

## Review Essay: Lincoln, Liberty, and the Executive Power

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By James M. McPherson, *Abraham Lincoln and the Second American Revolution*.  
(New York: Oxford University Press, 1991. Pp. xiii, 173. \$17.95.)

By Mark Neely. *The Fate of Liberty: Abraham Lincoln and Civil Liberties*.  
(New York: Oxford University Press, 1991. Pp. xvii, 278. \$24.95.)

Describing the anti-Lincoln tradition in American historical writing, Don E. Fehrenbacher a decade ago concluded that Abraham Lincoln retained a unique hold on the memory and imagination of the American people. Nevertheless, Professor Fehrenbacher wondered whether Lincoln's preeminence in the national pantheon did not reflect a kind of historical inertia.<sup>1</sup> This was a valid question in view of growing scholarly controversy over Lincoln's historical significance.<sup>2</sup> Nor is the debate about Lincoln's place in American political history confined to the academy, as we see in the fact that politicians on both the right and the left have recently claimed Lincoln as an inspiration for their policy agenda.<sup>3</sup>

Scholarly disagreement in the Lincoln field at present focuses on two major issues. They are the nature of Lincoln's political thought concerning liberty and equality as foundation principles of national civil rights policy, and the nature of his exercise of the executive power and its impact on the constitutional system. Each of these issues has contemporary relevance that invigorates scholarly debate. With respect to civil rights, for example, as conflict over affirmative action grows more intense, it becomes pertinent to ask whether Lincoln's call for "a new birth of freedom" was based on ideas received from the founding fathers, or pointed a new direction that anticipated contemporary liberalism. Lincoln's contribution is even more directly implicated in discussions of the imperial presidency that have been a preoccupation of pundits and political elites since Watergate. Did Lincoln create or move decisively toward modern presidential government, or was he content to act within the tradition of limited executive power that prevailed in the nineteenth century?

James M. McPherson's *Abraham Lincoln and the Second American Revolution*, and Mark E. Neely's *The Fate of Liberty: Abraham Lincoln and Civil Liberties*, provide an occasion for reflection on Lincoln, liberty, and the executive power under the American Constitution. McPherson is concerned with Lincoln's ideas on liberty

broadly conceived in an interpretation that revives the progressive view of the Civil War as a bourgeois capitalist revolution. Neely focuses more narrowly on the state of civil liberties under Union internal security policy and Lincoln's exercise of executive authority. In contrast to some recent works, both authors take a favorable view of Lincoln and contribute to our understanding of him as a democratic statesman.

# I

McPherson's book, a collection of essays all but one of which have been previously published, has its historiographical pedigree in progressive history. The progressives, most notably Charles A. Beard, argued that the Civil War was a capitalist revolution that overthrew the southern landed aristocracy and used Negro suffrage to secure the political and economic power of business elites during Reconstruction. In the 1950s and '60s, historians influenced by the civil rights movement rejected this economic interpretation and credited the Republican party with liberal humanitarian motives in seeking to integrate emancipated slaves into society on the basis of equal rights. Subsequently new left historians challenged this view, asserting that while blacks gained formal freedom, they continued to occupy a subordinate status that was little changed from slavery days.

McPherson adopts a modified progressive interpretation of the Civil War, updated in the light of the civil rights revolution and the research in black history that it has stimulated. He accepts the Beardian notion of a capitalist revolution effected by tariff, homestead, railroad, banking, legal tender, bond, and internal revenue measures. Of chief concern, however, are the substantial socio-economic and political gains made by the freed slaves. Rejecting the new left argument for continuity between the antebellum and Reconstruction South, McPherson contends that significant change occurred as blacks became a free people. Negro literacy, education, land owning, and per capita income increased dramatically during and after Reconstruction. Especially important was the acquisition of political power by blacks in the postwar South. Confirming the abolition of slavery, these were revolutionary changes that signified the overthrow of the existing social and political order.

Lincoln is a central figure in McPherson's explanation of these revolutionary developments. Noting scholarly disagreement over whether Lincoln was a conservative or a revolutionary, McPherson says he was both, but in the more significant sense he was a revolutionary because the war was revolutionary. At the start of the conflict Lincoln was a conservative in defending the Union and maintaining the Constitution, rejection of which by the secessionists appeared revolutionary. According to McPherson this appearance is deceptive, however; in reality, he contends, the southerners were *counterrevolutionaries* reacting to the antislavery revolution portended by the triumph of the Republican party in the election of 1860.

Considered from this perspective, Lincoln's Unionism "becomes something other than conservatism" (p. 29). What it became was contingent on the course of the war.

McPherson acknowledges that at the outset of his presidency Lincoln had no revolutionary intentions. What Lincoln intended, however, in the sense of rational and deliberate choice, did not count for much against the controlling effects of accident and force let loose by the war. "Willy-nilly the war was becoming a remorseless revolutionary conflict," McPherson observes, "a total war rather than a limited one" (p. 32). Accordingly, in 1863 Lincoln employed military emancipation as a means of preserving the Union. The means became a new war aim: "the revolutionary goal of a new Union without slavery" (p. 34). Although a compassionate man who was initially reluctant, Lincoln assented to and presided over the revolutionary destruction of southern society. In the end, McPherson concludes, Lincoln was more radical than Washington or Jefferson or any of the leaders of the first American revolution.

Courtesy of Gettysburg College Civil War Institute



*"The first reading of the Emancipation Proclamation Before the Cabinet, a popular 1864 print by Alexander Hay Ritchie, based on a painting by Francis B. Carpenter.*

Under Lincoln's revolutionary leadership, McPherson states further, the Civil War not only destroyed the southern social order and liberated the slave population, but it also gave the nation a new concept of liberty. Drawing on the work of the political philosopher Isaiah Berlin, he says the Republican party introduced positive liberty in place of the negative liberty that had characterized the constitutional order from its founding in the eighteenth century. As defined by McPherson, negative liberty refers to the liberty of the individual against government, or the absence of political and legal restraints. Positive liberty is the freedom to do things, and it requires the exercise of government power rather than its limitation and restraint. McPherson argues that Lincoln used the power of government and the army to achieve positive liberty for blacks. Instead of a threat to liberty, power became an instrument for protecting liberty during the Civil War and Reconstruction. "Positive liberty achieved by overwhelming power," he summarizes, "was the fruition of the second American Revolution" (p. 138).

McPherson's account of Lincoln's political and military decision making in the changing circumstances of the war is perceptive and sound. Less convincing is the political interpretation of Lincoln that results from his analysis of the problems of revolution and positive liberty. As an empirical minded historian, McPherson proposes to cut through the theoretical confusion in which the subject is often treated by employing "a common-sense working definition of revolution" as "the overthrow of the existing social and political order by internal violence" (p. 16). It is true that the destruction of slavery, the basis of southern society, superficially appears to meet the requirements of this definition. McPherson does not give sufficient attention, however, to the nature of the American regime as the larger political and social context in which secession and Civil War occurred. Nor does he consider whether the objectives of the Republican party in 1860 that provoked secession, and the results of the war that ensued, fulfilled the principles of the American Revolution, or turned the nation away from those principles. In other words, one cannot analyze the Civil War as a second revolution without discussing the nature of the first Revolution and the constitutional settlement that founded the American republic. If, as McPherson says, the Republicans were the real revolutionary party in 1860 against which secessionist counterrevolution was directed, where did Lincoln and his fellow Unionists stand in relation to the American Founding?

McPherson seems to think that Lincoln's opponents had the more correct understanding of the Constitution in relation to the general question of the primacy of slavery or freedom in the American republic. He says Lincoln "indulged in the American habit of describing the United States as a 'free country' that enjoyed more 'civil and religious liberty', more 'human liberty, human rights' than any other people in the history of the world" (pp. 51-52). He notes Lincoln's belief that the Declaration of Independence was not merely "the white man's charter of free-

dom," that the equality principle applied to Negroes, and that this was not a new definition of liberty. Yet McPherson does not think Lincoln was right about these matters, as he shows by accepting the Douglas Democrat and southern secessionist arguments that the Republican platform on slavery was revolutionary. The plain implication is that the Republican position on slavery was against the Constitution and the existing political and social order. Needless to say, this conclusion is highly debatable. The problem with McPherson's book is that he does not forthrightly address this question, but deals with it only inferentially in an unduly circumscribed historical and political context.

McPherson's commitment to the theory of a bourgeois capitalist revolution prevents him from appreciating the full significance of Lincoln's political thought and action. He regards Lincoln as a revolutionary leader despite evidence that points to a different conclusion. Lincoln did not intend to destroy slavery through revolutionary upheaval. His approach to antislavery reform was to stop the spread of slavery in the territories in the 1850s; during the war he proposed compensated, gradual emancipation. As McPherson states, he "wanted to conserve the Union as the revolutionary heritage of the founding fathers" (p. 41). Lincoln was not an ideological revolutionary; he was "no Robespierre or Lenin with a blueprint for a new order" (p. 41). "It was *the war itself*," McPherson acknowledges, "not the ideological blueprints of Lincoln or any other leader, that generated the radical momentum that made it a second American revolution" (pp. 41-42). Although a reluctant and conservative one, McPherson nevertheless insists that Lincoln was a revolutionary.

If we try to understand Lincoln as he understood himself in his speeches and writings, as seems proper to the historian's office, we find little support for the second American revolution thesis. We are led to ask why McPherson, a sober-minded narrative historian, clings to the Marxian theory of revolution and forces Lincoln into the procrustean bed of progressive history. The answer, I suggest, is that like most liberal historians, McPherson believes that the American Revolution was inadequate because it was political and constitutional in nature, and that social justice and human liberation require genuine revolution in the form of property redistribution to achieve equality of condition. Consider, for example, the way in which the abolition of slavery is treated in progressive history. Liberal historians know very well that in reality slaves were not property, and that antislavery Republicans did not regard them as chattel but as persons. Yet they write about Civil War emancipation as though it really did destroy property in the sense stipulated in Marxist theory. In view of the catastrophe and suffering inflicted by communist and socialist regimes in the twentieth century, it is a little surprising at this late date that liberal scholars continue to be attracted to Marxian historical theory and persist in applying it to the United States, the country whose political development has been the least congenial to socialism.

This is not to deny that there is a revolutionary tendency in modern political life that is best described as democratic utopianism. It is Hobbes, Locke, de Tocqueville and the philosophers of liberal republicanism, however, not Marx and his epigones, whose teachings illuminate the revolutionary nature of modern politics. Lincoln's thought and action can best be understood from the perspective of this political tradition.<sup>4</sup>

McPherson's reliance on progressive historical theory renders questionable also his argument about the transformation of negative liberty into positive liberty in the Civil War era. At one level the problem is descriptive and definitional. A change that lasted only a few years, until the revival of negative liberty by both southern conservatives and liberal Republicans in the 1870s, perhaps should not be called a transformation. At a more substantive level we may question whether military emancipation and the civil rights constitutional amendments and statutes that secured it in national policy embodied the twentieth century notion of positive liberty. McPherson states that positive liberty is "freedom to achieve a status of freedom previously denied by disability or law" (p. 137). The key term here is "disability." In contemporary liberal government the concept of disability is defined in cultural, social, and economic terms to justify social welfare and support policies that are intended to confer on individuals positive capacities to achieve. Human nature, however,—in the form of people's different abilities, interests, desires, moral character and the like—limits this process, with the result that programs of positive liberty in the twentieth century too often have become schemes of social engineering, if not totalitarian rule, that expand government power and increase individuals' dependence on government.

The civil rights, constitutional amendments, laws, and policies that Lincoln inaugurated with his Emancipation Proclamation, contrary to what McPherson says, were far removed from the notion of twentieth century positive liberty. Union civil rights policy was intended to confer legal capacity and equality before the law upon the freed slaves, so they could govern themselves and pursue their own interests as independent citizens. Reflecting the idea of negative liberty that McPherson disparages, the objective of post-emancipation policy was to protect blacks against injury and discrimination and integrate them into a society based on free market principles and individual rights. Since this purpose is so readily apparent on the face of the civil rights measures of the 1860s, one wonders whether McPherson really means to argue that twentieth century positive liberty follows necessarily and inevitably from the exercise of government power to abolish slavery. He implies this when he says that positive liberty, which he thinks is manifest in wartime emancipation, is an open-ended concept that "has the capacity to expand toward notions of equity, justice, social welfare, equality of opportunity" (p. 64).

If this is McPherson's view, he is in agreement, at least in a descriptive sense,

with conservative critics of Lincoln who see him as the source of modern egalitarianism and centralized sovereignty that have undermined local liberty and limited government.<sup>5</sup> However, liberals and conservatives, who for different reasons identify Lincoln with contemporary notions of positive liberty and government activism, misunderstood the nature of Civil War emancipation. To use military power to break the bonds of slavery did not transform government into the guarantor of personal capacities of achievement or the provider of individuals' material wants and desires. And to emancipate slaves in the name of equality, so they are equal to other persons in their right to personal liberty and fundamental civil rights, is not to support by logical necessity all other conceivable versions or applications of the idea of equality.

## II

Whereas McPherson offers generalizations about liberty and power that verge on the philosophical, Mark E. Neely gives us an exhaustively researched, highly detailed account of Lincoln and civil liberties that attempts to avoid theoretical questions of political philosophy and constitutional construction. To say that Neely is unsuccessful in this attempt detracts nothing from the great historical value of his work. Indeed, because his study is so insistently empirical and non-theoretical, it enables us to see more clearly the nature and significance of Lincoln's executive actions.

In the broadest sense Neely's subject is civil liberties in time of war. He examines the extent to which civil liberties were curtailed in the northern states, the causes and reasons for this curtailment, and Lincoln's role as chief executive in directing and regulating Union internal security policy. Sharply critical of previous historians, Neely questions the basic terms in which scholarly debate on these matters has been carried on. He asserts, for example, that the concept of "arbitrary arrests" is a misleading notion that has skewed historical judgments and should be discarded. Proposing to shift the focus of historical investigation from the subjective political-ideological level to the more objective level of empirically verifiable fact, he enumerates several relevant questions. They concern the number of civilians arrested in the north by the military after the suspension of the writ of habeas corpus; the number of arrests in border states and in more northerly states; the number of northerners arrested (in contrast to southern spies and refugees); and the number of arrests that were political in nature, either to gain partisan advantage or to suppress political opposition.

Neely describes Union internal security measures at the start of the war in Maryland and Missouri; the policy of habeas corpus suspension in August 1862

that was designed to enforce the conscription law; and the shift of attention southward in 1863 as Union armies dealt with the problems of blockade running, smuggling, and the contraband trade. The central chapter in the book investigates the total number of civilians arrested by military authorities and the reasons for the arrests. Included also are chapters on international law, the decision of the Supreme Court in *Ex parte Milligan*, the Democratic opposition to Lincoln's suspension of the writ of habeas corpus, and Lincoln's approach to constitutional questions.

Neely's principal conclusion is that the number of civilians arrested was greater than has been thought, but that the arrests "had less significance for traditional civil liberty than anyone has realized" (p. 138). Although he is unable to arrive at a precise figure, he states that the total number of civilian arrests was closer to the high estimate of 38,000 (published by a nongovernment source at the end of the war) than to the government's figure of 13,535 that has most often been accepted by historians. In a fascinating account that might be considered a model of historical methodology, Neely discusses his research strategy for ascertaining the number of persons arrested under the nine proclamations and executive orders suspending the writ of habeas corpus issued by President Lincoln during the war.

Although the number of arrests is important, Neely recognizes that the more significant question concerns the nature, causes, and purposes of Union internal security policy. His analysis of these issues is based on a critique of the terms and categories used by earlier historians in discussing the civil liberties problem. He points out that the concept of "arbitrary arrests," which has been accepted as merely descriptive, originated in Democratic opposition to the Lincoln administration and is inaccurate. The arrests were "extraordinary," or more precisely, "discretionary" (p. 122). That is, in the words of War Department Solicitor William Whiting, whom Neely quotes approvingly, they were not unreasonable. Arrests were not made "at the mere will and pleasure of the officer, and without right, and without lawful authority," as the term "arbitrary arrest" implies. Similarly misleading is the term "political prisoners." Neely explains that the proper designation for civilian arrests by military authority was "prisoners of state," as distinguished from prisoners of war who were captured Confederate soldiers, and "United States prisoners" who were members of the United States armed forces held for crimes committed in army camps.

Neely challenges the generally accepted view that civil liberties in the northern states were seriously impaired during the Civil War, and that Lincoln's role was to temper and restrain the injustices resulting from repressive internal security measures. Although at times he seems to share the conventional critical judgment, referring to internal security policy as "a nightmare for American civil liberties"



(p. 50) and a “dark chapter in the history of the Lincoln administration” (p. 113), he finds on the whole that the overwhelming majority of civilian arrests was based on sound military considerations. Employing terms used by Lincoln, he says civilian arrests were “incidents of the war” reflecting the “friction and abrasion” inherent in the nature of armed conflict (p. 123). Thus the arrests were not politically motivated civil liberties violations in the modern civil libertarian sense.

Courtesy of Gabor S. Boritt



### THE FEDERAL PHOENIX.

Cartoon of Lincoln, from *Punch*, ca. 1864.

The Lincoln administration suspended the writ of habeas corpus in order to support military mobilization. It caused the arrest of civilians who obstructed the movement of U.S. forces and encouraged resistance to the draft. Neely finds, moreover, that the use of military commissions to try civilians in places where civil courts were functioning, a policy later declared unconstitutional by the Supreme Court in the *Milligan* decision, had a beneficial effect. In Missouri, for example, reliance on military commissions restrained officers in the field by imposing record keeping requirements and introducing an atmosphere of legality that helped prevent martial law from degenerating into "the will of the general" (p. 41). Trials of civilians by military commission were not show trials and their outcome was not "sham justice" (p. 42). Above all, the policy of habeas corpus suspension, military arrest, and military trial of civilians did not repress political opinion or impede political action critical of the Lincoln administration. The famous *Vallandigham* and *Milligan* cases, where Democratic politicians were tried by military commission, were in no way typical of the government's regulation of civil liberties during the Civil War.

Rigorously empirical and nontheoretical, Neely denies that his historical account offers any guidance for contemporary political science and governmental practice. Should a future domestic crisis arise in which suspension of the writ of habeas corpus might be called for, he asserts, the government probably would be as unprepared to define the legal situation as it was in 1861. "The clearest lesson is that there is no clear lesson in the Civil War—no neat precedents, no ground rules, no map," he declares (p. 235). With all due respect, I think Neely is too modest. Contrary to his disclaimer, a major conclusion that emerges from his sober and clear-headed study is that in time of war and national emergency, civil liberties guarantees, which have come to be regarded in many circles as inviolable if not quite legally absolute, require restriction on a prudential, discretionary basis. Although Neely defends the record of the Lincoln administration on civil liberties, in a sense he does not give Lincoln enough credit.

Neely sensibly rejects the idea found in older histories that Lincoln, the merciful and humane leader, served mainly as a moderating influence on a system of repression devised by subordinate officers. He shows that internal security policy on the whole was not repressive, and was too extensive to allow presidential micromanagement. In treating civil liberties regulation as an incident arising out of the friction and abrasion of war, however, Neely implies that the key decisions establishing the Union policy followed as a matter of course upon the outbreak of hostilities. He avers too readily that if the Democrats had been in power in 1861, they would have circumscribed civil liberties and Republicans would have complained about dictatorship.

Such an analysis unfairly diminishes Lincoln's role as chief executive. The major policy decisions were by no means automatic, but depended on Lincoln's superior judgment, discretion, and understanding. Lincoln knew that legal guarantees of individual rights may have to be modified or suspended when the public safety is threatened. He expressed this view on several occasions, including a comment on the arrest of a Maryland judge for making what were believed to be disloyal charges to a grand jury. Lincoln wrote of this incident: "... the Judge was trying to help [the rebellion] a little, by giving the protection of law to those who were endeavoring to overthrow the Supreme law—trying if he could find a safe place for certain men to stand on the constitution, whilst they should stab it in another place."<sup>6</sup> Lincoln understood that it is illogical and self-defeating to extend constitutional guarantees of civil liberties to those who would abolish constitutional liberties. Since individuals do not have a right to do disloyal acts threatening to the public safety, one could say that civil liberties, properly understood, were not restricted when civilian arrests were made by military authorities after the suspension of the writ of habeas corpus.

With becoming intellectual modesty, Neely disavows any intent to join the debate over the constitutionality of Lincoln's executive actions or the question of his alleged dictatorship. Nevertheless, Neely contributes a great deal to the discussion of these issues and makes a strong case against the dictatorship charge that has been leveled against Lincoln.

Perhaps projecting onto Lincoln his own impatience with matters of constitutional and political theory, Neely says Lincoln had a pragmatic and instrumental mind, rarely thought abstractly about the Constitution, and subordinated constitutional issues to policy considerations. Describing this approach, he writes: "Lincoln's steadily growing confidence or decisiveness [in directing internal security policy] was as much a function of his indifference to constitutional scruple as to anything else—except his sure sense of the purpose of the government to win the war and keep the country whole so that democracy could not be said to have failed" (p. 235). Does not this statement, however, capture the essence of constitutionalism and epitomize constitutional statesmanship? Apposite in this connection is the judgment on Lincoln and the Constitution offered many years ago by the constitutional historian Andrew C. McLaughlin: "Though occasionally he entered upon some particular exposition and disclosed legal discrimination of high character, the times called for more than highly technical legalistic analysis. He did not ignore legal forms and prohibitions or sweep them aside with an impatient gesture; he was forced to go beyond them, or, rather, he penetrated to the foundations of a democratic government restrained by law." McLaughlin said further that as "It is the prime duty of a democratic statesman to maintain the very system on which his power rests," so "it is the main duty of a democratic nation to be democratic."<sup>7</sup> In other words, it was constitutional for Lincoln to act in ways that served

the end of the Constitution, namely, the preservation of a nation founded on the principles of the Declaration of Independence.

### III

Neely persuasively defends Lincoln against detractors who attribute to him imperial presidential ambitions. His interpretation, and McPherson's account of Lincoln's statecraft, might be illuminated in conclusion by reflection on the nature of the executive power in the American constitutional order.

The executive power is at once an essential element in modern constitutional government and the source of seemingly anti-constitutional tendencies. Defined literally, the term "executive" denotes an officer who executes the will of another, in the manner of an administrator. In the American Constitution the executive is under the fundamental law and is restrained by institutional checks and balances within the structure of the separation of powers. It is obvious, however, that the American President also possesses substantive policy making authority, which in the twentieth century has expanded to vast proportions. The executive power, a general grant of authority not defined in the text of the Constitution by reference to enumerated powers, has often been employed in time of national emergency outside of if not in conflict with legislative statutes or ordinary law. This development reflects the fact that the rule of law, in the form of legislatively adopted rules of action for the political community, cannot anticipate all the exigencies that arise in political life, including the circumstances in which statutes must be applied.

In modern government therefore it is the nature of the executive power to deal with contingencies that defy deliberation and choice, or that constitute the realm of necessity in political life. In discharging this responsibility the executive takes discretionary action in emergencies that may stand outside the formal deliberative procedure of law making. Yet, as Harvey C. Mansfield, Jr., argues, it is the distinctive feature of modern liberal government and the American polity in particular that the executive acts under the Constitution. In the design of the framers, the executive power is constitutionalized, rather than left outside the formal structure of the rule of law to represent extralegal discretion.<sup>8</sup> This incorporation does not resolve the potential conflict between the rule of law and executive discretion. It does, however, place the conflict within the structure of republican government where the people, the constituent power, can bring their deliberate judgment to bear on the manner of its resolution in the actions of lawmakers and executive officers.

When Lincoln took emergency action based on individual discretion and judgment, he acted not in his own name but in the name of the Constitution. He expressed this understanding of the executive power in his wartime writings. In

the Hodges letter of April 1864, for example, he declared: "I felt that measures otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution, through the preservation of the nation." He meant that while an action might conflict with a procedure in the Constitution or a statute adopted under constitutional forms, it was constitutional because it served the end or purpose of the Constitution. That end was to preserve, enhance, and unite more effectively a nation "conceived in liberty, and dedicated to the proposition that all men are created equal." Lincoln wrote in the Hodges letter: "... 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."<sup>9</sup>

Lincoln's decision to adopt military emancipation, although it can be viewed superficially as revolutionary, was constitutional in the deeper sense implied in this understanding of the executive power.<sup>10</sup> Lincoln's suspension of the writ of habeas corpus and defense of the nation through internal security measures were similarly constitutional. Of course the executive power can be used in ways that result in wrong actions that do injury to the public good. Under the Constitution, however, as Lincoln observed in response to Democrat criticism of his suspension of the writ of habeas corpus, if the executive "uses the power justly, the ... people will probably justify him; if he abuses it, he is in their hands, to be dealt with by all the modes they have reserved to themselves in the constitution."<sup>11</sup> For these reasons we may conclude that Lincoln was neither a revolutionary nor a dictator, but a constitutionalist who used the executive power to preserve and extend the liberty of the American Founding.

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## Notes

1. Don E. Fehrenbacher, "The Anti-Lincoln Tradition," *Papers of the Abraham Lincoln Association*, 4 (1982), p. 28.
2. See Gabor S. Boritt, ed., *The Historian's Lincoln: Pseudohistory, Psychohistory, and History* (Urbana: University of Illinois Press, 1988).
3. Steven Hayward, "The Children of Abraham," *Reason*, 23 (May 1991), pp. 24-31.
4. See Harry V. Jaffa, *Crisis of the House Divided: An Interpretation of the Issues in the Lincoln-Douglas Debates* (Chicago: University of Chicago Press, 1982 [orig. publ. 1959]); Glen E. Thurow, *Abraham Lincoln and American Political Religion* (Albany, N.Y.: State University of New York Press,

- 1976); Herman Belz, "Abraham Lincoln and American Constitutionalism," *The Review of Politics*, 50 (Spring 1988), pp. 169-197; Robert K. Faulkner, "Lincoln and the Constitution," in James W. Muller, ed., *The Revival of Constitutionalism* (Lincoln: University of Nebraska Press, 1988), pp. 172-200.
5. See Willmoore Kendall and George W. Carey, *The Basic Symbols of the American Political Tradition* (Baton Rouge: Louisiana State University Press, 1970); M. E. Bradford, "The Lincoln Legacy: A Long View," *Modern Age*, 24 (Fall 1980), pp. 355-363.

6. Roy P. Basler, et al., eds., *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick, N.J.: Rutgers University Press, 1953-55), V, p. 285.
7. Andrew C. McLaughlin, "Lincoln, the Constitution, and Democracy," *The International Journal of Ethics*, 47 (October 1936), pp. 1-3.
8. Harvey C. Mansfield, Jr., *Taming the Prince: The Ambivalence of Modern Executive Power* (New York: The Free Press, 1989), pp. 181-211, 247-278. Arthur Schlesinger, Jr., offers a similar argument in his lecture *War and the Constitution: Abraham Lincoln and Franklin D. Roosevelt*, 27th Fortenbaugh Lecture (Gettysburg, 1988), pp. 10-16.
9. Basler, ed., *Collected Works of Lincoln*, VII, p. 281.
10. I do not consider the question whether emancipation was also constitutional in the sense of giving expression to or fulfilling antislavery tendencies in the Constitution. McPherson ignores this question, in effect regarding the Constitution as a proslavery document.
11. Basler, ed., *Collected Works of Lincoln*, VI, p. 303.