very direct fashion, but he also indicated how much his particular conception of the office meant to him. In urging the people to vote for Taylor, Lincoln made only passing reference to the fact that Taylor had adopted all of the Whig positions. Lincoln spent the majority of his speech praising Taylor because of the fact that the old General believed "that the will of the people should produce its own results without Executive in-

fluence." In other words, for Lincoln, the primary reason for supporting Taylor was not his complete adoption of Whig positions. Instead, in telling his audience to vote for Taylor, he chose to stress Taylor's adherence to the Whig Presidential model. Indeed, this speech demonstrates that the question of Presidential power was as important to Lincoln as the practical issues of the day.

Lincoln viewed the Presidency, therefore, as an administrative rubber stamp for the popular consensus as reflected in Congress, and the President's only role in decision-making was "to appeal to the people to judge and act for themselves."

As he continued his speech in Worcester, Lincoln complemented his discourse on Taylor and the Presidency with his views on the role of Congress in the government.

...it was clearly the intention and the true philosophy of our government, that in Congress all opinions and principles should be represented, and that when the wisdom of all had been compared and united, the will of the majority should be carried out.

These words confirm Lincoln's view that Congress should be the dominant policy-making organ of government. Only through emphasizing the role of the most diverse, democratic branch, the legislature, could "the will of the majority...be carried out."²⁹

Of course, the well-being of the majority formed the central concern of Lincoln's practical political positions. In advocating the enhancement, extension, and preservation of republican institutions, Lincoln sought to implement a philosophy that he believed would benefit all of America and, eventually, all of mankind.

He advocated the extension of rights to groups who had few advocates in society, and he believed that the government should promote economic de-

velopment in order to enrich the opportunities that the Republic offered. He fought for a government structure that stressed Congress over the President because he thought that such an arrangement was the best way to preserve liberty.

Although Lincoln dealt with a wide variety of issues and events, his unswerving, unwavering belief in republican government always dictated his views. He was always for that measure which nourished the Republic, and, although he often had to lower the tone of his rhetoric because of practical political considerations, he never abandoned any of his positions. Clearly, Lincoln was a stout soldier of principle, and he was just as obviously not a political mercenary--willing to take any side that was popular.

It is important to realize the strength of Lincoln's republican philosophy and to remember the particular kind of government structure that he advocated in association with that philosophy. Later, in the chaos of Civil War, Lincoln abandoned his notion of a weak presidency because his love of the Republic was so strong that he would do anything necessary to preserve it for posterity. The explanation for much of Lincoln's Presidency lies, therefore, in the earlier years of his life, when he developed such a strong belief in the republican government under which he had grown from an uneducated laborer into a lawyer and a statesman.

(4)

Lincoln's legislative career was not confined to the Illinois House of Representatives. In 1846, he was elected to his single term in the federal House of Representatives. While he was there, he carried on the battle for republican government as the Whigs saw it, and he even drafted legislation

that would have abolished slavery in the District of Columbia.³⁰

The primary reason for examining Lincoln's Congressional career, however, is because the Mexican War was the salient issue of the 1847-1849 term, and Lincoln's reaction to the Polk administration's handling of the conflict illustrates his attitude on the government's war power--particularly concerning the role of the Presidency.

Although Lincoln opposed the war vehemently, it is important to note that, contrary to popular mythology, his position was not nearly as unpopular as it was later thought. Writers such as Albert Beveridge and William Herndon fostered the mistaken belief that Lincoln had committed "political suicide" in taking his Mexican War stand. In recent studies, however, both Mark Neely, Jr. and G. S. Boritt have demonstrated clearly that Lincoln was taking a position that Whigs everywhere were taking and that, in addition, the defeat of the Whig Congressional candidate in 1849 in Lincoln's district was due to the man's poor speaking skills and not to Lincoln's war stand. As Neely pointed out, several of Lincoln's peers, even from the nationalistic West, argued against the war.³¹

Even though Lincoln's anti-Polk stand on the Mexican War was not the idealistic heroism that it appeared to be, it demonstrates nevertheless, Lincoln's specific attitudes concerning the war power.

Lincoln began his opposition to the war by delivering his famous "spot" resolutions in a speech in the House. In the resolutions, he challenged James K. Polk to offer evidence to justify the administration claim that the Mexicans had invaded American territory and killed Americans. Lincoln wished to know if the "spot" on which this incident took place was actually in Mexico, and he wanted to find out if the supposedly harmless citizens

that the Mexicans attacked were actually U.S. soldiers.

Three weeks later, on January 12, 1848, Lincoln delivered a speech in the House in which he blasted the Mexican War as an unjust and unnecessary conflict. Examining all of Polk's messages concerning the war, he picked his way through the President's case for the war like an experienced prosecutor, and concluded that Polk was covering up the real circumstances in which the fighting started.

I am now through the whole of the President's evidence... My way of living leads me to be about the courts of justice; and there, I have sometimes seen a good lawyer, struggling for his client's neck, in a desperate case, employing every artifice to work round, befog, and cover up, with many words, some point arising in the case, which he dared not admit, and yet could not deny. Party bias may help to make it appear so; but with all the allowance I can make for such bias, it still does appear to me, that just such, and from just such necessity, is the President's struggle in this case.

Lincoln, as the above passage from his speech shows, did not believe Polk's explanation of the war's beginning. Consequently, feeling that the war was unjustly begun, he stated that "the blood of Abel, is crying to heaven against him (Polk)."³²

Later, February 15, Lincoln wrote a letter to his law partner, William Herndon, in which he reflected upon the deeper implications of the Mexican War for the Presidency. He was writing in particular in response to a letter that Herndon had sent to him in which the case was made that the President had the Constitutional right to, on his own authority, invade a foreign country in order to prevent an attack on the U.S.

But to return to your position: Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose--and you allow him to make war at pleasure.

Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, to-day, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us" but he will say to you "be silent; I see it, if you dont (sic)."

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood...³³

Lincoln's words address the exact question with which he would later deal as President. In the days after the bombardment of Fort Sumter, he feared an imminent rebel attack on Washington, and, on his own authority, he invoked the war power, along with numerous other Congressional powers, in order to raise forces for the defense of the capitol and the defeat of the rebellion.

Granted, Lincoln was dealing with a domestic conflict instead of a foreign war. Yet, the oppression inherent in war is the same for both domestic and foreign conflicts, and thus his actions still contradicted the sentiment expressed in his letter to Herndon--that the war power should rest with Congress. What is important to note for the present, is that, in the years prior to 1861, Lincoln flatly asserted that the war power of the government lay with Congress. This was not only because of Constitutional law, but it was also based on Lincoln's republican philosophy. He abhorred the idea of "one man" possessing "the power of bringing this oppression upon us."

In spite of his strong feelings on public issues, Lincoln chose to

leave politics after his Congressional term expired. He had not enjoyed Washington as much as he thought he would, and, although there were probably several reasons for his decision, one major reason was certainly his disappointment at not receiving the political office that he sought from President Taylor. Lincoln wanted to be Commissioner of the General Land Office, but all he was offered was the governorship of the remote Oregon territory. Instead, the commissionership was given to another man who had not even supported Taylor's candidacy. Because he had campaigned hard for Taylor, Lincoln felt jilted, angry, and tired, and he left politics for his law practice.

In the following years, Lincoln concerned himself completely with legal activities. He worked very hard. Yet, he still kept in touch with politics; given his strong sense of principle, it was only a matter of time before he would again become involved in the political tumult of mid-nineteenth century America.

The event which brought Lincoln back was the Kansas-Nebraska Act of 1854. Effectively clearing the way for the spread of slavery above the Missouri compromise line, this bill, along with the infamous Dred Scott decision, outraged opponents of the "peculiar institution"--particularly Lincoln.

He returned to politics with a passion that he had rarely known since his young and enthusiastic days. Motivated by a powerful and righteous anger, Lincoln made speeches all across Illinois in which he denounced the spread of slavery and those responsible for it. Since the Whig party had disintegrated in the fiery chaos of the sectional debate, Lincoln joined the new Republican party--an all-Northern organization dedicated to

preventing the spread of slavery.

In 1858, he ran for the Senate against Stephen A. Douglas, and, in the course of the campaign, the two agreed to meet in a series of debates around Illinois. These famous forensic duels drew an enormous amount of national attention to the Illinois Senatorial contest. Although Lincoln lost the Senate race, he became a national figure in the process.

In fact, with the fires of anger fanned high by the slavery debate, Lincoln was invited to go on a speaking tour throughout New England. He was a smashing success, and, in 1860, he decided to run for the Presidential nomination. Lincoln was, from the start, a dark horse candidate, but the Republicans nominated him because they felt that he stood the best chance of election.

On November 6, 1860, Abraham Lincoln was elected the sixteenth President of the United States. He was elected solely on the basis of the Northern vote, and even a substantial amount of that was given to Stephen Douglas. His election was, in a sense, a hollow victory because it provoked a massive secession movement in the South. Southerners began their attempt to destroy the government soon after Lincoln was elected President, and, as he prepared to travel to Washington, the incipient stages of a catastrophic rebellion started to unfold before the nation.³⁴

For Lincoln, the situation was cruel indeed. He, who revered the Republic, was now faced with a conflict that threatened the republican institutions that he loved so dearly. He, who believed in a weak executive as a matter of principle, would now very likely be called upon to act strongly in dealing with the looming crisis. If he failed to act strongly, there was a good chance that the American Republic and its institutions would

vanish as a result of secession. He was, in more ways than one, between the proverbial rock and the hard place.

CHAPTER TWO

MR. LINCOLN'S WAR

"This is essentially a People's contest"

-Abraham Lincoln
July 4, 1861

(1)

As the fires of secession spread across the South in the months following his election, the President-elect, still residing in Springfield, worked on the numerous tasks which had to be accomplished prior to his inauguration. He had to form a cabinet. He had to plan his trip to Washington. He had to receive the multitude of groups and individuals who came to see him. Finally, on top of it all, there was a great deal of personal business that he had to finish before leaving Springfield.¹

Lincoln's most important duty, however, was to make clear the policy of his incoming administration on matters which were already then becoming important. As the months of December and January passed, Americans watched with horror, or perhaps elation if one were residing in the deep South, as the lower tier of Southern states, the cotton states, seceded from the Union, and, in the process, took possession of almost all of the federal property within their borders. Although President James Buchanan made worthy efforts to uphold federal authority, everyone knew that his administration was a lame-duck regime without power. Buchanan's policies were without force because his government, with only a few months left in office, lacked the strength of continuity.²

Thus, even before Lincoln took office, people looked to him, the President for the next four years, to make clear the policy of the national government concerning secession and the seizure of federal property. Although Lincoln insisted that he would not reveal his policy on secession until he had taken office, he did, in private, write a great many of the nation's most influential men--particularly leaders of the Republican party.

In his letters, Lincoln urged Republicans to oppose the plans for compromise which were then being proposed in Washington. Lincoln thought that a lot of this compromise talk smacked of Stephen Douglas' old popular sovereignty doctrine. Lincoln referred to popular sovereignty as "dangerous ground" which could possibly "lose us everything we gained by the election." If the Republicans "surrender(ed)" to Southern demands, he wrote, it would be "the end of (the Republican party), and the government." Lincoln feared that a compromise, far from preserving peace, would only lead Southerners to "repeat the experiment upon us ad libitum."³

Even though Lincoln's decision not to endorse a compromise raised the question of how he, as President, proposed to pull the seceded states back into the Union, he still appeared, judging from his remarks during his trip to Washington, to hold the same views of American government, society, and the Presidency that he had held previously.

Of course, republicanism was still the cornerstone of his personal ideology. During a stop in Philadelphia, he pointed to Independence Hall, where the Declaration of Independence and the Constitution were formulated, and he stated that he had "never asked anything that does not breathe from those walls." Indeed, all of his "political warfare" was "in favor of the teachings coming forth from that sacred hall."⁴

Although Lincoln never touched on the subject of government structure directly, his speeches on that trip to Washington were filled with oblique references to his ideas of how the various branches of government should interact, and all of these remarks indicate that he continued to believe in a weak Executive and a strong Congress.

At Pittsburgh, Pennsylvania, for example, while making a politically

appropriate remark about the tariff, he said the following about the role of Congress in the government.

According to my political education, I am inclined to believe that the people in the various sections of the country should have their own views carried out through their representatives in Congress....⁵

Lincoln's words express the old Whig notion that Congress--the branch of government which understood the desires of the nation best--should make policy. Indeed, this statement echoes his previous endorsements of a strong Congress--particularly those he made while campaigning for Zachary Taylor.

Lincoln never discussed the issue of Presidential authority in any detail, but he made enough remarks concerning the strength of the people and his own humility to lead one to the conclusion that he still believed in a weak Presidency. In fact, Lincoln's humility became ridiculous at times. He told a crowd in Steubenville, Ohio that, if they became dissatisfied with his performance, they should "elect a better man next time." There were, he said, "plenty of them." At Indianapolis, Lincoln referred to himself as "an accidental instrument . . . of a great cause." Later in his remarks, he told the crowd that his reliance would "be placed upon you and the people of the United States."⁶

Such words are understandably viewed with skepticism by many. Unquestionably, one of Lincoln's reasons for demeaning himself was to build political capital by appearing as a humble man. Yet the mere fact that he was able to express such sentiment demonstrates that he still believed in the notion that the leader of the republic should be, or should try to be, a humble man of the people--a wise old executive to administer the popular will as expressed in Congress. At the very least, certainly, Lincoln's

words do not indicate any change in his view of the Presidency. One can scarcely imagine men like Teddy Roosevelt or John F. Kennedy saying that there were "plenty" of men better than themselves, but such statements seem to fit Lincoln well.

Perhaps one reason that Lincoln did not seem concerned about the possibility that he might have to employ extraordinary Presidential powers against the rebellion is that he did not really believe that Southerners would actually attempt to make good on their secession ordinances. Oblivious to all evidence to the contrary, Lincoln said that the "excitement" down South had "no foundation in facts." Trying to reassure the South that he would not, indeed could not, strike at its institutions, he asked Southerners to "point us to anything in which they are being injured." Since, as Lincoln hastened to point out, the South had sustained no real injuries, nothing so grievous as to justify the disruption of the Union, he "felt all the while justified in concluding that the crisis, the panic, the anxiety of the country at this time is artificial." Without any foundation of actual grievances, he could not see how even the most wily agitator could lead the South out of the Union.⁷

At least, this was the opinion that Lincoln expressed in public. Behind the scenes portents of the still rising tide of bitter Southern anger reached him every day. All across the lower South, military preparations and seizures of federal property served only to warn him that, if anything, secession sentiment was increasing and solidifying. The possibility of Civil War was transformed from a remote and extreme scenario into a conceivable eventuality.

(2)

Lincoln's inaugural address indicates that he had come to recognize the seriousness of the situation. No longer willing to shrug off secession in public, he acknowledged that a "disruption of the Federal Union heretofore only menaced, is now formidably attempted."⁸ Directed completely toward the crisis, his speech is significant for many reasons. Perhaps the most important is that the speech illustrates a new dimension to Lincoln's attitude towards both the Presidency and the crisis. On that cold inauguration day in March, the old Whig from Illinois wrapped himself in the rhetoric and strategems of that old Whig nemesis, Andrew Jackson.

Jackson had dealt with a situation similar to the secession crisis when he was confronted with South Carolina's attempt to "nullify" the tariff of 1832. South Carolinians, angered by the fact that the tariff had not completely satisfied their demand for lower duties, made use of their previously asserted right to nullify, within their own state, any federal law which they felt was unconstitutional. State leaders threatened to take the state out of the Union if any attempt were made to enforce the tariff in South Carolina.⁹

The controversy called the authority of the federal government and the nature of the Union into question. Jackson faced the contention that the states were the essential units of sovereign authority and could do pretty much what they pleased--even leave the Union. This was precisely what Southerners were telling Lincoln, although they were doing so in a more severe and belligerent manner.

Thus, it is no surprise to learn that one visitor to Springfield in the early months of 1861 "found him (Lincoln) reading a history of the

South Carolina nullification crisis of 1832, studying how President Jackson had handled that dilemma."¹⁰ A keen student of history, Lincoln adopted Old Hickory's strategy and ideas regarding nullification for use in his own situation.

In dealing with South Carolina, Jackson chose to pursue a multi-faceted course. While he asserted the authority of the federal government and made military preparations for the worst eventuality, he tried to conciliate Southerners by urging further tariff reform and by reminding them of the glorious future of the Union. In the course of his dialogue with South Carolina leaders, though, Jackson was careful to make it clear that he would not tolerate nullification and was prepared to use every means necessary to resist it.¹¹

Lincoln acted in much the same manner. Indeed, an examination of the official statements they issued concerning their respective situations --Lincoln's first inaugural address and Jackson's Nullification Proclamation --highlights the strong similarity between their attitudes.

In their statements, both men argued that the federal government and the Union were institutions which ultimately held the allegiance of all of the people. No state, they asserted, had sovereignty of its own. Instead, the states had what political authority they legitimately held because they were inside the Union. Thus, they could never leave the Union. Where Jackson likened the Union to an unbreakable "compact," Lincoln compared it to a permanent "contract" that could never be dissolved with anything less than the consent of all parties involved. Looking back on the nature of the Constitution and its ratification, Jackson asserted that the "Constitution of the United States . . . forms a government, not a league." Lincoln cited the Articles of Association and the Articles of Confederation

as evidence in support of his contention that the "Union is much older than the Constitution." Indeed, he noted, "one of the declared objects for ordaining and establishing the Constitution was 'to form a more perfect union.'"¹²

Lincoln and Jackson both pointed out the absurdity of the so-called "right" of secession. For his part, Lincoln lectured Southerners on the dynamics of minority and majority rights in a democratic system. He argued that "unanimity is impossible" in any society and that "the rule of a minority, as a permanent arrangement, is wholly inadmissible." Thus, "rejecting the majority principle, anarchy, or despotism in some form, is all that is left." Lincoln concluded, therefore, that "the central idea of secession," which constituted a resounding rejection of majority rule, "is the essence of anarchy."

Jackson employed a comparable argument when he reminded the people of South Carolina that, under the Constitution, the laws and treaties of the federal government superseded the laws of the individual states. "And it may be asserted without fear of refutation," wrote Old Hickory, "that no federative government could exist without a similar provision."¹³

Even though the two Presidents were committed to the Union to the extent of going to war, neither man desired war, and both used conciliatory language in an effort to defuse their respective situations. Pointing out the prosperity of the Union, Jackson urged South Carolinians to consider "this picture of happiness and honor and say, We too are citizens of America." Facing a far greater amount of resistance, Lincoln went a step further by promising only "to hold, occupy, and possess the property, and places belonging to the government, and to collect the duties and imposts." Carefully

choosing the least offensive language, Lincoln stated that "beyond what may be necessary for these objects, there will be no invasion--no using of force against, or among the people anywhere." In addition to this, if Southerners were unwilling to provide officers to fill posts unrelated to the collection of revenue or the retention of federal property, he promised not to flood the South with "obnoxious strangers" to assume the offices. Lincoln entreated Southerners to allow the "mystic chords of memory" to "swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature."¹⁴

Although conciliation was important in trying to resolve the two conflicts, it was not the order of the day in either case. Both Lincoln and Jackson made it perfectly clear that disruption of the Union was completely unacceptable--in fact, it was impossible in their view. Each man argued that, as President, he was expressly authorized, indeed obligated, to take it upon himself to hold the Union together. This is the strongest and most important resemblance between the policies of Lincoln and Jackson concerning secession. The phrases and ideas that the two Presidents employed in this regard were nearly the same. More importantly, Lincoln's use of Jackson's notions of the Presidency, in regard to secession, indicates a new dimension in Lincoln's thoughts concerning the Presidency--thoughts that were not inconsistent with his earlier views.

Consider, for example, the resemblance of the assertions that are made in each document concerning the strength and perpetuity of the Union. Jackson wrote the words below.

I consider, then the power to annul a law of the United States, assumed by one State, incompatible with the exis-

tence of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed....The Constitution of the United States, then, forms a government, not a league; and whether it be formed by compact between the States or in any other manner, its character is the same....To say that any State may at pleasure secede from the Union is to say that the United States are not a nation...

In his address, Lincoln said the following concerning the Union.

I hold, that in contemplation of Universal law, and of the Constitution, the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper, ever had a provision in its organic law for its own termination.¹⁵

Although the wording of the two passages is different, the phrasing and sentiment of each is nearly the same. Both deny the right of secession and assert the sovereignty and strength of the Union. In fact, reading Lincoln's words, one can almost hear Jackson speaking.

The most important similarity between Lincoln and Jackson, however relates to the role that each man assigned to the Presidency in dealing with secession. Both considered themselves obligated to take the lead in holding the nation together. Both used two bases of support to justify their claim of executive leadership in resisting secession--the Presidential oath and the American people.

In the Nullification Proclamation, Jackson told South Carolinians that he had "no discretionary power on the subject." Since he considered his duty to be "emphatically pronounced in the Constitution," Jackson warned the nullifiers that he would use any amount of force necessary to preserve the Union. Jackson argued, therefore, that, as President, he was bound by the duties of his position to resist secession by any means possible.

In the course of reminding South Carolina that the Constitution formed an unbreakable bond between the states and a superior federal government, Jackson repeated one of his favorite arguments in justification of Presidential authority. "We are one people in the choice of President and Vice President," he stated, and, thus, the "people, then, and not the States, are represented in the executive branch." Although this particular reference was used to demonstrate federal superiority over the states, Jackson was alluding to his argument that the President has the power to engage in national policy-making because the entire populace, and not any one segment as is the case with Congressmen, was his constituency. Since he was responsible to all of the people, Jackson felt that he had the right to act on behalf of all the people. To Old Hickory, therefore, both the letter of the law and his responsibility to his national constituency dictated that he take strong action against secession.¹⁶

Such views are not at all surprising where Jackson is concerned, but it is both surprising and interesting to find Lincoln adopting essentially the same ideas in his inaugural address.

I therefore consider that, in view of the Constitution and the laws, the Union is unbroken; and, to the extent of my ability, I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States. Doing this I deem to be only a simple duty on my part; and I shall perform it, so far as practicable, unless my rightful masters, the American people, shall withhold the requisite means, or, in some authoritative manner, direct the contrary....The Chief Magistrate derives all his authority from the people, and they have conferred none upon him to fix terms for the separation of the States. The people themselves can do this also if they choose; but the executive, as such, has nothing to do with it. His duty is to administer the present government, as it came to his hands, and to transmit it, unimpaired by him, to his successor.¹⁷

Just like Jackson, Lincoln believed that both his oath of office and his obligation to the people, his "rightful masters," placed the responsibility squarely on his shoulders to see to it that "the laws of the Union be faithfully executed in all the States." In dealing with the secession crisis, therefore, he claimed, as President, the right to take the leading role.

On the surface, such an assertion of authority may seem to conflict with Lincoln's earlier view of the Presidency. He had always expressed a firm belief that Congress, and not the executive, should be the dynamic branch of the government. In his inaugural address, however, he assumed leadership in dealing with the worst crisis the nation has ever faced.

Upon closer examination, though, one finds that these ideas are actually in agreement with Lincoln's earlier views. Lincoln adopted Jackson's policy of Presidential action to hold the Union together at any cost, but, unlike Jackson, Lincoln did not believe that his oath of office and nation-wide constituency empowered him to act on behalf of the people in any matter which came before the federal government. Rather, he felt that, under the law, the President was obligated to the people to carry out certain duties that were unquestionably assigned to his office. One of these was to ensure that the laws were enforced, and, therefore, he believed the task of dealing with a situation which was essentially a mass rejection of the laws fell to him. This did not interfere with his belief that Congress should be the dynamic branch of government because Lincoln was confronting a problem that was within the realm of his office. If the great issue of the day had been the tariff, Lincoln would have probably made his opinion known and complied with whatever Congress decided. Lincoln's reasoning concerning secession was the same as

Jackson's. His application of that reasoning was simply far more narrow.¹⁸

Yet Lincoln's position on the Presidency and secession, even if limited in scope, is significant. In many ways, it established the policy that he applied to the question of Presidential authority throughout the Civil War.

On inauguration day, Lincoln's position was that the Union was "unbroken" and that, should an attempt at disrupting the Union be made, it was his responsibility to resist it by every possible means. Like Jackson, he had "no discretionary power on the subject."

After the outbreak of the Civil War, when the scenarios Lincoln spoke of became reality, his chief object was to maintain the Union and its republican institutions. As the war dragged on and increasingly extreme measures were called for, Lincoln employed reasoning similar to that found in his inaugural address. His duty, as dictated by his oath and his obligation to the citizenry, required that he preserve the Union at any cost, and his own personal beliefs supported the same commitment. Thus, he was willing to stretch the limits of authority, if necessary, to save the federal government. Yet he preferred not to take any actions which might not be considered to be within his legitimate power. He did not want to create a new, more powerful Presidency. He balanced, therefore, the mandate for strong action which he found in the obligations of his office and his personal beliefs against his fear of paving the way for future dictators--or perhaps becoming one himself. The result was a power which was intended to fade away with the conflict that had justified it.

The entire question of secession pushed Lincoln into uncharted and

dangerous terrain where only he, as President, was able to tread. Rebellion constituted law-breaking of the highest order. Since the President was responsible for law enforcement, it was Lincoln's task to respond to the crisis. Civil War shifted the attention of the government to military plans for crushing the rebellion and the issue of anti-war activities in the North. Since Lincoln was Commander-in-Chief and First Magistrate, these were his concerns. In short the rebellion placed Lincoln, whether he liked it or not, in charge of the government's primary activities during the most difficult and unpredictable period in the nation's history.

Unfortunately for Lincoln, he had formed his ideas of the Presidency during a time when domestic policy and an occasional foreign war were the chief concerns of the government. Outside of the nullification crisis, he had not the slightest shred of previous experience to guide him.¹⁹ Since the Civil War and the nature of the Union were the main issues of his Presidency, he had to formulate a new policy. In doing so, he returned to his basic belief in republican institutions, and he emerged with a view of the Civil War that held the preservation of the Union and its original republican structure as the great object of the struggle--a struggle in which Lincoln was willing to sacrifice almost all.

But, on the day of his inauguration, it was not at all clear that the Civil War would actually occur, and, thus, as Lincoln outlined his attitudes and responsibilities concerning secession, there was at least a small chance that his Presidency would not be consumed with the concerns of war.

On Lincoln's inauguration day, seven states--South Carolina, Florida, Alabama, Georgia, Mississippi, Louisiana, and Texas--had already left the Union. Federal property in these states, including arsenals and forts,

had been seized. The leaders of the deep South were in the process of creating their own nation--a cotton republic, founded on slavery and the veneration of states' rights.

The situation was one of the most difficult every faced by an American President. Although Lincoln had promised to "hold, occupy, and possess the property, and places belonging to the government," he had to act with caution because eight slave states were still in the Union. With the exception of Delaware, all of these states, including such important ones as Kentucky and Virginia, held strong Southern sympathies. If Lincoln even appeared to be contemplating aggression against the seceded states, there was no doubt in his mind that he would lose some of these slave states which had, for the moment, foregone secession in favor of first seeing what policy he would adopt. This state of affairs was constantly on Lincoln's mind because state legislatures and conventions were meeting in some of these states to discuss the conditions that would justify secession.

Yet, if the United States was to be worth anything as a nation, Lincoln could not afford to let the seceded states consolidate their separation from the Union. Even though inaction on his part might stop the further spread of secession, failure to retrieve the seceded states would be disastrous.

The example of successful, unopposed secession would, by itself, spell the end of the nation in time. With every divisive issue that arose, the example of secession would appeal to whichever side lost the dispute. America would never receive the respect of foreign powers because the solidarity of the nation would always be an open question.

Lincoln was also well aware of the threat that secession posed to

the example that America's republican institutions set for mankind. Skeptics, both at home and abroad, would claim, pointing to a divided America as evidence, that republican institutions and a federal government structure would always result in such chaos.

As if these considerations were not enough, Lincoln faced the immediate prospect of displeasing the section that elected him and demoralizing his own political party. Although few advocated violence at this point, Northerners supported Lincoln in his stand that the Union was perpetual and that the federal government would continue in possession of its property and collection of its revenues. As the new President tried to balance this pledge against the sensitivities of the remaining slave states, he was accused of pursuing a policy of vacillation.

These first few weeks of Lincoln's administration were, therefore, a time of great uncertainty. As the nation teetered on the brink of Civil War, Lincoln and his cabinet searched for some way to maintain the authority of the federal government without ruining their chances to bring the seceded states peacefully back into the Union.

One sure way to assert federal authority with a relatively low amount of provocation was to remain in control of the federal installations which had not already fallen into rebel hands. Fortunately for Lincoln, two coastal forts, Fort Sumter in Charleston harbor and Fort Pickens off the coast of Florida, were still under Union control. He determined to hold onto them as symbols of continuing federal jurisdiction over the lower South.

Lincoln's plans, though, were not free of problems. First, the rebels demanded that the federals withdraw from the sovereign soil of the

"Confederate States of America." In order to show that they were serious, they surrounded the forts, especially Sumter, with troops and artillery. Lincoln faced even more difficulty in that the garrison at Sumter could not hold out much longer without fresh supplies.

Resolute in his determination to hold the forts, Lincoln consulted with the commander at Fort Sumter, Major Robert Anderson, and learned that "twenty thousand good, and well-disciplined men"--and the ships to transport and support them--were necessary to attempt a full-scale relief expedition to Fort Sumter. For this the government simply had not the resources.

Worried about the demoralizing effect a withdrawal would have on the North, Lincoln decided to reinforce Fort Pickens instead. By building Pickens into a bastion of federal authority, he felt that Northerners would then be able to accept the evacuation of Sumter as a "military necessity." A relief expedition was launched that was intended to reach Pickens before it would become necessary to abandon Sumter.

Unfortunately, due to what was later termed a "quasi armistice of the late administration," the commander of the relief expedition decided not to even attempt to reinforce Fort Pickens. By the time word of this reached Lincoln, there was no time to send a new expedition to Pickens before a "crisis would be reached at Fort Sumter."

Lincoln decided that there was no way that he could abandon Sumter without reinforcing Pickens. Even with a full explanation of the difficulty at Pickens, he saw no chance that such an action would be viewed as anything other than complete capitulation to Southern pressure. Consequently, he sent out another relief expedition, this time headed for Fort Sumter. Lincoln informed the Governor of South Carolina that the ships would only

deliver supplies, no men or arms, to the Fort. Furthermore, he informed the Governor "that, if the attempt should not be resisted, there would be no effort to throw in men, arms, or ammunition, without further notice, or in case of an attack upon the Fort.

Lincoln's message prompted South Carolinians to demand that the garrison surrender. When their request was refused, they bombarded Sumter into submission. With this act, the rebels demonstrated that they had no intention of returning to the Union peacefully. They had, in the most unambiguous manner, left Lincoln no choice but to employ force to resolve the conflict.

On April fifteenth, Lincoln issued a proclamation in which he called for 75,000 militia "to cause the laws to be duly executed." He also ordered the secessionists to disperse and called Congress into special session on July fourth.

Not surprisingly, the proclamation provoked outrage throughout the slave states. Virginia, North Carolina, Tennessee, and Arkansas left the Union within a month after Lincoln's call for troops. The new Confederate States of America, bolstered by the addition of four states, moved its capitol to Richmond.

In Missouri, Kentucky, and Maryland, the so-called "border" states, there was indecision as to whether or not secession was the proper response. In these areas, Unionist and Secessionist sentiment was more evenly balanced than anywhere else. In fact, Kentucky even considered adopting a neutral stance toward the entire conflict. For Lincoln, the mere chance that any of these states might secede posed a major threat. If Maryland, for example, left the Union, Washington itself would be isolated inside of

the Confederacy.

The new President faced many such headaches during the first months of his administration. Although Lincoln had committed himself to a policy of force, he still had to form a command structure and a strategy for the military. For that matter, he still had to form a military. During this period in which he lacked any substantial military force, he had to hold the border states in the Union and pray that Southerners did not organize for an attack before the North was ready to fight. As Lincoln glanced about, searching for some hidden source of strength which might carry him through the perilous months ahead, he looked in the end to the powers which might be found in his office.²⁰

(3)

With Lincoln's call for troops and the secession of the upper South, there was no longer any question about whether or not war would come to America--it had arrived in its most potent and terrible form: Civil War. It was a war which leaders on both sides had sought to avoid, but it was a war from which neither side was willing to shrink.

Once he had satisfied himself that war was the only way to preserve the Union, Lincoln was willing to fight. Lincoln's attitudes about the war--why it was worth fighting and what goals he sought to achieve through it--are an essential requisite for understanding his use of Presidential power, for understanding his willingness to fight. It is important, therefore, to find out exactly what threat he saw in secession and how he viewed it.

If the rebellion were successful, Lincoln believed that the Union and

its republican institutions would vanish as the nation disintegrated with further rebellions in the future. The time would come, Lincoln feared, when North America would contain nothing more than a collection of weak, bickering states. He also realized that republican institutions and the federal government structure would forever be regarded as failures--overly simplistic and idealistic concepts that would invariably lead to anarchy and disunion.

Thus, Lincoln's greatest fear was that America's free institutions would cease to exist both for the benefit of Americans and, through example, those abroad. In his message to the special session of Congress on July fourth, he summed up his view of what the Civil War meant:

And this issue embraces more than the fate of these United States. It presents to the whole family of man, the question, whether a constitutional republic, or a democracy-- a government of the people, by the same people--can, or cannot, maintain its territorial integrity, against its own domestic foes. It presents the question, whether discontented individuals, too few in numbers to control administration...can always, upon pretences made in this case, or on any other pretences, or arbitrarily, without any pretence, break up their Government, and thus practically put an end to free government upon the Earth...This is essentially a People's contest. On the side of the Union, it is a struggle for maintaining in the world, that form, and substance of government, whose leading object is, to elevate the condition of men--to lift artificial weights from all shoulders--to afford all, an unfettered start, and a fair chance, in the race of life...this is the leading object of the government for whose existence we contend. 21

As his words make clear, Lincoln was fighting to "maintain" republican government. With this objective in mind, he was able to view the war in universal terms as the trial of mankind's finest aspirations and ideas.

This was a theme which Lincoln stressed throughout the bitter struggle. As the nation's knees buckled under his increasing demands for sacrifice, he reminded Americans over and over that the war was being fought for

a worthwhile cause. At Gettysburg, he delivered a classic address that characterized the war as a "testing" of whether republican America, "or any nation so conceived and so dedicated, can long endure."²²

Later in the war, in a speech to an Ohio regiment, Lincoln stated his conception of the Civil War in even plainer terms:

...I almost always feel inclined, when I happen to say anything to soldiers, to impress upon them in a few brief remarks the importance of success in this contest. It is not merely for to-day, but for all time to come that we should perpetuate for our children's children this great and free government, which we have enjoyed all our lives. I beg you to remember this, not merely for my sake, but for yours. I happen temporarily to occupy this big White House. I am a living witness that any one of your children may look to come here as my father's child has. It is in order that each of you may have through this free government which we have enjoyed, an open field and a fair chance for your industry, enterprise, and intelligence; that you may all have equal privileges in the race of life, with all its desirable human aspirations. It is for this the struggle should be maintained, that we may not lose our birthright-- not only for one, but for two or three years. The nation is worth fighting for, to secure such an inestimable jewel.

Plainly, then, Lincoln was fighting to maintain in America a free, united, and sovereign republic-- this was his notion of the war's "central idea."

But, his great respect and love of republican freedom went far beyond mere rhetoric. One must actually look deeply into Lincoln's own life to find

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the real wellsprings of his emotional pro-Union stance.

A former flatboat man, surveyor, store keeper, and laborer, Lincoln the President was well aware that his own fortune in life was as much the result of the opportunities made available to him in a republican nation as it was the result of his own hard work. Having risen from a poor and uneducated young man to a politician and a lawyer, he had in many ways lived the ideal life for a citizen of a free nation. This was why he sought to preserve and proliferate "that form, and substance of government, whose

leading object is, to elevate the condition of men--to lift artificial weights from all shoulders--to clear the paths of laudable pursuit for all--to afford all, an unfettered start, and a fair chance, in the race of life."

It is imperative to take note of the reasons for Lincoln's strong commitment to victory in the Civil War because it was on the basis of his overriding concern for the preservation of republican government that he made his major decisions on wartime policy. Lincoln felt that the war would pass final judgement on the question of whether or not republican institutions would survive in America and spread abroad. He saw beyond the mere question of union or disunion because he identified so strongly through the experiences of his own life with the notion of a society in which ensuring opportunities for individual growth and improvement was the primary concern of the government. "The nation," as he put it, "is worth fighting for, to secure such an inestimable jewel."

(4)

Lincoln was faced with tough decisions about the wartime use of executive power almost from the very beginning of the conflict. During the early days of the war, when his government lacked the security of having a large army at its command, he faced trouble in both the "border" regions and within his own government.

The difficulty with the border states arose because these states were extremely confused in orientation. No Union or Confederate sympathy was clearly dominant in these areas, and, thus, the border was an indiscernible mixture of Northern and Southern sentiment instead of a rigidly defined

boundary. This was particularly true of three of the slave states that had remained in the Union--Maryland, Kentucky, and Missouri.

This phenomenon, this entanglement of sympathies, is a common aspect of civil strife, and it caused hardships for both sides in the American case. For Lincoln, the problem was particularly acute in those first months of the war. Since it is always easier to destroy than to maintain, momentum was behind the secessionists. Lincoln had to find some way of halting the spread of rebellion before it carried some of the border states out of the Union and threatened the government. The District of Columbia was inside the state of Maryland. Rebel activity in Maryland, therefore, was of great concern to the government.

Signs of the depth of secessionist sympathy in Maryland were not long in coming. Four days after Lincoln's proclamation, on April nineteenth, a Baltimore mob attacked a Massachusetts regiment that was marching through the city. The troops, who had left their trains because of obstructions placed on the tracks by angry citizens, eventually made it through Baltimore to Washington, but not before thirteen people, including four soldiers, had been killed. Believing that any further attempts to move troops through Baltimore would lead to more bloodshed, the Mayor of Baltimore and the Governor of Maryland ordered the railroad bridges on the routes to Baltimore disabled--effectively cutting off Washington's rail links to much of the North.

As if the loss of the railroad lines was not enough, secessionists in Baltimore soon struck again--only two days after their assault on the soldiers--by seizing the local telegraph offices and cutting off Washington's wire communications with the rest of the country.

Even though the ferocity of rebel activity and the location of Washington made Maryland the most important of the border slave states, the situation in other states of the border was scarcely less precarious. In both Kentucky and Missouri, there was strong pro-Southern sentiment to contend with an equally, or perhaps slightly less strong Unionist sentiment. Governor Magoffin of Kentucky and Missouri's Governor Jackson both supported the secessionists within their states. Thus, the situation presented a grave problem for Lincoln. He realized only too well the enormous boost in men and territory that the Confederates would receive should either or both Kentucky and Missouri secede. He understood as well that the secession of either state would foment rebellion in southern Illinois and Indiana. ²⁵

Another problem confronting Lincoln was the extent of rebel sympathy within his own government. Upon entering office, Lincoln assumed control of the federal bureaucracy, and, like the nation itself, the government was divided. Particularly in the military, high ranking officers resigned in droves to fight for the South. And these resignations were not insignificant. Fine officers such as Robert E. Lee left the service of the United States to fight on the side of the rebellion. In fact, Lincoln was so fearful of sabotage from within his own government that, in the early days of the conflict, he enlisted the aid of prominent civilians to spend treasury funds on supplies because he did not trust the Treasury department's officials. ²⁶

The problems that Lincoln faced within his own section--unrest in the border states and disloyalty in the government--dramatically increased his concerns during the early days of the war. In foreign wars, America has mobilized with little danger of direct attack because of the geographic ob-

stacles posed by the Atlantic and Pacific oceans. Lincoln had no such luxury. Instead, he had to deal with a hostile enemy within walking distance of his own home and enemy sympathizers spread out across his own territory. Thus, during the mobilization period for the Civil War, there was a real question as to whether or not the federal government would be able to survive until it had raised an army to defend itself.

Outside of the few regiments which had managed to find their way to Washington, Lincoln had no substantial military forces to speak of during the first weeks of his administration. Washington was virtually undefended, and, given the extent of secessionist activities in Maryland, it was going to be difficult to reinforce the capitol with any kind of speed. Rumors of an imminent Southern attack abounded. Wild stories circulated-- such as the claim "that Virginia authorities could put seven thousand men into Baltimore in twenty-four hours."²⁷

As it turned out, the rebels were no more ready to fight than their federal adversaries. Lincoln himself, however, showed the signs of strain when he spoke to some Massachusetts soldiers. He said that he had begun "to believe that there is no North...You are the only real thing." Even if Southerners were unprepared, it is perhaps more important to remember that people in Washington, including Lincoln, feared that they were ready to fight.

And preparing to meet an attack was not easy. Although the troops were initially slow in arriving, Washington was, from the start, deluged with offers of men--a consideration that an innocent populace affords its leaders in the opening phases of a conflict. Lincoln's correspondence from this time period was preoccupied with wrangling over how many regiments

each state would be permitted to send. Offers of soldiers were nice, but it would take time to equip and train the men. It would take time to join the various regiments into an army. And, considering the situation in places like Maryland, time was the one thing which Lincoln could not afford to waste.

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Thus, the full parameters of the crisis with which Lincoln had to deal are apparent. With no army to speak of, he had to try to hold the border slave states in the Union. With fierce secessionist activity in his own section, he had to restore Washington's communications and transport what soldiers there were to the capitol. On top of it all, he could only pray that the Confederacy would not attack. In short, his immediate task was to hold his own section together as best he could while preparing to strike back against rebels both North and South.

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Although he lacked the military force necessary to deal fully with the crisis, Lincoln nevertheless moved decisively to quell disorder in the North and build armies to fight in the South. What he lacked in disciplined troops, Lincoln made up for with a unique and admittedly questionable use of expanded executive power.

As James G. Randall has pointed out in many of his books on Lincoln and the Civil War, the new President had, through his proclamation, "committed the government to a definite theory of the nature of the war." Essentially, he refused to characterize the conflict as a war between contending nations, but, instead, termed the war a domestic insurrection-- thereby denying Southern claims of legitimate status as a nation at the very outset. As Randall pointed out, Lincoln was, through his position on

the conflict, technically holding Southerners guilty of treason, but in actual practice the Union extended belligerent rights to the Confederate military.

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Congress would not meet until July fourth, but certain aspects of building a solid war effort against the South could not, in Lincoln's opinion, wait until the legislators assembled. The troops would, he hoped, reach Washington long before mid-summer. Expenditures had to be made in order to outfit the soldiers. Consequently, Lincoln placed \$2,000,000 of federal money in the hands of trustworthy private citizens--John A. Dix, George Opdyke, and Richard Blatchford--with instructions to meet "such requisitions as should be directly consequent upon the military and naval measures necessary for the defence and support of the government." Lincoln did this because he feared that if he attempted to spend the money through the normal treasury structure, his efforts would be frustrated by secessionist elements within the government. He also took this measure because he believed that immediate expenditures were essential if the military build-up was to proceed smoothly. Nonetheless, the Constitution strictly places the purse strings of the government in the hands of Congress, and Lincoln clearly usurped Congressional power by appropriating the money on his own.

30
Lincoln also usurped Congressional power when, on May 3, he authorized the expansion of the regular army and navy. The Constitution specifically gives Congress the authority to determine the composition of the regular armed forces of the United States, but Lincoln argued that "existing exigencies demand immediate and adequate measures for the protection of the National Constitution and the preservation of the National Union...to which

end a military force in addition to that called forth by my proclamation of the fifteenth day of April in the present year, appears to be indispensably necessary." He also promised that the "direction for the increase of the regular army, and for the enlistment of seamen hereby given...will be submitted to Congress as soon as assembled."³¹

Strangling the South economically was an important part of Lincoln's war plan, and he wasted no time in waiting for Congress before he set about implementing measures that were designed to suffocate rebel commerce. Since the South was an agrarian section that depended heavily on exporting cotton to Europe, the central aspect of Northern economic warfare was an attempt to shut down Southern trade.

The effort to destroy Southern exports took the form of a naval blockade which Lincoln proclaimed on April nineteenth for the lower South and later expanded to include the ports of the upper South. The use of a blockade called into question the definition of the war which Lincoln had put forth in his initial proclamation. He had characterized the conflict as a domestic insurrection, but, in proclaiming a blockade, which is a wartime measure between opposing nations, he seemed by implication to view the war as a conflict with a foreign power.

Although Lincoln's intention was certainly to treat the secessionists as rebels, his proclamation of a blockade raised the question of whether or not, by taking an action which was definitely in the realm of international war, he was again usurping Congressional authority. He had the power to declare the existence of an insurrection, but only Congress could declare war. Thus, Lincoln's use of the wartime measure of blockade was a shaky venture into the gray area of authority between the President and Congress.

Typically, Lincoln wrote in his blockade proclamation that his measure was in effect "until Congress shall have assembled and deliberated on the said unlawful proceedings, or until the same shall have ceased."³²

The most controversial of Lincoln's emergency measures, however, was his suspension of the writ of Habeas Corpus. Convinced that he could not allow the secessionists in the North to hamper the crucial war effort and believing that normal legal procedures were unequal to the task, Lincoln authorized the commander of the Army, General Winfield Scott, to suspend the writ of Habeas Corpus and arrest individuals who interfered with military activity along the crucial lines of communication. Later, he extended this order to include the state of Florida.

The suspension of Habeas Corpus provoked a great deal of debate. The Constitution permits the suspension of the writ in cases of severe civil disturbance, but it does not specify which branch of government is to authorize that suspension. Perhaps more than any other aspect of the law, Habeas Corpus was, and still is, identified as the most important of an individual's rights--the essential protection against unwarranted arrest. Thus, it is no surprise that Lincoln's suspension of the writ struck many as dictatorial.

One person who certainly felt that way was Roger B. Taney, Chief Justice of the Supreme Court. Taney was in Maryland during the crisis. He was petitioned to order the release of a man named Merryman, who was suspected of secession activities and had been imprisoned under the provisions of Lincoln's suspension. Taney ordered the military to turn Merryman's case over to the civil authorities for a normal hearing, and, when his request was rebuffed, he sent Lincoln "an opinion vigorously denying

the President's right to 'suspend the writ.'"

Lincoln chose to ignore Taney's order. Since the Constitution did not specifically empower any single branch of the government to suspend the writ, he could not claim the full sanction of the law. But, since the Constitution did allow for the suspension of Habeas Corpus in time of civil disorder and did not say that the President could not suspend the writ, he was able to argue that he had violated no law. Additionally, he appealed to the difficulty of the situation. Normal judicial procedures were not adequate to counteract the threat from Northern secessionists. Since the very existence of the government was at stake, he saw no choice other than to order the suspension.

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Lincoln's measures in the period between his initial proclamation and the convening of Congress, then, comprised his first venture into the use of extraordinary executive power. As Randall noted in his study of Lincoln's Presidency, these actions and his justifications for them are especially significant because they set up much of the rationale which he would apply to the question of executive power throughout the war.

As discussed in a previous section, Lincoln viewed the Civil War as a struggle to preserve the Republican institutions which he revered. He was unique in his ability to see through the dry interpretation of the war as merely a struggle for union over disunion. Instead, he characterized the contest in a universal manner as an irrevocable referendum on mankind's finest ideas. The probability that Lincoln might lose that referendum seemed high in those early days of the war. As his administration tried

to build an army, the President could only watch as secessionists ran rampant in the border slave states and the Confederacy built its own military. Sitting in the White House, undefended and isolated, Lincoln reacted to the crisis vigorously by employing any means at his disposal to ensure the government's survival.

When it came time to explain his free-wheeling application of power to Congress, Lincoln stressed both the gravity of the crisis and its universal meaning. Since the war would decide the fate of the Union and its republican institutions, Lincoln believed that he was obligated to lead the North to victory at any cost. He found justification for his policy of extreme executive authority in the grave dangers which beset the government during the first months of the war, and he found further support for his measures in the value of what was at stake in the conflict--the future of republican government. Lincoln's use of exceptional Presidential power reflected, therefore, a strong commitment to the preservation of the American experiment in popular government. There was a noticeable absence of any attitude on his part that the Presidency was legitimately empowered, under the Constitution, to take extreme action. Instead, he returned for support always to the nature of the situation in which he found himself. Evidence upholding these assertions is readily found in Lincoln's state papers and private correspondence.

The document in which Lincoln gave the most extensive treatment to his use of executive power during this period is of course his July fourth message to Congress. Before commenting upon his policies, Lincoln related both the serious threat posed by secession and his universal view of the war as a contest for republican government.

After providing Congress with this backdrop of events and

ideas, Lincoln proceeded to justify and explain his use of extraordinary power. Where he could, he tried to show that he had not broken any laws, but he relied primarily on the nature of the conflict to support his arguments. Consider his explanation for the enlargement of the regular armed forces.

These measures, whether strictly legal or not, were ventured upon, under what appeared to be a popular demand, and a public necessity; trusting, then as now, that Congress would readily ratify them. It is believed that nothing has been done beyond the constitutional competency of Congress.

Lincoln had acted because the crisis presented both "a popular demand and a public necessity" for strong measures. While acknowledging that he had acted beyond the limits of his office, he argued that he had not acted beyond the limits of the government in general and Congress in specific. Since the measures were required by "public necessity," he felt that it was alright to impinge temporarily on Congressional prerogatives, and he expected that "Congress would readily ratify" what he had done.

Lincoln also dealt with the suspension of Habeas Corpus in his message. Acknowledging that "the legality and propriety of what has been done under the suspension, are questioned," he chose to defend his administration in the following way:

Of course some consideration was given to the question of power, and propriety, before this matter was acted upon. The whole of the laws which were required to be faithfully executed, were being resisted, and failing of execution, in nearly one third of the States. Must they be allowed to finally fail of execution, even had it been perfectly clear, that by the use of the means necessary to their execution, some single law, made in such extreme tenderness of the citizen's liberty, that practically it relieves more of the guilty, than of the innocent, should, to a very limited extent, be violated? To state the question more directly, are all the laws, but one, to go unexecuted, and the government itself go to pieces, lest

that one be violated? Even in such a case, would not the official oath be broken, if the government should be overthrown, when it was believed that disregarding the single law would tend to preserve it?

Once again, he appealed to the practical considerations of controlling a dangerous rebellion to demonstrate the necessity of taking extreme action. Lincoln stated the issue in the starkest possible terms when he asked whether or not "the government itself (should be allowed to) go to pieces, lest that one (law, Habeas Corpus) be violated?" Lincoln felt, in short, that he had a logical justification for suspending the writ.

Although the July fourth message contains perhaps the best known explanations that Lincoln put forth for his initial actions, there are other scraps of evidence which tell an equal amount about his intentions and attitudes concerning that first use of extensive power.

In a letter to Congress in May of 1862, for example, Lincoln touched on his appropriation of treasury funds for the purchase of military supplies by civilian agents.

The several departments of the government at that time contained so large a number of disloyal persons that it would have been impossible to provide safely, through official agents only, for the performance of the duties thus confided to citizens favorably known for their ability, loyalty, and patriotism....I believe that by these and other similar measures taken in that crisis, some of which were without any authority of law, the government was saved from overthrow.

Here, too, Lincoln chose to highlight the gravity of the crisis--the need to build a military force quickly and the presence of "disloyal persons" in the government--to justify his policies. He did not try to claim that the appropriation of funds was within the scope of legitimate presidential power. Rather, he argued that the situation left him no choice.

Lincoln intended his extreme policies to be limited in scope. It

would have been very easy, for example, for Lincoln to issue a general suspension of Habeas Corpus, but, instead, one finds that the initial suspension order contains a painstaking, detailed description of the precise location of the military lines effected. The same sort of constraint is apparent in Lincoln's proclamation suspending the writ in Florida. Instead of authorizing a suspension throughout the rebellious states, which would have been understandable, Lincoln limited the action to Florida. This high degree of attention that Lincoln seems to have paid to limiting, wherever possible, the suspension of Habeas Corpus demonstrates his concern for trying to control the nature and extent of the use of emergency powers.

An inkling of how Lincoln felt about the suspension of Habeas Corpus is provided in a small note that he scribbled to himself during the middle of May, 1861. "Unless the necessity for these arbitrary arrests is manifest, and urgent," he wrote, "I prefer they should cease."³⁶

This statement neatly sums up Lincoln's entire attitude toward the use of emergency powers. Although he wished that "they should cease," he was willing to avail himself of them "while the necessity...is manifest."

And the necessity was manifest. The war was a great testing of the Republic, and it had to be won at all costs. At the very outset, the government had not the manpower resources to defend itself and quell the wild winds of secession. Consequently, Lincoln employed every power within reach of his office to preserve the government while an army was raised.

This in no way made him a dictator. It only demonstrated the depth of his concern for preserving republican institutions and his own intellectual flexibility in realizing that he would have to act outside of his beliefs if he were to save the wellspring of those beliefs.

CHAPTER THREE

THE FIERY TRIAL

...THAT WE HERE HIGHLY RESOLVE THAT THESE DEAD SHALL NOT HAVE DIED IN VAIN--THAT THIS NATION, UNDER GOD, SHALL HAVE A NEW BIRTH OF FREEDOM--AND THAT GOVERNMENT OF THE PEOPLE, BY THE PEOPLE, FOR THE PEOPLE, SHALL NOT PERISH FROM THE EARTH.

--Abraham Lincoln
From the Gettysburg Address
November 19, 1863

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Part of the reason that Lincoln was able to act so decisively during the initial stages of the rebellion was that Congress was not in session. With the legislators out of town, he was free of the fear of an immediate and formidable institutional protest against his policies. He well understood, though, that since much of what he had done trampled on legislative prerogatives, he would have to seek retroactive approval from Congress for the steps which he had taken.

Legislators are renowned for jealously guarding the rights and privileges of their branch of government, but, in Lincoln's case, Congressional sanction was rather easily obtained. Of course, there was some grumbling about certain facets of his program, such as the suspension of Habeas Corpus. Without Southerners in Congress, however, the bulk of the opposition to Lincoln was gone. Northern Democrats, for the most part, initially sided with him in his efforts to maintain the Union, and legislation was passed which read "that all the acts, proclamations, and orders of the President" concerning the military "are hereby approved and in all respects legalized and made valid, to the same intent and with the same effect as if they had been issued and done under the previous express authority and direction of the Congress of the United States." As for the question of Habeas Corpus, Lincoln was content to allow the matter to rest on an opinion prepared by his Attorney General, Bates, which supported his suspension of the writ.¹

Lincoln could now afford to breathe a little easier. He had obtained Congressional approval for his extreme measures, and soldiers were pouring into Washington. Even though the border states were not completely se-

cured for the Union, the position of the federal government was visibly strengthening and solidifying. With each passing day, less and less of the original allure and excitement of secession remained and the President found himself with more and more soldiers to deploy. For the present, the storm had blown over in the North. Turning his attention to the South, Lincoln settled into the role of commander-in-chief and grand strategist.

Although Lincoln's call for 400,000 men in his July fourth message comprised, along with his other war measures, an indirect acknowledgement that it would take a substantial effort to win the war, no one, not even the perceptive Chief Executive, expected a four-year inferno. The Army at Washington was soldiered primarily by three-month militia, and it was widely hoped that this force would hurl a knockout blow at the outset of the fighting and perhaps even capture Richmond.

Brimming with a naive overconfidence, the people were spoiling for a fight. In spite of the fact that the Army was still building itself into a credible force, enormous pressure was placed on the Lincoln administration to hurry up and launch an attack on the Confederacy. "Forward to Richmond" was the cry that was on the lips of every patriotic Northerner. Forward indeed.

Finally, in July, the Army began to move. Urged on by Lincoln, Irwin McDowell, tactical commander at Washington, produced a battle plan that called for one Union force, under himself, to attack the main Confederate army in Virginia, under Beauregard, while another Union force, that was defending the Shenandoah valley, pinned down a second Confederate army that was in front of it. Unable to link up with other Confederate units, Beauregard would be no match for the numerically superior McDowell.

The plan was adopted, and, on July 21, McDowell's forces attacked Beauregard's troops at Manassas. At first, the battle seemed to go well for the Northerners. They fought steadily and managed to advance against the Southern opposition. Unfortunately for the Union, however, the second Confederate army managed to slip away from the force that was assigned to cover it. These fresh rebel soldiers reached Beauregard by railroad, and the tide of the battle began to turn in favor of the Confederacy. Soon, the federal lines began to show signs of crumbling. Incipient cracks widened into gaping holes as the raw, inexperienced soldiers began to flee in panicky disarray. All hope for an orderly withdrawal ended when the men lost any semblance of order, threw down their rifles, and ran away. For all intents and purposes, the U.S. Army at Washington, the famous Army of the Potomac, ceased to exist as an organized and coherent fighting force.

Far from being cowardly, the behavior of the Northern soldiers was certainly understandable. It was a natural reaction to hot, flying lead and screaming, charging rebels with bayonets poised. But, no one in the North was in the mood to be understanding in the aftermath of what appeared to be--in spite of the equality of the casualty figures--a complete debacle. The defeat at Manassas served as a sobering and painful signal to the North that tough fighting lay ahead.²

In fact, four years of tough fighting lay ahead--four years which would require every ounce of national strength, four years which would determine the course of mankind, four years of a "fiery trial" in which Abraham Lincoln would be called upon to make momentous decisions amidst the clouds of doubt. And just how, one might ask, did Lincoln make these decisions?³

Although it is dangerous to try to simplify complicated events and complex individuals, there is more than a mere particle of truth in the

proposition that Abraham Lincoln made the important decisions of his administration on the basis of two factors. The first was his clear and strong philosophical concept of the war as a final referendum on republican government--"that form, and substance of government, whose leading object is, to elevate the condition of men."⁴ He saw the war as a life or death struggle for the institutions and society in which he had developed from an uneducated, poor young man into a lawyer and a statesman.

This factor affected his thinking in a couple of ways. To begin with, it provided an ultimate justification for his policies. Even if what he was doing was unheard of, caused hardship, and provoked intense opposition, he could always tell himself that it was necessary for the greater good, for the preservation of republican government. This commitment to free institutions also greatly expanded the boundaries of his thinking and provided him with that intellectual flexibility which was the greater part of the genius of his leadership. Essentially, since the war was being fought to preserve what he believed in most deeply, any action necessary to win the war was worthy of his consideration. "Necessity," he told a complaining Northern Governor, "knows no law."⁵ Unwilling to fail in his duty if he could at all help it, Lincoln's determination and commitment opened up a myriad of possibilities to him where less determined and less cogent minds seemed only able to operate under old assumptions. "Still I must save this government if possible," Lincoln wrote in that dreary summer of 1862. "What I cannot do, of course I will not do; but it may as well be understood, once and for all, that I shall not surrender this game leaving any available card unplayed."⁶

This does not mean that Lincoln was out in front of his party, ahead of even the abolitionists. It does not mean that he implemented any policy

that came to mind, no matter how radical, regardless of the consequences. On the contrary, there was a certain logic and rationale behind the actions that he took as a matter of necessity and expediency. If intellectual flexibility formed one part of his genius, then a reasonable caution--a sober judgement in the midst of panic--formed the other part. For Lincoln was only willing to employ extreme measures to the extent that the situation, the state of the war effort, required it. Thus, the condition of the war effort--as Lincoln saw it-- was the second factor which weighed heavily in his thoughts.

In one sense, this had the same influence on him that his commitment to republican government did. The North's fortunes in war--if they were bad, which they often were--justified new and difficult policies to preserve the government. If the Northern position seemed very bad, which it sometimes did, the grave state of affairs provided a further impetus for Lincoln to search outside of the accepted norms for ideas to bolster federal strength.

Yet Northern standing in the war could also act as a restraint on Lincoln. Every action that he took as President cost him something. If he struck at slavery, for example, he risked losing the border states. If he did not impose the draft in the North, there was a chance that his armies would lack the requisite manpower. If the North was not doing badly enough for the advantages of extreme action to outweigh the disadvantages, Lincoln would forego such action. "I have been unwilling to go beyond the pressure of necessity in the unusual exercise of power," he wrote in his message to Congress in December of 1861.⁷ This sentiment irritated the rabidly anti-Southern, abolitionist wing of the Republican party to no end. But, for Lincoln the issue rested upon the costs and benefits of the policy

in question, and, of course, he would choose whatever best served his primary goal of saving the Union and the Republic.

Lincoln's commitment to free institutions and republican government was a constant with him. It never changed because it was rooted so very deeply in the stuff of his soul. What did change over the course of the war--the variable factor if you will--was Lincoln's assessment of the strength of the Union effort. In fact, the extent to which Lincoln felt compelled to employ his Presidential powers was very much a function of the extent to which the Northern military was able to make headway against the South. If the soldiers were capable of crushing the rebellion in fairly short order, then there was no need for him to use his emergency powers to support their efforts. On the other hand, if the Confederates managed to hold their own on the battlefield, then measures in addition to the use of force were necessary.

The war which Lincoln often observed from the White House windows was in many ways a conflict unlike any that mankind had previously seen. Most of the wars of the past had been isolated and controlled--characterized by uninspired mercenary armies fighting one another with rudimentary weapons in relative isolation from the civilian populace. By 1861, warfare had changed considerably. The American Civil War marked the first time that the two great forces then new to the world--popular ideology and industrial technology--joined in that awful and deadly combination, modern war. Unlike his disinterested predecessors in the armies of monarchical Europe, the common soldier in the Civil War was imbued with the same grim, determined ideology that motivated his leaders. And he was much better armed,

too. The old "Brown Bess" musket, long the standard infantry arm of the world's armies prior to the Civil War, had an effective range of about fifty to seventy-five yards. The muzzle loader used by Union and Confederate soldiers was lethal at a half mile. The mixture--fierce determination throughout the ranks on both sides and radically improved armament--produced far and away the most deadly conflict in American history. Over 600,000 lost their lives through combat, disease, and a myriad of other fatal possibilities. Countless more were wounded.

The battlefields of the Civil War bore very little resemblance to the plains of Yorktown or the wheat fields of Waterloo. Places like Shiloh church and Sharpsburg were more akin to bloody, bottomless pits which sucked in vast numbers of men, tons of equipment, millions of dollars, and untold quantities of human spirit and determination. Each clash literally took something out of both sides. Both were left with fewer men, less money, less equipment, and less spirit. Perhaps the only difference was that the winner had cause to rejoice and the loser did not. But what kind of rejoicing was there really for the winner of such a battle? Often, the fighting decided nothing significant, and what joy there was in defeating the enemy was tempered by the losses incurred in combat. In any event, enormous resources--physical, mental, and institutional--were required to conduct such a war. Ultimate victory in the Civil War was as much a function of the depth of sectional resources as it was a function of good strategy.

A strong industrial base was needed to provide enough rifles and artillery pieces to arm vast numbers of troops. It took a large populace to provide the manpower necessary to build large armies. An extensive and efficient transportation system was required to move soldiers and supplies

to a variety of points along a front that ran for a thousand miles. A sound financial system was necessary to fund the entire endeavor. In short, a vibrant, diversified economy and a large populace were needed to provide the physical resources of war.

But wars are rarely, if ever, won on physical resources alone. In a democratic nation--and both sides in the Civil War styled themselves as such--it is especially important for the people to be committed to the goals for which the war is being fought. In order to build armies, men must be induced to enlist in the armed forces of their own free will. If the economy is to run at peak efficiency, the working man must be convinced of the correctness of his nation's cause. In order to line up strong political support and lots of tax dollars, the entire electorate must be won over to the idea of war. During wartime, dissent is no longer a welcome guest in a democracy. A sign of strength in peacetime, it is a sign of weakness in war. It is proof positive that a nation is not unified behind its leadership. And what if dissent should arise? What if it should manifest itself in attempts to interfere with the war effort? What then? In this eventuality, a frequent occurrence in protracted conflicts, it is necessary to dispense with peacetime niceties and suppress such activities. A government cannot stand idly by and watch its demise be engineered by disenchanting citizens.

Thus, there are non-material resources--in addition to political and military leadership--that are just as important for success in war as locomotives and iron foundries. There must be a solid base of popular support for participation in the conflict, and, in the absence of such support, a government must have the coercive power, the institutional strength, to

ensure at least a sullen popular cooperation. The course of the war was determined to a great extent by the balance of resources--both physical and non-physical--between the contending sections. The fortunes of both North and South depended heavily on economic strength, population size, popular support, and institutional strength.

The Northern economy was ideal--eminently suited to the tasks of modern war. Industry was well developed in the section, particularly in the Northeast, and factories, foundries and mills were sprouting up all over the place. As James G. Randall and David Donald have pointed out in The Civil War and Reconstruction, industry in the state of Massachusetts alone "was producing annually nearly 300\$ per capita." Randall and Donald went on to note that not "alone in Massachusetts, but also in Rhode Island and Connecticut, in lower New York in the Delaware River area, along the Erie Canal, and in the areas of Pittsburgh, Cincinnati, Buffalo, Chicago, and St. Louis, were found the seats of America's industrial empire." According to statistics compiled in 1860, roughly four-fifths of the nation's railroad track, or 20,082 miles, lay within states that remained in the Union. New York and Philadelphia were centers of commerce and banking where wealthy Northern tycoons like John Jacob Astor and Cornelius Vanderbilt salted away their millions. Northern harvests produced enough corn, wheat, and other products to feed the section and export to Great Britain.⁹

With the factories to produce the weapons, the trains to transport her armies, the farmers to feed soldier and civilian alike, the North was rich in the material resources of modern war. And what was more, she had the manpower as well. In 1860, there were roughly 31.5 million Americans. Around 27.5 million of these were free citizens. Of these free citizens, roughly

22 million resided within states that remained in the Union. Only about 5.5 million free Americans lived in states that seceded--which placed the Confederacy at a marked disadvantage in terms of manpower. With far more men, the North could field more armies and replace more of those who fell in combat.¹⁰

The South, by comparison, was poorly equipped to fight a modern war. Her free population numbered only about 5.5 million, and her economy was simply not equal to the task of sustaining a major war effort. As historians like Randall have pointed out, it is a mistake to characterize the South as completely dominated by slave-based plantation agriculture. In the decade prior to the Civil War, Southerners had made great strides in building up their own industry. There had to be, as Randall reminded his readers, diversity in a section that stretched from West Texas to Charleston.¹¹

With all due consideration for whatever diversity there may have been in the South, however, there is truth nonetheless in the proposition that the Southern economy was primarily agricultural and, indeed, rested to a great extent on the export of cash crops. By 1860, the South was producing upwards of five million bales of cotton a year. She also produced sugar, hemp, tobacco, and rice. Southerners did not engage in industrial or commercial activity to any great extent. Certainly there was nothing in the South to rival the modern economic colossus that was rearing its head in the North. Only a fifth of the nation's railroad mileage lay within states that seceded. The fact of the matter was that the South was not at all prepared to compete with the North in regards to the physical resources of war.¹²

Perhaps the best way to illustrate this is to discuss some of the problems that the Confederacy endured in the course of the war due to a lack of physical resources. In 1862, for example, desperate work was underway to

complete two iron-clads in New Orleans in time to defend the city against an impending attack from the U.S. Navy. Unfortunately for the rebels, they were unable to locate facilities that were capable of building the propeller shaft and armor plating for the boats in time for them to face the federal fleet. When the Northern ships steamed up river, the iron-clads were of no use to the city's defenders and were destroyed. Events such as these simply would not have happened in the industrial North--which eventually filled the oceans and rivers with both wooden and iron-clad warships.¹³

An even more poignant account of the inadequacy of Southern resources is found in the history of the civil War written by Confederate President Jefferson Davis. Davis wrote that, during the summer of 1861, the Confederate Congress passed "a war-tax of fifty cents on each hundred dollars of certain classes of property." Included among the items subject to taxation were "real estate of all kinds" and "slaves." Davis went on to report that "six months after the passage of the war tax . . . the popular aversion to internal taxation by the General Government had so influenced the legislation of the several states that only in South Carolina, Mississippi, and Texas were the taxes actually collected from the people." In 1863, the Congress made a second attempt at taxation--this time, slaves and land were carefully exempted. Yet, as Davis wrote, "about two thirds of the entire taxable property of the Confederate States consisted in land and slaves."¹⁴

Davis' story points to a number of Southern weaknesses. The most glaring was a lack of "liquid" capital in the South. Unlike the North, where financial and industrial interests combined to make large amounts of ready investment capital available to the war effort, Southern money was locked into land and slaves. "Constantly in need of credit to finance

themselves until the crops were sold or to buy more slaves and land," one author wrote, "Southerners tended to think of banks primarily as institutions to manufacture paper money rather than to serve as depositories of accumulated capital." Without "accumulated capital" to draw on the Davis administration tried to tap Southern wealth by taxing the physical manifestation of that wealth--land and slaves. Even if the scheme had worked, land and slaves were not nearly as capable of generating funds as were industry and commerce.¹⁵

There is another point to be made on this subject as well. As noted earlier, the resources of war are not merely physical. They are also psychological and institutional. The inability of the Confederate government to effectively tax its populace demonstrates a real lack of institutional strength. Especially in war, a government must have unobstructed access to important resources. Unable to tax the only real property within its borders, the Confederacy resorted to financing the war through bond issues--a policy which eventually proved disastrous. The reason that secessionist leaders had to resort to this policy was that, as Lincoln had pointed out in his message to Congress on July Fourth, 1861, they had committed the fatal error of building a government on disunion and localism. The result was a structure in which the states could effectively frustrate the general government's policies--even during wartime.¹⁶

The South was not, however, entirely inferior to the North in resources. Although both sections were severely divided internally on certain of the war's issues, it is a fair judgment to say that people in the South were, on the whole, more committed to the war than people in the North. Secessionists had to be more committed. They were fighting for their independence and not for the subjugation of the North. They only wanted to be left alone.

As long as Union soldiers assailed them, Southerners had no choice but to fight. It is in this sense that they had to be more committed to the war than Northerners. This is not to say that the Confederacy was solidly unified. The fact that the mountainous areas of the South--especially East Tennessee and West Virginia--offered open opposition to secession is often overlooked in popular history. Still, Southerners had the war's most impelling reason, with no slight intended to the cause of universal democracy, to take up arms: enemy soldiers invading their territory.¹⁷

Northerners, on the other hand, could find a number of reasons to give up the fight. Lincoln had defined war objectives which were certainly worth fighting for--republican government and Union--but which were nonetheless abstractions. Northerners did not have to fear living under the heel of a Southern government in the event of a Confederate triumph. Thus, under the duress of a protracted conflict, it was far easier for people in the North to contemplate surrender. This was especially true when Lincoln added the destruction of slavery to the Union war aims. Unlike the war's other objectives, this was not something upon which everybody could agree. Luckily, there were enough people in the North who believed in republican government and hated slavery to see the Union through five years of fighting. But, the fact that these people were in the majority was not at all clear during the middle years of the war. Indeed, anti-war feeling almost proved to be an Achilles' heel for the North.

To begin with, there were the border states. Here, there was significant pro-Southern sentiment. These were, after all, slave states, and strong ties, reaching back to the first days of settlement, existed between places like Kentucky and Maryland and the deep South. At the beginning of the war,

Lincoln had managed--relying on what pro-Union sentiment there was along with his emergency powers--to keep these states in the Union. His position in these areas, however, was always precarious. If they supported the North, people along the border did so because they wished to preserve the Union. They did not sympathize with the abolitionists of New England, and therefore, when Lincoln issued his Emancipation Proclamation, the Union position in the border states deteriorated markedly.¹⁸

In fact, the Proclamation had this effect on many Northerners outside of the border as well. Lincoln had carried almost all of the free states in 1860, but he did not win in the North by any vast margin of popular votes. Stephen A. Douglas ran a close second. Many of those who had voted for Douglas, and perhaps even some of those who had voted for Lincoln, were not at all thrilled with the idea of emancipation. Caring not a bit for "military necessity," they viewed Lincoln's policy as radical, unlawful, and potentially disastrous for Northern society. Consider, for example, the words that physician Dr. John H. Van Evrie wrote in 1861 on the subject of slavery. A New Yorker, Van Evrie was convinced that blacks were an inherently inferior race. "If the people of the two great sections of the country could change places," he stated, "the vast 'anti-slavery' delusion would be exploded in sixty days . . . the negro is a different and subordinate being, and in his normal condition at the South." Van Evrie was certainly not alone in the North. There were many who detested Southerners and things Southern but had no desire to see the structure of slavery ruptured. When Lincoln issued his fateful ultimatum on slavery on September 22, 1862, he lost the support of these people.¹⁹

As if the vast well of anger tapped by the Emancipation Proclamation

were not enough, Lincoln had to contend, after the first major battles of the war, with discontent over the efficiency and prowess of the military and, later, with widespread war-weariness. As the Army of the Potomac lost battle after battle in the show-case Eastern theater, people first railed at Lincoln and his Generals for the poor showing and then, as death seemed to reach into every household, despaired of the effort altogether. Was the Union, they asked, worth all of this slaughter? Was there not any chance of negotiating an armistice which would still preserve the Union?

None of these divisive factors--pro-Southern sentiment, anger over emancipation, and war-weariness--reared its head in simple solitude. They all mingled to produce a throng of eager followers for the anti-war movement which sprang up in the North--a movement that at one point threatened to unseat Lincoln and end the war. Urging people to oppose the President and his policies, these anti-war Democrats, derisively referred to as "Copperheads," even went so far as to discourage enlistments in the military. This kind of dissent even the Rights-conscious Lincoln could not tolerate, and he reacted with a series of harsh measures designed to ensure that the government had unobstructed access to the essential human and economic resources of war. Although he tried to temper this with a healthy respect for legitimate forms of protest, Lincoln's policy was nevertheless regarded by many as illegal and repressive. The fact that Lincoln was able to employ a rigorous structure of law and policy to hold the nation together during the difficult days of the war demonstrates that, unlike the Confederacy, the federal government possessed the institutional strength to fight a long war. But, before the conflict was over, the entire situation became a vicious circle with extreme war measures creating discontent which only led

to more extreme war measures.²⁰

In summation, however, the balance sheet of strategic resources read strikingly in favor of the North. The Union had the industry, the manpower, and the institutional strength to successfully conduct a modern war. The South was resource-poor and her government was ill-suited to utilize what resources she had. Even if Southerners had the more substantial basis for commitment to the war, it is difficult to see how they could have ever hoped to overcome the physical shortcomings of their section to win independence.

Indeed, considering the vast superiority which the North enjoyed in almost every kind of resource, one feels impelled to inquire how the Confederacy managed to stave off defeat for so long. How is it that the secessionists managed to defy Lincoln and his legions until 1865? Not surprisingly, the answer lies in military leadership--another of war's many intangible factors. In one of those odd twists of fate upon which history is so often determined, the South possessed the best Generals during the first years of the war.

While he may not have had a multitude of well armed men, Jefferson Davis did have Robert E. Lee and Thomas "Stonewall" Jackson. Commanding the Army of Northern Virginia, these two men managed to fend off numerous Union attacks and even invaded the North a couple of times. The Army of the Potomac, the federal force in the region, was commanded during the early years of the war by some of the worst military talent the United States has ever produced. George B. McClellan, who took over McDowell's position and was also given command of all other U.S. forces, was a superb organizer who lacked the boldness and initiative to take advantage of the opportunities

for victory which were obvious to many around him. John Pope suffered the extreme misfortune of having to work alongside a jealous George McClellan. Neither Ambrose Burnside nor Joseph Hooker possessed the skills needed to plan and successfully execute a military campaign with a force the size of the Army of the Potomac. A lack of success led to bickering between the various commanders, superiors and subordinates, civilian leaders and soldiers, and, for a time, it seemed as if there was no way to build effective leadership for the Eastern troops.

Thus, when the Army of the Potomac attempted to strike back at the Confederacy after that first defeat at Manassas, they were defeated again and again--and again. At the second battle of Manassas, at Fredericksburg, at Chancellorsville, the Easterners suffered shattering setbacks at the hands of Lee and his trusted and wily subordinate, Jackson. And these were more than mere temporary reversals. They were catastrophes that left thousands upon thousands of dead and wounded men littered over the battlefield and ripped the spirit out of the proud soldiers. Other times, such as in the peninsular campaign and the infamous "mud march," federal troops endured the privations of extended campaigning only to withdraw back to Washington with nothing to show for their work. Their lone victory during this discouraging period--at Antietam--was more of a gruesome draw--a sort of victory by default which could have been a great success if only McClellan had acted boldly upon the enemy plans which had fallen into his hands.

The first years of fighting in the Western theater saw only slightly more success for the North. Poorly defended everywhere, the Western Confederacy was wide open to federal attack, and, from the outset, the federals plunged deep into this enemy territory, using the major rivers as

avenues of attack. And they won some important victories, too. U.S. Grant's men captured the important Confederate strongholds Fort Henry and Fort Donelson. Farragut's fleet captured New Orleans. Yet, here too the Union seemed to be experiencing defeat in the sense of unutilized potential. These Western states were ripe to be taken, but cautious commanders such as Henry Halleck, Don Carlos Buell, and William Rosecrans seemed almost afraid to act. Thus, instead of balancing defeat in the East with victory in the West, the impression far and wide was that military inefficiency had blunted Union efforts in the West. As effectively as Lee and Jackson might have done, incompetent Generals frustrated federal attempts to quickly reestablish control over the crucial lower Mississippi river region.²¹

The initial course of the war was what today's political scientists would term a "worst-case" scenario for Abraham Lincoln. Since the South never had any hope of winning through invading and subjugating the much stronger North, there were three ways that the Civil War could end. The North could subjugate the South, which is, of course, what eventually happened, or the South could win by one of two means. Either people in the badly divided North could despair of the war and concede Southern independence, or Great Britain might recognize the Confederacy and intervene in the war on her behalf--thus providing the South the the resources necessary to win. "It rather quickly boiled down to a business of hanging on and hoping that the people in the North would finally get tired of the struggle and give up," wrote historian Bruce Catton.²²

And when the federal forces seemed to make no impression upon the rebels, when the death lists reached unheard of lengths, people in the North began to get very tired and Lord Palmerston and his cabinet eyed the

Confederacy with a new respect. Of all the things which could have happened, the Confederacy's early victories menaced the Union Goliath at his only vulnerable points--public opinion and Her Majesty's Government.

Fortunately for the Union, the dedicated and intelligent Lincoln was in command. "I expect to maintain this contest until successful," he wrote in the summer of 1862, "or till I die, or am conquered, or my term expires, or Congress or the country forsake me." Lincoln understood that all the North had to do was apply her superior forces in a coordinated effort and success against the South was bound to occur somewhere. His personal papers are filled with meditations on the nature of the war and with orders trying to force his reluctant commanders into the kind of offensive he envisaged. There is good reason for T. Harry Williams, an expert on the military aspects of the period, to term Lincoln "a great natural strategist." With a powerful mind that was uncluttered by old Napoleonic tactics, the President was far more capable than his Generals of seeing the realities of modern war and adapting accordingly.²³

Eventually, of course, Lincoln found Generals who were capable of executing his plans and the South capitulated soon after. In the meantime, however, the only difference between victory and defeat was the edifice of leadership and policy that Lincoln created to keep the North in the war until good Generals could be found. He could really do little about British intervention except hope that his emancipation policy, which anti-slavery Britain favored, would soon be accompanied by military successes to discourage the Confederacy's English sponsors.

He needed soldiers to fight in the armies and he needed political support so that Congress and the people would continue to provide the materials

of war. Menaced by the widespread disillusion and anger that defeat, emancipation and wartime measures had created, he resorted to his extreme Presidential powers to keep the armies in the field during the crucial period between difficult defeats and impressive victories.

It is in this light that the extreme measures of Lincoln's wartime Presidency must be viewed. Certainly he acted in a manner that was far and away more despotic than any of his predecessors--men that he himself had criticized for behaving as dictators. Certainly he violated every practical precept concerning the Presidency that he had enunciated in his long political career prior to 1861. But did he really violate his beliefs? Did he really do injustice to his vision of a unified, republican America presided over by a weak executive? Put more forcefully: Could he have done better justice to his ideas by failing to act when internal dissension and rebel troops threatened to destroy the nation? Could he have achieved better results by adhering rigidly to his old doctrines in the face of overwhelming evidence that change was necessary?

Lincoln saved his vision of America by acting outside of his beliefs--by demonstrating the intellectual flexibility that was the hallmark of his genius. He acted in a way that was, ultimately, in harmony with his previous attitudes. He did not jump quickly to taking extreme measures. Instead, after he had exhausted less radical options, and perhaps the military situation had gotten worse, he was ready to act. Lincoln's Presidency and its extreme nature are thus best understood when examined from the perspective of Lincoln's ultimate objective--preserving the republican institutions and the nation so that a day might again come when a strong presidency would be unthinkable.

(2)

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the states where it exists. I believe I have no lawful right to do so." Thus spoke Abraham Lincoln during his first inaugural address. In an attempt to reassure Southerners that he intended no harm to their property, Lincoln chose to quote one of his earlier speeches in which he had expressed his oft-repeated position that the government had no right to interfere with slavery in the states where it already existed. This was the position that Lincoln held, when he entered office, on the institution which was the greatest wedge between North and South, the catalyst of hostilities.²⁴

It was a position that would change over the course of the Civil War. Adopting an emancipation policy in order to weaken the South and strengthen his own section, Lincoln acted to deprive Southerners of what was their legitimate property in peacetime. Emancipation was Lincoln's most extreme and controversial war measure. When he freed Southern slaves he opened a well-spring, some would have said a Pandora's box, of emotions and possibilities. Unquestionably, there are several aspects of emancipation and the man who enacted it which could form the basis of legitimate discussion. Only one aspect is of interest here--the question of how Lincoln justified his action. Put in other words: Where did he derive the power to free the slaves?

This is not an attempt to analyze how Lincoln felt personally about blacks and slavery. Some have written that the wartime President was a racist who cared nothing for black freedom and really wanted to preserve slavery along with the Union. The overwhelming body of evidence demonstrates

that, on the contrary, Lincoln considered slavery an abomination, an anathema to all of those things which he held sacred. The only difference between Lincoln and the abolitionists was that Lincoln was practical enough to realize that slavery was a legally protected and politically entrenched institution in which millions of Americans, both North and South, believed.²⁵

This is, however, a study of Abraham Lincoln and Presidential power, and, therefore, Lincoln's personal attitude on the issue is of secondary importance to the question of how he, as President, determined to promulgate an emancipation policy. Examining Lincoln's own documents as well as the comments of some of his cabinet members, the inescapable conclusion is that he was forced to issue the emancipation edict by the poor military fortunes of the Union and the combined danger from the anti-war movement and the possibility of British intervention. It was a policy which he believed in personally, but, as President, it was a step which he took only because the gravity of the situation led him, as Commander-in-Chief, to act.

Lincoln's movement towards emancipation and his reasons for it are best seen in the evolution of his official position on slavery. Lincoln's willingness to employ an emancipation policy grew with, indeed was correlated with, Union military misfortune. Initially unwilling to consider emancipation at all, he first attempted to employ a carefully constructed plan to free the slaves in the loyal border states, and later, when this plan had failed, he moved to emancipate the South's slaves with his own power.

Commenting in his diary on Lincoln's attitude toward emancipation early in the war, Gideon Welles, the Secretary of the Navy, wrote that "whenever the question of emancipation or the mitigation of slavery had been in any way alluded to, he (Lincoln) had been prompt and emphatic in denouncing any

interference by the General Government with the subject." Mindful of pro-slavery sentiment in the border states and among Democratic voters in the North, Lincoln adhered to the moderate sentiment that he had expressed in his inaugural address, and, whenever he had the opportunity, he reminded his fellow citizens that the war was being fought to preserve the Union and not to free the slaves. "I have been anxious and careful that the inevitable conflict for this purpose shall not degenerate into a violent and remorseless revolutionary struggle," he wrote in his December message to Congress in 1861. "I have, therefore, in every case, thought it proper to keep the integrity of the Union prominent as the primary object of the contest on our part." In this position, Lincoln was fully supported by Congress which passed the Crittenden resolution proclaiming that the conflict was only for the preservation of the Union.²⁶

Lincoln backed up his words with tough policy decisions, too. As federal troops attempted to subjugate the slaveowners of the South, the issue of slavery was bound to arise. Twice within the first year and a half of the war, federal commanders issued edicts proclaiming all of the slaves, or certain slaves, within their jurisdictions free, and, in both cases, Lincoln repudiated the orders.

On August 30th, 1861, John C. Fremont, commander of Union forces in Missouri, issued a proclamation which, among other things, asserted the intention to liberate the slaves of those who supported the rebellion. Lincoln wrote Fremont and asked him to modify the proclamation to conform with legislation passed by Congress, the so-called first Confiscation Act, which set guidelines for the seizure of rebel property--guidelines which effectively excluded slavery. By way of explanation, Lincoln wrote Fremont that

his proclamation, in its original form, would "alarm our Southern Union friends, and turn them against us--perhaps ruin our rather fair prospect for Kentucky." Lincoln's words demonstrate that his concern with pro-slavery sentiment in sensitive areas like the border states was the central consideration behind his position on emancipation--at least initially. In his reply, Fremont asked Lincoln to "make an open order for the modification of the proclamation," which Lincoln "very cheerfully" did.²⁷

Later, on May 9, 1862, General David Hunter, commander of the Department of the South, issued an order proclaiming all of the slaves in South Carolina, Georgia, and Florida "forever free." Lincoln responded by issuing his own proclamation in which he wrote that he "had no knowledge, information, or belief, of an intention on the part of General Hunter to issue such a proclamation. And further," continued Lincoln, "that neither General Hunter, nor any other commander, or person, has been authorized by the Government of the United States, to make proclamations declaring the slaves of any state free; and that the supposed proclamation, now in question, whether genuine or false, is altogether void, so far as respects such declaration." Thus, nearly a year after Fremont's initial proclamation, Lincoln still held the same position concerning emancipation.²⁸

At least, he held this position in public. Behind the scenes, an interesting alteration was taking place. Indeed, there was evidence of this change in the same proclamation in which Lincoln revoked Hunter's emancipation order. "I further make it known," Lincoln wrote, "that whether it be competent for me, as Commander-in-Chief of the Army and Navy, to declare the Slaves of any state or states, free, and whether at any time, in any case, it shall have become a necessity indispensable to the maintenance of the government, to

exercise such supposed power, are questions which, under my responsibility, I reserve to myself." This was certainly a marked change from the position that he had assumed in his inaugural address, from the sentiment which Gideon Welles had observed. No longer treating the idea of emancipation like a sacred idol not to be touched, Lincoln served notice in this proclamation, and in other statements, that he considered emancipation an open question which he would decide on alone.²⁹

How had this change come about? What had happened in nine months time to cause so radical a shift in Lincoln's thinking? There was a hint of the motive behind Lincoln's new stand in those very same words in which he termed emancipation a real possibility. He wrote not simply about freeing the slaves, but, instead, referred to the decision in terms of determining whether or not emancipation had "become a necessity indispensable to the maintenance of the government."

For the cautious Lincoln, emancipation would only be "indispensable" if two things happened. First, the military situation had to deteriorate to the point where some sort of emancipation plan would become necessary. Union misfortune had to be so severe that incurring the wrath of the border states and conservative Northerners would be a price well worth paying for the opportunity to strike at Southern slavery. Lincoln also had to satisfy himself that less extreme options would not suffice in the place of harsher action. Not a man to leap to extraordinary positions, Lincoln would always try to implement a less upsetting policy in an effort to achieve his goal without the greater difficulty that would accompany a more extreme plan.

There is ample evidence that the poor Northern military showing is what led Lincoln to consider emancipation. When he first discussed the idea

with Gideon Welles, the Navy Secretary wrote that Lincoln "dwelt earnestly on the gravity, importance, and delicacy of the movement, said he had given it much thought and had about come to the conclusion that it was a military necessity absolutely essential for the salvation of the Union, that we must free the slaves or be ourselves subdued." Certainly, conferring with a trusted subordinate like Welles, Lincoln could speak his mind without fear of alienating any supporters. In this open forum, then, Lincoln indicated that it was his fear of being "subdued"--a possibility that he would resist with all the means at his disposal--that was fueling his movement towards ordering freedom for the slaves. Commenting on this same conversation with Lincoln, Welles elaborated on this fear of losing the war.

...the reverses before Richmond, and the formidable power and dimensions of the insurrection, which extended through all the Slave States, and had combined most of them in a confederacy to destroy the Union, impelled the administration to adopt extraordinary measures to preserve the national existence. The slaves, if not armed and disciplined, were in the service of those who were, not only as field laborers and producers, but thousands of them were in attendance upon the armies in the field, employed as waiters and teamsters, and the fortifications and intrenchments were constructed by them..

Welles might have also noted in this regard that emancipation would discourage British intervention in the war--a possibility that seemed likely in the summer of 1862.³⁰

Lincoln's conversation with Welles took place in July of 1862. As Welle's account indicates, Lincoln was already on the verge of issuing an emancipation order on his own authority. The U.S. Army appeared incapable of crushing the rebellion and it looked as if Britain might recognize the Confederacy at any moment. In the months prior to that summer, when things were not quite so bad, but bad enough, Lincoln had tried to implement a less

extreme emancipation program dealing only with the slaves in the border states. In addition to the continuing deterioration of the war effort, the failure of this plan convinced Lincoln of the necessity of freeing the Southern slaves through executive action.

Essentially, Lincoln proposed to offer federal financial aid to the border states in order to fund a gradual emancipation program which, of course, the states themselves had to adopt. He included in his plan the promise of a colonization program for the freedmen in order to allay white fears of racial destabilization. He felt that, if the border states approved of his plan, it would be a clear indication to the Confederacy that it had no hope of winning these states--a blow from which Lincoln thought the rebellion might not recover.

The first inklings of this policy emerged in late 1861 when Lincoln wrote a couple of drafts of a bill for Delaware to emancipate her slaves with Federal assistance in compensating the owners. Later, on March 6, 1862, he formalized his suggestions when he sent Congress a message urging the law-makers to pass legislation granting financial assistance to any state which would gradually abolish slavery.³¹

"The leaders of the existing insurrection," Lincoln wrote in his message, "entertain the hope that this government will be forced to acknowledge the independence of some part of the disaffected region, and that all of the slave states North of such part, will then join the Confederacy." Lincoln's reasoning on this point was certainly forceful. If the border states destroyed within their own enclaves the great institution of the Confederacy, the repudiation of the deep South would be unmistakable--and of enough force, Lincoln hoped, to tip the scales of war in favor of the Union.

He argued that the cost of eighty-seven days of the war would pay for all of the slaves in the loyal states "at four hundred dollars per head." Furthermore, he promised to back up his emancipation policy with a sound colonization plan--transporting the former slaves to good land in Latin America. Forever, he hoped to remove the issue of race from the American scene. This then was Lincoln's alternative to full emancipation. He proposed to weaken the rebellion through robbing it of any hope of winning over the border states, and, through having the citizens of these states destroy slavery themselves, he hoped to strengthen the Union position there--leaving him with less to worry about. In short, he did everything he could to make the whole idea acceptable to conservative whites throughout the North.³²

But when he tried to sell his plan he was rebuffed in no uncertain terms. In July of 1862, he wrote out a draft of a bill mandating federal financial assistance for those states that adopted a compensated emancipation program. That same month he met with the border states' Congressmen to push his idea. "You and I both know what the lever of their (the Confederacy's) power is," Lincoln told them. "Break that lever (slavery) before their faces, and they can shake you no more forever."³³

He reminded the border states' men that his program was gradual, compensated, and included provisions for colonization. "How much better for you, and for your people, to take the step which, at once, shortens the war, and secures substantial compensation for that which is sure to be lost in any other event," were his words on the subject. His appeal fell, however, on deaf ears. The majority of the Congressmen argued against his program.³⁴

With the failure of border states' emancipation, Lincoln realized that

he would have to resort to a more extreme approach to the issue of slavery. The pressure on him to act was intense. As Stephen Oates, the historian who has written most perceptively on this aspect of Lincoln's Presidency, has pointed out, the abolitionist wing of the Republican party, which included powerful Senators within its ranks, lobbied intensively in an effort to force Lincoln's hand on emancipation. These were voices that he could not ignore. The refusal of the border states' Congressmen to adopt his gradual plan occurred in July of 1862--the same month that Lincoln broached the idea of issuing an emancipation proclamation with cabinet members like Gideon Welles. In that very same month, the Republican-dominated Congress passed a second Confiscation Act concerning the seizure of rebel property. This Act provided for the confiscation of the slaves of those who could be shown to be supporting the rebellion. It was not an emancipation measure by any means. In order to liberate a person's slaves, his complicity in the rebellion had to be proved in court. Lincoln initially vetoed the Act for Constitutional reasons, but later signed it when Congress removed his objections. Still, the message was very clear to Lincoln. He had to dispense with watered down measures and act forcefully--or his own party and Congress would do it for him.³⁵

Considering the military situation, the failure of his gradual plan, and the strength of the Congressional pressure, Lincoln decided that the time had come to act. He could no longer afford the luxury of deferring to conservative Northern opinion. On July 22, 1862, he wrote out a preliminary Emancipation Proclamation in which he promised, "as a fit and necessary military measure," to free the slaves in any area still in rebellion as of January 1, 1863. Discussing the measure with his cabinet, Lincoln was per-

suaded by his Secretary of State, William Seward, not to issue the edict until after a Union victory lest it be viewed as a frantic last grasp at survival. Soon after this, Lee was defeated at Antietam. Thus, on September 22, 1862, Lincoln issued his preliminary Proclamation calling upon Southerners to return their allegiance to the federal government and threatening to emancipate their slaves if they refused. On January 1, 1863, the rebellion had not, of course, ceased, and Lincoln, "by virtue of the power in . . . (him) . . . vested as Commander-in-Chief, of the Army and Navy of the United States in time of actual and armed rebellion against authority and government of the United States," freed the Southern slaves. He also made it known that freedmen would be recruited for such secondary military chores as garrison duty.³⁶

It is important to note that this was a measure that Lincoln took as a military necessity and that he justified it on the basis of his power as Commander-in-Chief of the military. Unlike the border states, where he knew that he had to act through appropriate channels--the state legislatures and Congress, the South was under military law because of the rebellion and Lincoln and his soldiers did not have to resort to normal, peacetime procedures to form a policy. Lincoln's language on these points in the Proclamation is proof positive that he did not consider emancipation an act which he would normally have the power, as President, to employ. Admittedly, there can be little doubt that Lincoln's words in this regard were also intended to deflect criticism from conservatives in the North. But, when one considers the careful and reasoned way that Lincoln arrived at his decision--acting out of desperate need and after exhausting other options--it also becomes apparent that there is a real sincerity in his words about military necess-

ity. He had to act in order to save the nation. Gideon Welles described the Proclamation best when he termed it "an arbitrary and despotic measure in the cause of freedom."³⁷

Or perhaps Lincoln summed up his whole emancipation policy better when forced to defend it during his 1864 campaign for re-election. In a letter to Kentucky editor Albert Hodges on April 4, 1864, Lincoln argued eloquently and perceptively for the measure. In his words, the wartime President not only outlined how he determined that emancipation was necessary, but also said a great deal in justification and explanation of emancipation that applied to all of his extreme measures.

"If slavery is wrong, nothing is wrong," he wrote. Indeed, he could "not remember when...(he)...did not so think, and feel." Still, upon taking office, he did not believe that "the Presidency conferred upon...(him)...an unrestricted right to act officially upon this judgment and feeling."

It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States. I could not take the office without taking the oath. Nor was it my view that I might take an oath to get power, and break the oath in using the power. I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery. I had publicly declared this many times, and in many ways. And I aver, to this day, that I have done no official act in mere deference to my abstract judgment and feeling on slavery.

But Lincoln saw his oath as more than a simple promise to conform to dry legalities. He believed that at the heart of his duties was an implicit obligation to preserve the government--to transmit it, as he liked to say, unimpaired to later generations. Understandably, he viewed this task of preservation as his greatest and most profound responsibility. After all, what good would it do to adhere rigidly to his oath in regards to respecting the law if, in doing so, the government itself was overthrown?

I did understand however, that my oath to preserve the constitution to the best of my ability, imposed upon me the duty of preserving, by every indispensable means, that government--that nation--of which that constitution was the organic law. Was it possible to lose the nation, and yet preserve the constitution? By general law life and limb must be protected; yet often a limb must be amputated to save a life; but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution, through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it. I could not feel that, to the best of my ability, I had even tried to preserve the constitution, if, to save slavery, or any minor matter, I should permit the wreck of government, country, and Constitution all together.

Thus Lincoln took an expansive view of the powers of his office during a national crisis.

And yet, at the same time, he did not believe in a careless application of the mandate for extreme action that he saw in his oath. Instead, he consulted that second great consideration of his thinking on such matters--the state of the Union war effort, the judgment as to whether or not a certain policy had become "indispensable" to the preservation of the Union and republican government. It was in this vein, as he told Hodges, that he handled the question of emancipation.

When, early in the war, Gen. Fremont attempted military emancipation, I forbade it, because I did not then think it an indispensable necessity. When a little later, Gen. Cameron, then Secretary of War, suggested the arming of the blacks, I objected, because I did not yet think it an indispensable necessity. When, still later, Gen. Hunter attempted military emancipation, I again forbade it, because I did not yet think the indispensable necessity had come.

When the time for indispensable measures came, Lincoln attempted to adopt the least extreme measure possible. He made a careful determination of the seriousness of the situation, and he tried to implement a policy that would not be harsh in excess of what events had necessitated. He tried, in other

words, to conform to the laws to the greatest extent possible. His emancipation plan for the border states was unquestionably undertaken in this spirit. "When, in March, and May, and July 1862 I made earnest, and successive appeals to the border states to favor compensated emancipation," he wrote, "I believed the indispensable necessity for military emancipation, and arming the blacks would come, unless averted by that measure."

But, if his less extreme policy failed, as it did in the case of emancipation in the border states, he was then willing--justified by both necessity and the failure of his attempt to act in a less radical fashion--to employ more extreme measures.

They (the border states) declined the proposition; and I was, in my best judgment, driven to the alternative of either surrendering the Union, and with it, the Constitution, or of laying strong hand upon the colored element. I chose the latter.

In other words, in the final analysis, Lincoln would take any action necessary to achieve what he viewed as the highest good--the preservation of republican government and the Union. Since he believed in a weak executive and adherence to the laws, however, he sincerely hoped and attempted to violate the law as little as possible.

Lincoln's letter to Hodges was a written report of a conversation that Lincoln had had, in Hodges' presence, with officials from Kentucky. Before closing, Lincoln included some additional thoughts which were "not in the verbal conversation." "In telling this tale," he wrote, "I attempt no compliment to my own sagacity. I claim not to have controlled events, but confess plainly that events have controlled me." In these final words, Lincoln concisely stated the logic that he had employed concerning the use of his extraordinary powers. He had not planned to emancipate the slaves from the

start. Indeed, he had not even been sure that emancipation would prove fruitful when he issued his proclamation. Thus, his "sagacity"--his ability to control and plan events--deserved "no compliment." Instead, as explained it, he made up his mind early that he would save the nation at all costs--that whatever he did toward that end was ultimately legal. However, as a sort of corollary to this attitude, he felt that he should act in an extreme fashion only to the extent that "events" required it--thus respecting his peacetime obligations to the law to the highest degree possible. In this sense, under this frame of mind, "events" dictated to what extent he had to act harshly--to what degree he had to put aside his previous beliefs.³⁸

(3)

Lincoln's emancipation policy was unquestionably beneficial to the North. Over 100,000 blacks served in the Union armies at a time when both sides desperately needed men. In fact, the need to fill the ranks of the military was a constant concern for Lincoln--particularly when it became clear that the war would involve bloody fighting and after he issued his controversial emancipation proclamation. The anti-war movement which sprang up in the North did everything that it could to discourage enlistments and cast Lincoln, the military, and the war in an unfavorable light. Additionally, Southern sympathizers in the North, encouraged by Union difficulties, made active efforts--such as sabotaging military installations or providing information to the Confederate military--to hinder the war effort.³⁹

Faced with this kind of opposition within his own section, Lincoln

felt that he had no choice but to act outside of established statutes in pursuit of that greater legality--the preservation of the government. He suspended the writ of Habeas Corpus so that his administration could detain individuals that it considered dangerous. He invoked martial law to deal with those who purposefully interfered with the military--even in areas which were in no way threatened by rebel armies. He also suppressed the news media--employing a variety of means to stifle reporting that the administration considered damaging to military operations. In taking these steps, Lincoln behaved in the same manner that he had concerning emancipation. He did not immediately leap to harsh policies. Instead, he moved slowly in the direction of radical measures because of the force of events and the failure of less extreme alternatives.

And yet there is a significant difference between Lincoln's handling of wartime dissent and his emancipation policy--a difference which it is doubtful could have been avoided. As far as emancipation was concerned, the policy only necessitated, in the most basic sense, a stroke of the Presidential pen and the ultimate triumph of the Union armies. Controlling dissent, on the other hand, required an efficient and extensive system of administrative authority with a clear policy. After all, the objective of the policy--the suppression of unfounded spiteful invective as well as activities intended to interfere with the Union war effort, while at the same time allowing legitimate forms of protest--was a much more abstract, and therefore difficult, goal to achieve than freeing all of the slaves. The necessary system of administration simply did not exist among the patchwork, layered, hodgepodge of military, federal, and state jurisdictions--all dealing to at least some extent with the question of what was

willfully disloyal and what was legitimate dissent. Predictably, some innocent people were subjected to hardship in the shuffle--for which Lincoln has been justly criticized.⁴⁰

Thus, while the policy Lincoln employed shows the same careful deliberation, respect for law, and ultimate dedication to the Republic which permeated the rest of his Presidency, the matter got somewhat out of hand at the level of application. Nevertheless, as with Lincoln's other emergency measures, a careful examination of his actions demonstrates that he did not relinquish his belief in a weak Presidency, but only acted to save his nation so that there might come a day when a President might again serve his term in a unified and peaceful country.

Saving the nation was certainly foremost in his thoughts when he issued his first suspensions of Habeas Corpus. As discussed earlier, the first months after the bombardment of Fort Sumter were particularly dangerous ones for the new administration. Lincoln was trying to put the government on a war footing, with no significant military force to speak of, in the midst of widespread secessionist activity in the border states. Because of the location of Washington D.C., the violent outbursts of pro-Southern sentiment in Maryland were of especial concern to Lincoln. Secessionists dismantled railroad bridges, seized telegraph offices, and attacked federal troops in the state--effectively shutting down lines of communication which had to remain open if the government were to persevere through the opening stages of the rebellion.

Needing desperately to put a halt to such activities, but without time to engage in the legal niceties of investigating and indicting those who were suspected of secessionist activities, Lincoln authorized the commander of the Army, General Winfield Scott, to suspend the writ of Habeas Corpus along the crucial military lines of communication and simply arrest and de-

tain anyone suspected of hindering the military. Hundreds were arrested. But, Maryland and the other border states remained in the Union and the soldiers eventually made it to Washington.

Yet, although Lincoln's policy was obviously appropriate and successful, he was not free from opposition. Roger B. Taney, Chief Justice of the Supreme Court, issued a writ of Habeas Corpus for a Baltimore secessionist named Merryman. When the writ was refused, Taney entered an opinion against Lincoln ordering Merryman's release--which Lincoln proceeded to ignore. The President did not, however, ignore the issue in his message to Congress when that body met in special session on July 4, 1861. Lincoln reminded the legislators that the Constitution, while providing that the writ of Habeas Corpus may be suspended in times of rebellion, does not state who is to determine the existence of a rebellion and suspend the writ. Since there was clearly a rebellion under foot in the country, and the Constitution does not say that the President may not suspend the writ, Lincoln felt that he had "violated no law."⁴¹

This might have been the end of the Habeas Corpus issue altogether had the North managed to win the war in the few weeks that many predicted in that innocent early summer of 1861. Instead, however, over the space of the next year in particular, the North was dealt a series of shocking defeats. Defeats that forced the government to adopt the first draft in American history and that compelled Lincoln to issue his emancipation proclamation. In the wake of these events, the war became very unpopular with many in the North. No longer seeming to be a war to preserve the Union, the conflict struck many people as a fight to free the slaves--certainly not the most popular of objectives. Also, as many battles had shown, war was far more lethal than glorious. Young men no longer ran off

to join the Army at the first sight of a recruiting officer, and the draft, while it may have forced men into the ranks, did nothing to erase their feelings about military service. Thus, it was little surprise to perceptive observers in the North when some citizens of that section moved actively to harm the war effort--through sabotage, helping Confederate soldiers, discouraging enlistments, and many other means.⁴²

Confronted with these activities, Lincoln reacted vigorously to ensure that the military and the draft operated unimpeded. On August 8, 1862, "United States marshals and local magistrates were authorized to imprison persons who discouraged enlistments or engaged in disloyal practices." In addition, persons arrested for these offenses were to be tried by military commissions.

More importantly, on September 24, 1862, Lincoln issued a proclamation in which he stated that "all Rebels and Insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice, affording aid and comfort to the rebels...shall be subject to martial law and liable to trial and punishment by Courts Martial or Military Commission." Lincoln also suspended the writ of Habeas Corpus in regards to those arrested for these offenses.⁴³

This was a far-reaching and legally questionable step. Although Lincoln could claim to have the right to suspend Habeas Corpus because the Constitution did not specifically prevent suspension, he certainly had no right to employ martial law in areas unthreatened by the rebellion and where the civil courts were functioning. Yet, when his proclamation was carried into effect, individuals arrested for the specified offenses were subjected to martial law in areas of the North which--unlike Kentucky, for

example--were under no threat of Southern invasion and where the regular courts were able to handle cases. Also, as James Randall pointed out in his study of Constitutional difficulties during the Lincoln administration, many of the cases brought before these military tribunals had no relation to military law--indeed, many cases seemed to hinge on issues of a political nature.⁴⁴

Still, Lincoln was largely maintained in his policy by Congress, which passed the Habeas Corpus Act on March 3, 1863. At first glance, the legislation might have appeared to be a constraint on the executive. Although authorized to suspend Habeas Corpus anywhere in the United States "during the present rebellion," the administration was required to submit lists of those arrested under the suspension to the federal courts. People held in this manner were to be released unless formally indicted. But, the really important aspect of the Act is in what it did not stipulate. It did not prohibit the use of military commissions in dealing with those arrested, and, as interpreted by the Lincoln administration, persons brought before military commissions were not subject to mention in any lists or allowed release due to the absence of an indictment. Thus, the Act explicitly gave Lincoln the power to suspend Habeas Corpus, and it implicitly authorized the use of martial law.

On September 15, 1863, Lincoln, invoking the authorization provided him in the Act, suspended the Writ of Habeas Corpus "throughout the United States" for cases ranging from "prisoners of war, spies, or aiders or abettors of the enemy" to individuals guilty of "any other offence against the military or naval service." In short, he suspended the writ for any person who attempted to interfere with the war effort. Later, on July 5, 1864, Lincoln reacted to rebel activities in Kentucky by suspending Habeas

Corpus and establishing martial law throughout the state. Although limited to Kentucky, this proclamation was, in a sense, Lincoln's most far-ranging. Instead of dealing with only a certain class of offenses, as he had done in his previous edicts, Lincoln placed an entire geographic area under complete martial law. It seems that he was conscious of the dangers inherent in such a broad application of power, however, because he included in his order an admonition to military authorities to respect civil government in all instances possible--to apply martial law only in those cases where the intent was to harm "the military operations or the Constituted authorities of the Government of the United States."⁴⁵

Throughout the Civil War, therefore, the Lincoln administration, acting under these various proclamations, arrested and held people without due process and tried many of those arrested before military commissions--in areas where the civil courts were unimpeded and for offenses which often had no foundation in military law. The "commissions, as well as the officers arresting and holding persons," wrote one historian at the turn of the century, "gave the most liberal interpretation to the words aiders and abettors of the enemy, so that almost any criticism of the policy of the Administration was in danger of being construed as giving aid and comfort to the enemy."⁴⁶

In the most noteworthy arrest and trial conducted under this policy, Clement L. Vallandigham, a former Ohio Congressman, was arrested by order of General Ambrose E. Burnside, commander of the Department of the Ohio, for making a particularly inflammatory speech. Tried before a military tribunal, Vallandigham was banished to the Confederacy. The entire affair raised a storm of protest in the North. But, in a note to Burnside, Lincoln said that, although "the cabinet regretted the necessity of ar-

resting...Vallandingham," it "being done, all were for seeing you through
⁴⁷
 with it."

The Lincoln administration also considered much of the press coverage of the war to be tantamount to aid and comfort to the enemy. Anti-war newspapers routinely published sensitive military information as well as articles and editorials intended to discourage cooperation with, and enlistment in, the military. Throughout the war, milder types of press control--such as censoring the reports of war correspondents, excluding newspapers from the mails, or from certain regions of the country--were employed. In a few cases, however, editors were arrested and printing presses were seized. On June 1, 1863, Burnside ordered the suppression of the Chicago Times for printing particularly scathing editorials in connection with the Vallandingham case and other aspects of the war. The paper's offices were seized and the edition then being prepared was destroyed. Later, on May 18, 1864, the New York Herald was similarly suppressed, including the arrest of its editors, for printing bogus Presidential directives--this suspension was by direct order of Lincoln himself. In both cases, the suspension of publication was lifted within a
⁴⁸
 matter of days.

Having thus given a brief account of Lincoln's policy concerning war-time dissent, it may perhaps be hard to see how one could make the case that he acted with respect for civil rights, out of extreme necessity, and initially attempted to employ milder measures. Yet, this is indeed the very manner in which the policy was adopted, and it is additionally asserted that the excesses that occurred under this policy were due to the difficulties inherent in trying to administer such measures. And Lincoln, in fact, did his best to rectify any wrongful punishment in the numerous cases

brought to his attention.

Lincoln's high regard for civil liberties is exemplified by his handling of the Habeas Corpus issue in the months following the bombardment of Fort Sumter. His proclamations suspended the writ within carefully specified areas. This demonstrates an extreme sensitivity for the rights of the ordinary citizen. After all, finding himself in the midst of a widespread and threatening insurrection, he might have easily suspended the writ throughout broad areas of Maryland. Instead, he had the presence of mind and the great esteem for the individual, to carefully tailor his action to apply only in those areas where it was absolutely necessary to detain persons who might interfere with the war effort.

Although Lincoln's later edicts suspending Habeas Corpus and invoking martial law were certainly more far-reaching in their impact, the same commentary applies to them as well. Like all of the state papers crafted by this man, these proclamations were carefully constructed documents limiting the effects of broad-ranging powers to those cases which were related to the war effort. Thus, while the most extreme and far-reaching measures were implemented, Lincoln was careful to limit their effect to what was indispensable to the nation--the maintenance of the military. A person with less intelligence or less respect for individual rights might have easily issued a sloppy and dangerous policy which would have impinged far more on the rights of the citizen than was necessary.

Unfortunately, some of those who were enforcing Lincoln's policy did not have the capacity that Lincoln had for carefully discerning what was damaging to the military and what was not. In all fairness, it must be said that such a determination was often next to impossible. Certainly, shooting at federal troops or sabotaging military equipment constituted

the kind of offense that Lincoln sought to punish. But who was to say whether an inflammatory speech constituted legal protest against Lincoln or aid to the Confederacy by stirring up anger against the Army? In the inevitable confusion, "frivolous and unwarranted arrests were not infrequently made...and it cannot be denied that some individuals suffered unjustly." But, it must be pointed out that Lincoln himself, along with the senior members of his administration, devoted a great deal of time to rectifying any wrongs done under the policy--thus tempering the various measures with considerable restraint. His official papers are filled with pardons not only for soldiers accused of desertion or sleeping on guard duty, but also for those mistakenly arrested for secession activity or perhaps punished too harshly for it. Again, an executive who was less sensitive to civil liberties would not have taken time to examine the individual cases to ensure that his measures were applied fairly. Lincoln did, and, along with the careful language in his orders concerning Habeas Corpus and martial law, it is proof positive that he acted with a healthy respect for the individual.

This same regard for liberty is also apparent in the position which the Lincoln administration took towards the press. Civil War newspapers continually printed sensitive military information and the anti-Lincoln press made it a common practice to castigate both the administration and the war. The Confederacy could certainly make use of the details of Union troop movements, and criticism of Lincoln and his policies--particularly when unfounded and virulent--damaged morale at home and in the ranks. In spite of this, Lincoln showed an extraordinary amount of patience in tolerating the excesses of the media. Examining the extent of ill-founded and

damaging reporting during the war, historian James Randall was surprised that there was not a more stringent set of controls placed over the press in the North. Outside of a few well-known cases, newspapers and editors were left unhindered in going about their business. In fact, there was not even very much control exercised over correspondents at the front lines. War reporters had a great deal of freedom in filing their reports--even though such reports often contained valuable information. Although there were cases in which martial law was invoked--in regions clearly free of combat activity--to suspend newspapers or arrest editors, the suspensions and arrests, as in the cases of the Chicago Times and the New York Herald, were shortlived. Thus, in spite of great provocation, Lincoln only applied a loose set of press controls--only those measures which the war really did necessitate.

Lincoln acted to constrain civil liberties only after his previous, less extreme policy in this regard proved obviously inadequate to the situation. Early in the war, when active interference with the military was a threat only along the vital lines of communication between Washington and the rest of the North, Lincoln employed a suspension of Habeas Corpus that was intentionally limited to the areas around these lines of communication. Later in the war, when the threat to the government was in the form of active discouragement of enlistments and other pro-Southern activity, it was clear that the old, limited suspension of the writ would not suffice. After all, anti-war activities were occurring in every corner of the North. Thus, Lincoln was forced to adopt a more general suspension of Habeas Corpus--one that applied throughout the nation. It was also important that rebel sympathizers be punished vigorously--both to discourage others who

might engage in such activity and to bolster Union morale. For this, a set of laws which placed strict limits on anti-military activity was necessary. The civil courts and legal code were not suited to provide the kind of justice that Lincoln felt was necessary. Thus, whether threatened by rebel armies or not, Lincoln placed all sections of the North under martial law in regard to anti-military offenses and used courts martial to handle pro-rebel activity.

It is significant that Lincoln was careful to limit the impact that his use of martial law might have on civil authority. In his first proclamation of martial law, he invoked the military code only for cases specifically related to military operations. When he placed Kentucky under martial law, he was even more specific.

The martial law herein proclaimed and the things in that respect herein ordered will not be deemed or taken to interfere with the lawful holding of elections, or with the proceedings of the constitutional legislature of Kentucky or with the administration of justice in the courts of law existing therein between citizens of the United States in suits or proceedings which do not affect the military operations or the constituted authorities of the Government of the United States.

Thus, here one finds Lincoln again taking precautions to ensure that his extreme policy was applied only in those situations that required it.⁵¹

Unquestionably, Lincoln felt that he acted with great justification. The "whereas" clauses of his proclamations--in which he stated the reasons for his orders--were full of references to the harmful exploits of the disloyal. In the first clause of his proclamation of September, 1862, he referred to "disloyal persons . . . not adequately restrained by the ordinary processes of law from hindering this measure (the draft) and from giving aid and comfort in various ways to the insurrection."⁵²

In June of 1863, Lincoln wrote a lengthy reply to resolutions that he had received from a public meeting in Albany, New York. The resolutions supported Lincoln in his efforts to restore the Union but deplored his "unconstitutional action such as military arrests." Lincoln answered in depth. He reminded the men who had sent the resolutions that the very persons attempting to invoke Constitutional laws for their protection were also trying to destroy the Constitution.

From this material, under cover of "Liberty of speech" "Liberty of the press" and "Habeas corpus" they (the secessionists) hoped to keep on foot amongst us a most efficient corps of spies, informers, suppliers, and aiders and abettors of their cause in a thousand ways.

Lincoln could see no reason, then, to adhere rigidly to the Constitution for the sake of those who were trying to overthrow that document.

He also felt that the use of martial law was an eminently practical answer to the peculiar difficulties the national authority faced in Civil War.

Nothing is better known to history than that courts of justice are utterly incompetent to such cases as rebellion. Civil courts are organized chiefly for trials of individuals, or, at most, a few individuals acting in concert; and this in quiet times, and on charges of crime well defined in the law...Ours is a case of Rebellion--so called by the resolutions before me--in fact, a clear, flagrant, and gigantic case of Rebellion.

Finding it necessary--indeed, imperative--to quickly administer justice in a number of cases of disloyalty--an offense without basis in civil law, Lincoln saw martial law as a justified measure. Furthermore, he believed that there were other, more basic, and practical reasons for military suppression of anti-war activities. "Must I shoot a simple-minded soldier boy who deserts," he asked, "while I must not touch a hair of a wiley agitator who induces him to desert? . . . I think that in such a case, to silence the

agitator, and save the boy, is not only constitutional, but, withal, a great mercy."

Lincoln believed that he was justified in taking his measures by the Constitutional clauses authorizing the suspension of Habeas Corpus and by the greater consideration of saving the government. He made it clear that he did not see his actions as setting any precedent but only as temporary measures to speed the national recovery.

Nor am I able to appreciate the danger, apprehended by the meeting, that the American people will, by means of military arrests during the rebellion, lose the right of public discussion, the liberty of speech and the press, the law of evidence, trial by jury and Habeas Corpus, throughout the indefinite peaceful future which I trust lies before them, any more than I am able to believe that a man could contract so strong an appetite for emetics during temporary illness, as to persist in feeding upon them through the remainder of his healthful life.

Lincoln's words indicate a further, deeper view that he held concerning his wartime measures. He considered them "emetics"--harsh medicine to see a sick man through trying times. Of course, which medicine he chose to administer to his patient depended on the nature and phases of the illness.⁵³

(4)

A final point on the use of extreme war powers remains to be made concerning conscription. In July of 1862, Congress passed an act that "provided that whenever the President should call the militia into Federal service he might specify the period of such service. . . and might issue rules to cover defects in State laws to provide for enrolling the militia and putting the act into execution." Under the act, all male citizens between the ages of 18 and 45 were considered eligible for militia duty.

On August 4, 1862, Lincoln ordered the drafting of 300,000 militia. Quotas were then given to the states to provide certain numbers of men. Lincoln justified this in a legal sense by pointing to the section of the act which empowered him to make rules to correct state laws. Still, his action was a usurpation of the Congressional power to make laws. Employing one of the act's provisions, Lincoln had ordered something clearly not contemplated in the act.

Lincoln's justification for all of this--in a deeper sense--is rather obvious. The nation needed men and volunteering had dropped off in the wake of Union military defeats. Thus, Lincoln acted again out of military necessity--not out of any disregard for Congress.⁵⁴

CHAPTER FOUR

RECONSTRUCTION

With malice toward none; with charity for all;
with firmness in the right, as God gives us to
see the right, let us strive on to finish the
work we are in; to bind up the nation's wounds;
to care for him who shall have borne the battle,
and for his widow, and his orphan--to do all which
may achieve and cherish a just, and a lasting
peace, among ourselves, and with all nations.

-Abraham Lincoln
From the **Second Inaugural Address**
March 4, 1865

(1)

Reconstruction--the restoration of normal relations between the conquered Confederate states and the rest of the nation--was the last great issue of Lincoln's Presidency--a final and unfinished act in a triumphant, yet tragic, performance. It is a portion of Lincoln's tenure in office best termed incomplete because, while the task of reconstruction was supposedly carried on to conclusion after Lincoln's death, his own role in the restoration process was cut short by his murder. Unlike his extreme war measures, Lincoln's reconstruction policies met with vehement Congressional opposition, and, therefore, when Lincoln pushed his ideas in spite of Congress, the issue of Presidential power was raised in the stark light of executive relations with Congress.

Reconstruction was bound to be a difficult task--a divisive issue. "It is fraught with great difficulty," said Lincoln in his last public address. "Unlike the case of a war between independent nations, there is no authorized organ to treat with. No one man has authority to give up the rebellion for any other man. We simply must begin with, and mould from, disorganized and discordant elements." Certainly, as Lincoln was trying to point out on that night in mid-April of 1865, it was no easy task to negotiate a lasting, equitable, and pain-free peace with a region that was within one's own nation.

And it was all the more difficult when the victors could not agree amongst themselves as to the terms on which peace should be secured. This was the unfortunate scenario in which Lincoln found himself from the very first moment that Northerners began to discuss the possibility of victory over the South. "Nor is it a small additional embarrassment," he said, "that

we, the loyal people, differ among ourselves as to the mode, manner, and means of reconstruction." The differences Lincoln referred to arose basically out of the question of how best to preserve the freedom of the slaves, protect loyal Southern whites, and ensure that control of the reconstructed states did not fall to former secessionists. These fundamental considerations conjured up a myriad of issues. Had the seceded states ever left the Union? If they had left, did their absence really matter as long as they were back? What was the best method by which to determine if a rebellious state was ready to be reconstructed? Should the citizens of these states be required to profess their loyalty by uttering one oath or two? Who would be allowed to take the oath(s)? Would slavery be left intact now that the "military necessity" for emancipation no longer existed? If freed, would the former slaves be allowed to vote?¹

Obviously, reconstruction was a complicated task. And the disagreement between President Lincoln and certain Republican members of Congress confused the process further because, unable to compromise on a single program, they both decided to promulgate their own reconstruction schemes. The resulting clash raised the question of executive relations with the legislative branch--adding this squabble to the issues of reconstruction. This episode was far and away the worst quarrel that Lincoln ever had with Congress. In defense of his own views on reconstruction, he issued the only significant veto--a pocket veto--of his Presidency, and in anger over the veto, his Congressional opponents cried out that a "more studied outrage on the legislative authority of the people has never been perpetrated."²

Although this paper concerns the issues of executive power, it is nevertheless useful to note here that Lincoln generally pursued the same goals in

reconstruction that his Congressional critics--dubbed the "radical" wing of the Republican party--did. Famous radicals like Charles Sumner and Thaddeus Stevens sought to ensure full rights to the black man in the South. Their objective, in short, at least as far as the freed slaves were concerned, was to have them treated equally with whites. Lincoln desired this too. In a letter in January of 1864, he wrote that the "restoration of the Rebel States to the Union must rest upon the principle of civil and political equality of both races." On another occasion, he wrote that during his "continuance" in office, "the government will return no person to slavery who is free according to the proclamation, or to any of the acts of Congress." Lincoln also felt, however, that the restoration of the South "must be sealed by general amnesty." This was a proposition with which the radicals did not agree, and it was only the initial divergence between their path and Lincoln's.³

The President felt that his wartime emancipation measures were only temporary. Since he had freed the slaves as a military measure during a time of dire need, a sound argument could easily be made that returning blacks to slavery was legally justified once peace had been restored. Slavery was, after all, a Constitutionally protected institution. Although Lincoln felt that the return of slavery would constitute "a cruel and astounding breach of faith," a tragedy he hoped to never see, he glumly admitted that blacks might indeed be re-enslaved if "such return shall be held to be a legal duty, by the proper court of final resort."

But Lincoln desired to ensure black freedom. He strongly advocated therefore, a Constitutional amendment banning slavery, and he sought to build a consensus of loyal citizens in each of the reconstructed states that would

both support that amendment and abolish slavery within the state as an additional sign of its commitment to emancipation. He understood that the Confederate defeat, the end of slavery, and the complete prostration of the South were bitter enough pills for the former rebels to swallow. He also understood that the freedom of the blacks, or at least the quality of that freedom, depended on Southern whites ultimately accepting emancipation. Consequently, while he held the same goals that the radicals did, Lincoln desired to achieve these goals through building a peace that was as beneficent as possible. As he so eloquently put it: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan--to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."⁴

Make no mistake about it, however, Lincoln intended to reconstruct the South on the basis of emancipation and the exclusion of those who had participated extensively in the rebellion. His letters are filled with encouragement to Southern Unionists to build state governments that excluded the disloyal. "If a few professedly loyal men shall draw the disloyal about them," he wrote the military commander of Louisiana, "and colorably set up a state government, repudiating the emancipation proclamation, and re-establishing slavery, I cannot recognize or sustain their work. I should fall powerless in the attempt. This government, in such an attitude, would be a house divided against itself." As historian Stephen Oates has perceptively pointed out, the notion that Lincoln, in his quest to "bind up the nation's wounds," would allow the Southern states to return to the Union exactly as before the war is unfounded. When he promulgated his reconstruction policy, Lincoln

was careful to exclude from political power those who had held substantial office in the government or military of the rebel states or who had left such offices in the United States to join the rebellion. Prisoners of war and parolees were required to seek executive clemency if they sought political rights. Only those who willingly came forward, whether soldiers or not, and swore an oath of allegiance to the United States and in support of Presidential and Congressional anti-slavery measures would be allowed to participate in reconstructed governments.⁵

The argument here is that, contrary to the claims of his Congressional critics, Lincoln's reconstruction policies did not amount to an executive usurpation of legislative power. Admittedly, Lincoln took a very expansive view of Presidential power over the restoration process. Yet his view of his own role was also carefully reasoned, legalistic, and respectful of Congress. Indeed, with the Constitution as his guide, he charted the Presidential course in the entirely new domain of reconstruction with admirable skill and a real awareness of the limitations of his own office. He was very careful to claim only those powers that the Constitution delegated to him, and he readily admitted that other important powers lay with Congress. In the considerable gray area between executive and legislative responsibility concerning reconstruction, Lincoln never made a sweeping claim of Presidential jurisdiction. Rather, he promoted a policy which even he admitted was not the final word on the subject. He supported that policy with those powers which he felt were legitimately his, and he conceded that Congress had powers which allowed it a role in reconstruction as well.

It is important to note also that Lincoln considered the task of reconstruction to be as essential to the future of the Republic as was the task

of winning the war. As he often expressed it: If black freedom and the position of loyal Southern whites were trodden under the heel of secessionist-dominated reconstructed state governments, all of the work and sacrifice of the Civil War would have been in vain. Having saved the nation from disunion, Lincoln considered it just as important to the national well-being that the re-unification of the states be based upon solidly loyal institutions with sound guarantees for the liberty of the freed slaves. Thus, even though the events of reconstruction did not threaten the nation with dissolution at the hands of rebel soldiers, they nevertheless raised issues that concerned the future of the Union and republican government. There was, therefore, a real justification--as much as was present during the darkest days of the war--for Lincoln to take an expansive view of executive power if he felt that he had to do so in order for the restoration process to move smoothly. In short, there was good cause for this former Whig, who felt that Congress should make policy, to act as a strong President. And yet, for clarity's sake, it must be pointed out that, since the government was no longer in dire danger of destruction, there was no longer any "necessity" that justified putting aside the Constitution. Lincoln did not think that he had any reason to act outside of the law as he had done before, and, thus, while employing his executive powers to their fullest, he still stayed within the bounds of the Constitution.

As a sort of corollary observation on Lincoln's policy of reconstruction, it is enlightening to point out that he handled the matter in a manner very similar to the way in which he dealt with extreme war measures. The resemblance lies in the fact that he rejected an extreme policy in favor of a more moderate, less arbitrary approach. The similarity with his

emancipation policy is particularly striking. The radical wing of the Republican party demanded an immediate and arbitrary emancipation edict. Lincoln first advocated the adoption of a gradual, compensated emancipation program with public support. When this failed and the military situation took a turn for the worse, he was then prepared to act more decisively. In reconstruction, the radicals demanded an arbitrary policy that would employ extreme measures with the Union's military muscle to force a reorganization of Southern society. Lincoln sought instead to restructure the South through building a consensus for change among loyal Southern whites. Many historians feel that, in his last public address, Lincoln started to show signs of a shift towards the adoption of more extreme measures. After all, these historians ask, had he not ended his speech by saying that it might be his "duty to make some new announcement to the people of the South?" Had he not told the throng in front of the White House that he was "considering," and should "not fail to act, when satisfied that action will be proper?"⁶

Whether or not Lincoln was really drifting towards the radical camp will never be known. Only a few days after delivering that speech he was struck down by an assassin's bullet. What is well known, however, is that the beginnings of his reconstruction policy are found in his personal correspondence from late 1862. In letters he wrote during the fall of that year, he urged willing Southerners, who were in areas already under federal control, to promote "elections of members to the Congress of the United States particularly, and perhaps a legislature, State officers, and United States Senators friendly to their object." The purpose of these elections was to give the people of the states a chance to "manifest" their "desire" to return to

their allegiance under the Constitution.

Thus, throughout 1862 and 1863, Lincoln urged Southerners to promote elections in conquered areas of the Confederacy, and he ordered his military commanders to ensure that these elections were held fairly, meaning that neither secessionists nor federal troops should be allowed to influence voting. "I wish it to be a movement of the people of the Districts," he wrote to the military Governor of Louisiana in November of 1862, "and not a movement of our military and quasi-military, authorities there. I merely wish our authorities to give the people a chance--to protect them against secession interference...the main object being to get an expression of the people." In Arkansas, Tennessee, and Louisiana, Lincoln, his military commanders, and loyal white Southerners worked to establish loyal state governments. Lincoln's personal papers are filled with letters urging Southerners to get out as many loyal votes for the elections as possible. He pleaded with Southern Unionists not to fight among themselves, and, when state governments were finally formed, he admonished his Generals to respect the new civil authorities as much as possible.

Lincoln's correspondence makes his purpose in all of this quite clear as well. In a letter to the commanding officer in Louisiana, General Nathaniel P. Banks, he wrote that he wanted "a tangible nucleus which the remainder of the State may rally around as fast as it can, and which I can at once recognize and sustain as the true State government." He worried that "the adverse element" was seeking "insiduously to pre-occupy the ground...set up a State government, repudiating the emancipation proclamation, and re-establishing slavery."⁷

With men like Andrew Johnson, George Shepley, and John Bouligny work-

ing to organize elections and to build a loyal nucleus, Lincoln issued a formal "Proclamation of Amnesty and Reconstruction" on December 8, 1863. Stating that "It is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal State governments within and for their respective States," Lincoln promulgated his own plan of reconstruction. Citing Constitutional, legislative, and judicial justifications for his right to pardon former rebels on any conditions that he chose, Lincoln made it "known" that:

...all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation...

The oath Lincoln spoke of required full allegiance to the Union and full support of all legislative and executive actions concerning slavery. Those who held significant offices in the Confederacy, or who left such offices in the United States to join the Confederacy, or who had mistreated prisoners of war, were barred from taking the oath.

When ten percent of the citizens of a formerly seceded state--as calculated on the number of votes cast in the 1860 election--had taken the oath and re-established "a State government which shall be republican and in no wise contravening said oath, such shall be recognized as the true government of the State," and the state would then receive protection under Article Four, Section Four of the Constitution, which required the federal government to "guaranty" and "protect" republican government in each of the

states.

Lincoln ended his proclamation by stating that any "temporary arrangement" to deal with the "present condition" of the freed slaves "as a laboring, landless, and homeless class, will not be objected to by the national Executive." He "suggested as not improper" that reconstructed states retain the the same names and boundaries. Most importantly, to "avoid misunderstanding," he wrote that "whether members sent to Congress from any State shall be admitted to seats, constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive." Furthermore, Lincoln acknowledged that his was not the only plausible mode of reconstruction and that "while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

This proclamation was sent to Capitol Hill along with the President's annual message to Congress. In his message, among other things, he attempted to justify his policy. "On examination of this proclamation," he wrote, "it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution...The Constitution authorizes the Executive to grant or withhold the pardon at his own absolute discretion; and this includes the power to grant on terms." Thus, Lincoln felt that he was well within his rights in demanding an oath of allegiance to the government and its anti-slavery measures.

More important was Lincoln's explanation for his plan for reconstructing state governments:

It is also proffered that if, in any of the States named, a State government shall be, in the mode prescribed, set up, such government shall be recognized and guaranteed by the United States, and that under it the State shall, on

the constitutional conditions, be protected against invasion and domestic violence. The constitutional obligation of the United States to guaranty to every State in the Union a republican form of government, and to protect the State, is explicit and full.

What is most striking in Lincoln's words is the complete absence of any claim of an exclusive executive obligation or prerogative concerning reconstruction. He chose only to say that the nation had a "constitutional obligation. . .to guaranty every State in the Union a republican form of government." And on the basis of that obligation, he had taken it upon himself to come up with a plan of reconstruction. Yet Lincoln admitted that his plan was not the only possible plan and that only Congress could decide whether or not to seat members from reconstructed states. Thus, it is quite clear that he was only promoting, in accordance with the obligations of the government, one plan of reconstruction. It was the plan that he believed in, would fight for, and even use the power of his office for, but he did not claim as President to have the final word on the subject.

Lincoln's message also outlined the reasoning behind the reconstruction program. Concerning the oath, he said that it would be absurd to allow secessionists back into government, and, thus, there had to "be a test by which to separate the opposing elements, so as to build only from the sound." On the aspects of the oath that required the support of anti-slavery measures, he said the following:

Those laws and proclamations (which struck at slavery) were enacted and put forth for the purpose of aiding in the suppression of the

rebellion. To give them their fullest effect, there had to be a pledge for their maintenance . . . To now abandon them would be not only to relinquish a lever of power, but would also be a cruel and an astounding breach of faith. I may add at this point, that while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation; nor shall I return to slavery any person who is free by the terms of that proclamation, or by any of the acts of Congress.

Before commenting on Lincoln's words here, it is useful to note that in his official statements--indeed in the oath itself--it was acknowledged that Congress and the Supreme Court could collectively strike down every anti-slavery measure of his administration. It is also useful to note that Lincoln expressed several times his approval of a Constitutional amendment abolishing slavery throughout the nation and his wish that the reconstructed state governments would abolish slavery in their new Constitutions. The important point to be drawn from this information is that, through requiring support of anti-slavery measures in the oath, Lincoln was trying to build support for anti-slavery action by the new state governments. What firmer basis upon which to build loyal governments than the abolition of the so-called cornerstone of the Confederacy by Southerners themselves? Requiring ten percent of the voting populace to take the oath ensured a ready base of support for anti-slavery proposals--especially in light of the disqualification of Confederate officials and the more difficult pardon requirements for captured soldiers and parolees (Lincoln stipulated, through an additional proclamation, that prisoners of war and those on parole had to apply for executive clemency and could not simply just take the oath). "By proclamation,"

Lincoln wrote, "a plan is presented which may be accepted by them (loyalists) as a rallying point, and which they are assured in advance will not be rejected here. This may bring them to act sooner than they otherwise would."⁹

Through working from the very early stages of federal occupation to augment loyalist strength in the South, requiring promises to support emancipation in the oath, and building state governments on the basis of that oath, Lincoln was indeed seeking the "restoration of the Rebel States to the Union. . . upon the civil and political equality of both races." It was classic Lincolnian politics. He was trying to build a political consensus in support of a far more enduring edifice of freedom--state abolition of slavery and a Constitutional amendment to do the same--than any temporary war measure could ever create. One gets the strong impression as well that Lincoln, who had given long thought to the question of race relations in America, realized that the ultimate quality of the freedom of the blacks depended upon acceptance from Southern whites. Thus, Lincoln found an additional reason to reconstruct the South and destroy slavery through building political support in the reconstructed states for such measures--thereby foregoing the less complicated and more appealing (for those who sought revenge) option of simply imposing equality on the South at the tip of a bayonet.

(2)

Not everyone was willing to forego the employment of arbit-

rary and extreme measures. The abolitionist, rabidly anti-Southern wing of the Republican party--led by powerful members of Congress such as Charles Sumner and Thaddeus Stevens--opposed Lincoln's reconstruction program from the very first. Disgusted with Lincoln's moderate approach, they desired to restructure the prostrate South, destroying the planter class much like a victorious gladiator might exact concessions from his vanquished opponent. They did not contemplate any attempt to build support in the South for anti-slavery measures. They characterized such attempts as useless. Instead, they proposed to ram their anti-slavery policies, along with several other measures concerning the reorganization of Southern society, right down the throats of Southern whites.

Historians have written a fair amount about the radicals. At first, they were despised, described as vengeful villains who sought to impose a harsh peace on the South and eventually succeeded only because of the untimely death of the beneficent Lincoln. Later, in the wake of the civil rights movement and racial disturbances of the 1950s and 1960s, historians began to find a noble concern in the radicals for the civil and economic well-being of the black man. Nothing more on the radicals' motives is ventured here except to say that, more likely than not, both revenge against secessionists and a sincere concern for the black man were reasons for their actions. Additionally, it is important to note that Lincoln sought the same freedom for the black man that the radicals did. The difference was that he believed in

a more legalistic approach based on establishing political support for anti-slavery measures in the South.¹⁰

From the outset, the radicals made it known that they desired to impose the will of the government on the South regardless of the sentiment there. Also, they claimed that reconstruction was a Congressional matter. In February of 1862, Charles Sumner introduced nine resolutions in the Senate, the gist of which was that, through the rebellion, the Southern states had reverted to the status of territories. Since territories were completely under the control of Congress, Sumner believed that the legislature had the right to order Southern institutions as it wished. Thaddeus Stevens went a step further when he advanced the theory that the seceded states should be treated as conquered provinces.¹¹

Needless to say, these men and their compatriots were completely hostile to Lincoln's consensus-oriented plan of reconstruction. Itching to permanently emancipate the slaves, they grew irate and impatient with Lincoln's careful and legalistic determination that only a constitutional amendment or action by state governments could completely overturn the peculiar institution. They watched with mounting horror as Lincoln began to use his authority as Commander-in-Chief to build state governments in Louisiana, Arkansas, and Tennessee. They were astonished by the fact that, under Lincoln's plan, only ten percent of a state's voting population had to swear an oath of allegiance. They were angered by the stipulation that all Confederate civil and military

officers below the middle level were eligible for pardon; they thought this far too beneficent and a real threat to loyal Southerners and freedmen alike. And they were positively stung by the revelation that, failing a Constitutional amendment or state action, slavery could conceivably reappear, under Lincoln's plan, as a postwar institution. It was no surprise, therefore, that the radicals struck at Lincoln's entire theory and plan of reconstruction. Protests against the new state governments that sprung up in the wake of Lincoln's proclamation were rampant. More importantly, on July 2, 1864, Congress passed the Wade-Davis Bill, which claimed reconstruction as a Congressional matter and set forth a scheme that was vastly different than Lincoln's.

The bill put forth a reconstruction plan in the form of legislation, and, thus, it implicitly asserted a Congressional prerogative in the area of reconstruction. The main features of this plan were that over fifty percent of the former voting population had to swear an oath of allegiance before a state government could be formed, almost the entire Confederate military--from private on up to General--was disenfranchised, and slavery was effectively abolished for good in the seceded states.¹²

The bill was brought to Lincoln during the very last hour of that session of Congress, and, instead of vetoing it outright, he employed a pocket veto by refusing to act on it before the session adjourned. In a proclamation on the subject, Lincoln said that he was "unprepared by a formal approval of this bill

to be inflexibly committed to any single plan of restoration." He was "also unprepared" to set aside, by signing the bill, the new state governments that he had nurtured in Louisiana and Arkansas. Finally, he was unwilling "to declare a constitutional competency in Congress to abolish slavery in the States." He stated, however, that the system was "one very proper plan" for reconstruction. If the plan were adopted by the people in a reconstruction state, he promised to give "Executive aid and assistance to any such people."¹³

Lincoln's action provoked outrage in Congress and throughout much of the North. In a "manifesto" printed in a New York newspaper, the authors of the bill, Benjamin F. Wade, and Henry Winter Davis, savagely criticized Lincoln. One of their main objections to Lincoln's pocket veto was their charge that it amounted to "a grave Executive usurpation. . . a studied outrage on the legislative authority of the people."

Wade and Davis argued that Congress was the branch of government to oversee reconstruction. After all, they pointed out, it was Congress that decided whether or not to accept a state's legislators--perhaps the ultimate judgment on the soundness of a state's republican institutions. More importantly, they complained bitterly that Lincoln had transgressed the boundaries of his office by smothering the bill and then stating that he would employ the bill's provisions when and where he saw fit.

Congress passed a bill; the President refused to approve it, and then by proclamation puts

as much of it in force as he sees fit, and proposes to execute those parts by officers unknown to the laws of the United States, and not subject to the confirmation of the Senate...the authority of Congress is paramount and must be respected... the whole body of the union men of Congress will not submit to be impeached by him of rash and unconstitutional legislation; and if he wishes our support, he must confine himself to his executive duties--to obey and execute, not make the laws--to suppress by arms armed rebellion, and leave political reorganization to Congress.

Lincoln had no right at all, Wade and Davis felt, to set forth any sort of policy regarding reconstruction much less to frustrate Congressional policy in that area.¹⁴

(3)

Did Lincoln really overstep the boundaries of his office? Did this former Whig--who once stumped for Zachary Taylor because the old General proposed merely to execute the laws--usurp the law-making function from Congress? The question--like the problem of reconstruction itself--is a difficult one to decide. Based on the evidence presented thus far, however, the unmistakable conclusion is that Lincoln did not act outside the limits of the Presidency.

Consider first the question of executive and legislative functions in reconstruction. Both branches legitimately claimed a role in the process. Lincoln was correct in asserting that his pardoning power, which was clearly stated in the Constitution, entitled the President and the President alone to determine the legal status of entire groups of former rebels. Yet Congress was just as correct in asserting that its equally obvious privi-

lege to decide whether or not to admit a state's legislators entitled it to determine whether or not the reconstructed governments were truly republican.

In the middle was a vast gray area. The Constitution is silent as to who is to promulgate a reconstruction program. It merely assigns the federal government the responsibility of ensuring republican institutions in the states. It does not assign that responsibility to any one branch of government. Lincoln seemed well aware of this when he issued his proclamation. When he justified his reconstruction plan in his 1863 message to Congress, he cited the federal government's obligation to "guaranty" and "protect" republican government in the states. Instead of claiming executive jurisdiction over that task, he merely said that his plan was only one option that the government might employ.

Granted, he fought for his plan by using his position as Commander-in-Chief to build loyal state governments that he could recognize under his proclamation. But was that really unconstitutional? Was it any more illegal than, say, Congress using its power to seat or unseat members to promote its own version of reconstruction? As head of the military, Lincoln was legitimately empowered to issue orders as he saw fit and places like Louisiana were occupied territory in a war--under military jurisdiction.

Lincoln was also well within his rights when he pocketed the Wade-Davis bill. He certainly stretched the limits of his power

when he stated that he would employ the bill's provisions according to his own discretion. But, here again, as supreme commander of the military, he had the unquestionable right to issue any set of instructions that he wished. Wade and Davis could fret and fume until Judgment Day but they could do nothing to interfere with Lincoln's control over the occupied areas of the South until after the war ended. Once the war was over, when Lincoln had no legitimate power to act outside of Congressional appropriations and laws, the promise to enforce a vetoed bill according to his own discretion would certainly have been unconstitutional.

Perhaps the radicals were right, and Lincoln could never hope to build an edifice of freedom in the South by trying to win the support of those whites who were not too terribly guilty of rebellion. But, true to form, Lincoln's first crack at reconstruction involved a relatively moderate attempt to reorganize Southern society with as much indigenous support as he could drum up. Because he saw the restoration process as crucial to the future of republican government, he acted strongly in asserting the program that he thought best. Often insisting on a strict interpretation of the law, Lincoln was correct in arguing that the Thirteenth Amendment and free-state constitutions destroyed slavery far more effectively than any wartime measures--whether executive or legislative. It was because he felt it necessary to take a strong hand in reconstruction for the good

of republican institutions and the Union--to build a peace based on loyal and free state governments--that this former Whig, who believed that Congress should make the government's policy, acted as a strong President.

CHAPTER FIVE

EPILOGUE

If you sometimes
get discouraged,
consider this fellow:
He dropped out
of grade school.
Ran a country store.
Went broke.
Took 15 years
to pay off
his bills.
Took a wife.
Unhappy marriage.
Ran for House.
Lost twice.
Ran for Senate.
Lost twice.
Delivered speech
that became
a classic.
Audience indifferent.
Attacked daily
by the press
and despised
by half the country.
Despite all this,
imagine
how many people
all over the world
have been
inspired
by this awkward,
rumped,
brooding man
who signed his name
simply,
A. Lincoln.

--Courtesy of Jill Coffey
As published in the Wall
Street Journal by United
Technologies Corporation

(1)

In an essay on Lincoln's Presidency entitled "Whig in the White House," historian David Donald makes the case that, excepting extreme war measures in defense of the Union, Lincoln was actually a rather weak President who deferred to Congress on any major legislation that was not related to the war. Donald points to Lincoln's miniscule role in the passage of such important laws as those that provided for the land grant colleges or for a higher tariff. Additionally, Donald shows that, in spite of the large amount of work delegated to him in the midst of a major war, Lincoln had plenty of time to get involved with the legislative process if he wished. Presenting these factors along with other evidence, Donald concludes that Lincoln was acting as a "Whig in the White House." Because of his Whig philosophy of a weak executive, Lincoln deferred to Congress in every instance where firm executive leadership was not necessary to save the government.¹

Donald's essay is well argued and thoroughly researched. Certainly, its main point is in accord with the views expressed in this paper. There is a subtle flaw in its reasoning in that Donald makes it appear as if Lincoln came to the Presidency with a firm conception of how to act in every phase of the crisis. It all seems so cut and dry--as if Lincoln planned out his first four years from the start.

This was simply not the case during Lincoln's harried Presidency. Even Lincoln himself admitted that the surprising events of the war defied any attempt to plan a long-term policy. In an

1864 letter to a Kentucky editor, he claimed "not to have controlled events but confess plainly that events have controlled me. . . at the end of three years struggle the nation's condition is not what either party, or any man devised, or expected. God alone can claim it." Lincoln's Presidency was one shocking, unprecedented scenario after another. It was, in short, nothing that "any man" could plan upon in advance.²

Yet Donald is right in asserting that Lincoln, the strong war President, deferred to Congress wherever possible. Consider, for example, the message that Lincoln sent to Sherman in July of 1864.

I have seen your despatches objecting to agents of Northern States opening recruiting stations near your camps. An act of congress authorizes this, giving the appointment of agents to the States, and not to this Executive government. It is not for the War Department, or myself, to restrain, or modify the law, in it's execution, further than actual necessity may require. To be candid, I was for the passage of the law, not apprehending at the time it would produce such inconvenience to the armies in the field. . . I still hope some advantage from the law; and being a law, it must be treated as such by all of us.

Without "necessity" from dire national need, Lincoln was unwilling to act outside of the bounds of his office even though he could have easily done so. A man less respecting of Congressional prerogatives would not have shown such consideration.³

Perhaps the best way to describe how Lincoln made his decisions in these matters is not to imply, as Donald does, that he had a firm plan from the beginning. Rather, it is more correct to point out that Lincoln had, as Stephen Oates described it, a

"core of unshakable convictions about America's experiment and historic mission in the progress of human liberty" from the beginning. Lincoln brought to the White House a solid ideology about government and society, and, when faced by situations which had never before occurred, he consulted that ideology and made decisions--often painful, drawn-out decisions, but decisions nonetheless.⁴

Thus, his Presidency is best seen as a well-thought and continual reaction to new events and dangers. He believed in a weak Presidency and a strong Congress. He believed in republican government and the Union to the marrow of his bones. When he entered office, he embarked upon a Presidency that saw the Union and republican government constantly in grave danger. Realizing that republican government would be destroyed if the Union was broken, Lincoln acted strongly and often harshly in defense of the nation.

And yet, as evidence like his letter to Sherman indicates, he was unwilling to act strongly without any necessity. Thus, to the extent that the danger to the federal government had receded, Lincoln tried to adhere to his notions of a weak Presidency. He also pointed out that his extreme war powers and policies would end with the war.

It is this philosophical balance, intellectual flexibility, and pure benevolence that combined in Lincoln to make him the greatest of America's Presidents. Faced with a crisis unlike any other, he made sure that every action that he took,

whether extreme or not, was directed towards preserving the nation. He had the great ability to think outside of accepted norms and to see the greater good through the mists of old conventions. And yet he had a healthy respect, a sober regard, for what was truly noble in past beliefs and ideas.

Through his life, Lincoln left America with a strong and more pure form of republican government. In a matter of decades after his death, America became the world power--the shining beacon of freedom--that he had envisioned. He also left his nation with the notion of a crisis Presidency--the idea that a President may act outside of the Constitution in order to save it. It was an important principle. Reminding his readers of Wilson, Roosevelt, and Truman, political scientist Robert S. Hirschfield wrote that all "subsequent American crisis governments have followed the basic principles of emergency rule which Lincoln established during the Rebellion."⁵

After Lincoln's assassination, many artists portrayed the slain President with George Washington. The portrayal is "altogether fitting and proper." This man, who gave his nation "the last full measure of devotion," certainly is aptly described as a second father of the United States and a founder of international democracy.⁶

Notes

Chapter One and Introduction

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13. Howe, The Political Culture of the American Whigs, pp. 265-266; Ward Hill Lamson in The Lincoln Reader, ed. Paul M. Angle (Kingsport: Kingsport Press, 1947), p. 170. This reference is slightly overstated. Instead of being described as an "anti-Jackson stronghold," the seventh district was more accurately termed "Whiggish."
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15. Oates, With Malice Toward None, pp. 27-63.
16. Henry C. Whitney in The Lincoln Reader, ed. Paul M. Angle, p. 170.
17. G. S. Boritt, Lincoln and the Economics of the American Dream (Memphis State University Press, 1978), p. 22; Howe, The Political Culture of the American Whigs, pp. 266-269.
18. Stephen B. Oates, Abraham Lincoln: The Man Behind the Myths (New York: Harper and Row, 1984), pp. 89-92. Stephen Oates offers a perceptive and well written account of Lincoln's deep-seated belief in the American Republic. Lincoln's own professions of faith in American institutions are numerous and eloquent. One of the best is his July 4, 1861 message to Congress, found in CWAL, IV, pp. 421-441, particularly p. 426 and p. 438.
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20. Boritt, Lincoln and the Economics of the American Dream, p. 161.
21. CWAL, IV, Quote while traveling as President-elect: p. 197, "Fragment on the Constitution and the Union:" pp. 168-169.
22. Oates, Abraham Lincoln: The Man Behind the Myths, pp. 89-92. This is Oates' section on Lincoln's belief in American institutions.
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27. CWAL, I, Lincoln in favor of universal white suffrage for those who pay taxes or bear arms: p. 48, Whig resolutions against anti-Catholic riots: pp. 337-338; CWAL, II, Lincoln on the "Know-nothings:" p. 323.
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31. Mark E. Neely Jr., "Lincoln and the Mexican War: An Argument by Analogy," Civil War History, No. 1, XXIV (1978), p. 6; G. S. Boritt, "Lincoln's Opposition to the Mexican War," Journal of the Illinois State Historical Society, No. 1, LXVII (February, 1974), pp. 79-100.
32. CWAL, I, Lincoln's "Spot Resolutions:" pp. 420-422, Lincoln's speech on Polk and the Mexican War: pp. 437-438, p. 439.
33. CWAL, I, pp. 451-452.
34. Oates, With Malice Toward None, pp. 87-191.

Chapter Two

1. James G. Randall, Lincoln The President (4 vols., New York: Dodd, Mead, and Company, 1945), I, pp. 246-272; Oates, With Malice Toward None, pp. 195-208.
2. James G. Randall and David Donald, The Civil War and Reconstruction (Boston: D. C. Heath and Company, 1961), pp. 143-145.
3. CWAL, IV, p. 154, p. 172, p. 172.
4. CWAL, IV, p. 239.
5. CWAL, IV, p. 213.
6. CWAL, IV, p. 207, p. 207, p. 193, p. 194.
7. CWAL, IV, p. 216, p. 238, p. 238.
8. CWAL, IV, p. 264.
9. Remini, The Age of Jackson, pp. 152-171. The important documents concerning nullification along with Remini's own observations are contained on these pages.
10. Oates, With Malice Toward None, p. 197.
11. Remini, The Age of Jackson, pp. 152-178.

12. CWAL, IV, Lincoln's First Inaugural Address: p. 265; Remini, The Age of Jackson, Abridged version of Jackson's Nullification Proclamation: p. 166, p. 168.
13. CWAL, IV, p. 268; Remini, The Age of Jackson, p. 164.
14. Remini, The Age of Jackson, p. 170; CWAL, IV, p. 266. The "mystic chords of memory...swell..." is from p. 270.
15. Remini, The Age of Jackson, p. 170; CWAL, IV, p. 264.
16. Remini, The Age of Jackson, p. 171, p. 171, p. 167.
17. CWAL, IV, pp. 265 and 270.
18. CWAL, II, Lincoln speaks on behalf of Taylor and discusses the Whig conception of the Presidency: p. 2; CWAL, IV, Lincoln speaks of the people having "their own views carried out through their representatives in Congress" in relation to the tariff: p. 213.
19. Oates, Abraham Lincoln: The Man Behind the Myths, p. 89. Oates makes particular reference to Lincoln's lack of administrative experience and the absence of legal or historical guidelines for him to follow in the crisis.
20. Randall, Lincoln The President, I, pp. 311-360; Randall and Donald, The Civil War and Reconstruction, pp. 163-189. These two references refer to accounts of the period from Lincoln's inauguration to the bombardment of Fort Sumter; CWAL, IV, Lincoln's explanation of the Fort Sumter affair: p. 423, p. 424, p. 424, p. 425, p. 332.
21. CWAL, IV, pp. 426 and 438.
22. CWAL, VII, p. 23.
23. CWAL, VII, p. 312. Just after this there appears an uncited quote from Lincoln on republican government. That is from CWAL, IV, p. 438 (Lincoln's July 4, 1861 message to Congress).
24. Randall, Lincoln The President, I, pp. 362-367.
25. Randall and Donald, The Civil War and Reconstruction, pp. 227-231, pp. 234-236.
26. Randall and Donald, The Civil War and Reconstruction, p. 215; CWAL, V, Lincoln's explanation for advancing Treasury funds without Congressional approval: p. 262.
27. Randall, Lincoln The President, I, p. 363.
28. CWAL, IV, pp. 333-401. Lincoln's correspondence on these pages is filled with news about army movements, Morley and Bay. The Atlantic, Vol. 4, Paul E. Paine, p. 333.

29. James G. Randall, Constitutional Problems Under Lincoln (Urbana: The University of Illinois Press, 1964), pp. 59-69.
30. CWAL, V, p. 242; Randall and Donald, The Civil War and Reconstruction, pp. 275-276.
31. CWAL, IV, p. 353, p.354.
32. CWAL, IV
33. CWAL, IV, Lincoln's orders and memoranda concerning Habeas Corpus and arbitrary arrests during the period from April 15 to July 4, 1861: p. 344, p. 347, pp. 364-365, p. 372; Randall and Donald, The Civil War and Reconstruction, p. 302. This is the quote on the Merryman case.
34. CWAL, IV, p. 429, p. 430.
35. CWAL, V, p. 242.
36. CWAL, IV, p. 372.

Chapter Three

1. John G. Nicolay and John Hay, Abraham Lincoln: A History (10 vols., New York: The Century Co., 1980), IV, pp. 383-384. I am unable at this time to locate my citations concerning the Bates' opinion on Habeas Corpus. I am certain that Congress did not initially approve Lincoln's suspension of the writ and that Lincoln had Bates prepare an opinion supporting his position.
2. Henry Steele Commager, ed., Illustrated History of the American Civil War (London: Orbis Publishing, Ltd., 1976), pp. 153.
3. CWAL, V, p. 537. Lincoln referred to the Civil War as a "fiery trial" in his December 1, 1862 message to Congress.
4. CWAL, IV, p. 438.
5. CWAL, V, p. 396.
6. CWAL, V, p. 343.
7. CWAL, V, p. 43.
8. Bruce Catton, Reflections on the Civil War, John Leekley, ed. (New York: Doubleday and Company, 1961), pp. 126-128; Fatality figure from Henry Steele Commager, ed., Illustrated History of the American Civil War, p. 285.

9. Randall and Donald, The Civil War and Reconstruction, p. 7; Henry Steele Commanger, ed., Illustrated History of the American Civil War, p. 265.
10. Randall and Donald, The Civil War and Reconstruction, pp. 4-5.
11. Randall and Donald, The Civil War and Reconstruction, p. 29, pp. 34-35.
12. Randall and Donald, The Civil War and Reconstruction, pp. 35-37, p. 8.
13. Catton, Reflections on the Civil War, pp. 125-126.
14. Jefferson Davis, The Rise and Fall of the Confederate Government (2 vols., New York: D. Appleton and Co., 1881), I, p. 494, p. 495, pp. 494-495.
15. Randall and Donald, The Civil War and Reconstruction, p. 35; Clement Eaton, A History of the Old South (New York: Harper and Row, 1961), p. 419.
16. CWAL, IV, p. 436.
17. Randall and Donald, The Civil War and Reconstruction, p. 186, pp. 236-242.
18. Randall, Lincoln The President, II, p. 175; CWAL, V, Lincoln's appeal to the border states' Congressmen to adopt a compensated emancipation program: pp. 317-319.
19. Dr. John H. Van Evrie, "Negroes and Negro 'Slavery,' The First an Inferior Race: The Latter Its Normal Condition," Lincoln's Decision For Emancipation, Hans L. Trefousse (New York: J. B. Lippincott Company, 1975), p. 62.
20. Henry Steele Commanger, ed., Illustrated History of the American Civil War, pp. 180-185.
21. Henry Steele Commanger, ed., Illustrated History of the American Civil War, pp. 153-175.
22. Bruce Catton, Reflections on the Civil War, p. 147.
23. CWAL, V, p. 292; T. Harry Williams, "A Great Natural Strategist," The Leadership of Abraham Lincoln, Don E. Fehrenbacher, ed. (New York: John Wiley and Sons, 1970), p. 41.
24. CWAL, IV, p. 263.
25. Lincoln's opposition to slavery was undoubtedly deep-seated and sincere. Consider this remark from his letter to Albert Hodges on April 4, 1864:

I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I can not remember when I did not so think and feel.

26. Howard K. Beale and Alan W. Brownword, eds., Diary of Gideon Welles (New York: W. W. Norton and Co., 1960), p. 71; CWAL, IV, pp. 48-49; Charles H. McCarthy, Lincoln's Plan of Reconstruction (New York: AMS Press, Inc., 1966), pp. 220-221. The text of the 'Crittenden Resolutions' is found on these pages.
27. CWAL, IV, Lincoln's letter asking Fremont to revoke the emancipation order: p. 506, Lincoln's letter informing Fremont of a Presidential order revoking emancipation: pp. 275-276; The first Confiscation Act discussed in Randall, Constitutional Problems Under Lincoln, pp. 275-276.
28. CWAL, V, pp. 222-223.
29. CWAL, V, p. 22.
30. Beale and Brownword, eds., Diary of Gideon Welles, p. 70, p. 71; Discussion of the threat of U. K. intervention in Randall and Donald, The Civil War and Reconstruction, pp. 363-364.
31. CWAL, V, Drafts of a Bill for compensated emancipation in Delaware: pp. 29-30, Message to Congress urging financial assistance to those states that would eventually abolish slavery: pp. 144-146.
32. CWAL, V, Quote on hopes of Confederate leadership: p. 145, Argument that the cost of eighty-seven days of the war would pay for border states' slaves: pp. 160-161.
33. CWAL, V, Draft of a Bill mandating financial assistance for compensated emancipation in the border states: p. 324, Remarks to the border states' legislators on emancipation: p. 317.
34. CWAL, V, pp. 318-319.
35. Stephen Oates, Our Fiery Trial (Amherst: The University of Massachusetts Press, 1979), pp. 73-75. Oates discusses the lobbying efforts of the abolitionist wing of the Republican party. The second Confiscation Act discussed in Randall, Constitutional Problems Under Lincoln, pp. 276-280.
36. CWAL, V, First draft of emancipation proclamation: pp. 336-337; Seward's request to hold the proclamation until after a Union victory in Oates' With Malice Toward None, p. 311.
37. Beale and Brownword, eds., The Diary of Gideon Welles, p. 145.
38. CWAL, VII, Lincoln's letter to Hodges: pp. 281-282.
39. Henry Steele Commager, ed., Illustrated History of the American Civil War, Figure on black enrollment in the military, p. 181, Majority in the North, pp. 182-185.
40. Randall, Constitutional Problems Under Lincoln, pp. 137-143, pp. 184-185.

41. CWAL, IV, p. 430. This quote is misprinted. It should read "...did not feel 'that any law was violated.'"
42. Henry Steele Commager, ed., Illustrated History of the American Civil War, pp. 180-185.
43. Randall, Constitutional Problems Under Lincoln, Initial order for the use of military commissions: pp. 175-177; CWAL, V, Lincoln's proclamation suspending Habeas Corpus and invoking martial law: pp. 436-437.
44. Randall, Constitutional Problems Under Lincoln, pp. 174-183.
45. John W. Burgess, The Civil War and the Constitution (2 vols., New York: Charles Scribner and Sons, 1901), II, p. 215, pp. 215-219. The quote "during the present rebellion" was misprinted. It should read "during the existing rebellion." Lincoln's proclamation suspending the writ of Habeas Corpus throughout the U. S. in CWAL, VI, pp. 451-452; Lincoln's proclamation suspending Habeas Corpus and establishing martial law in Kentucky in CWAL, VII, pp. 425-427.
46. Burgess, The Civil War and the Constitution, II, p.218.
47. Henry Steele Commager, Illustrated History of the American Civil War, p. 182. Vallandigham was a member of Congress when arrested, not a former member as the paper states. Lincoln's note to Burnside in CWAL, VI, p. 237.
48. A discussion of anti-war newspapers and government control of the press in Randall, Constitutional Problems Under Lincoln, pp. 481-484. The suppression of the Chicago Times discussed in Craig D. Tenney, "To Suppress or Not to Suppress: Abraham Lincoln and the Chicago Times," Civil War History, XXVII (September 1981), pp. 248-299. Suppression of the New York World (name misprinted in the paper as New York Herald), discussed in Randall, Constitutional Problems Under Lincoln, pp. 496-499.
49. Randall, Constitutional Problems Under Lincoln, pp. 147-157, p. 155. An example of Lincoln pardoning a Northern secessionist under death sentence for anti-war activities is found in CWAL, VI, p. 158.
50. Randall, Constitutional Problems Under Lincoln, pp. 481-485.
51. CWAL, VII, pp. 426-427.
52. CWAL, V, p. 437.
53. Lincoln's letter to Erastus Corning and others in CWAL, VI, pp. 260-269.
54. Randall, Constitutional Problems Under Lincoln, pp. 244-247.

Chapter Four

1. CWAL, VIII, pp. 400-401.
2. CWAL, VI, p. 410.
3. CWAL, VII, p. 102.
4. CWAL, VIII, p. 333.
5. CWAL, VII, pp. 1-2; Oates, Abraham Lincoln: The Man Behind the Myths; CWAL, VII, pp. 53-56.
6. CWAL, VII, p. 405. The sentence including the phrase "many historians" should read "some historians." Peyton McCrary, Abraham Lincoln and Reconstruction: The Louisiana Experiment (Princeton: Princeton University Press, 1978), pp. 3-18.
7. CWAL, V, p. 462; CWAL, V, pp. 504-505; CWAL, VII, pp. 1-2.
8. CWAL, VII, pp. 53-56.
9. CWAL, VII, pp. 50-53.
10. David Donald, The Politics of Reconstruction: 1863-1867 (Baton Rouge: Louisiana State University Press, 1965), pp. 1-11.
11. McCarthy, Lincoln's Plan of Reconstruction, pp. 196-198, pp. 212-213.
12. Harold M. Hyman, ed., The Radical Republicans and Reconstruction (New York: The Bobbs-Merrill Company, 1967), pp. 128-134.
13. CWAL, VII, pp. 433-434.
14. Harold M. Hyman, The Radical Republicans and Reconstruction, pp. 137-147.

Chapter Five

1. David Donald, "Whig in the White House," The Enduring Lincoln, Norman A. Graebner, ed., (Urbana: The University of Illinois Press)
2. CWAL, VII, p. 449.
3. CWAL, VII, p. 23.

4. Stephen B. Oates, Abraham Lincoln: The Man Behind the Myths.
5. Hirschfield was writing in the Lincoln Journal which is put out by Lincoln Memorial University in Harrogate Tennessee.
6. CWAL, VII, p. 512.

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