

# LINCOLN LORE

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## LINCOLN AND THE CONSTITUTION

A contribution to a well-known religious journal claims that "Lincoln made a door mat of the Constitution." Another writer states in a popular magazine of large circulation that "Lincoln and Wilson were by far our worst Presidents at violating the Constitution."

While it would not be expected that one should attempt to answer these charges in so limited a space as this bulletin affords, the celebration of Constitution Week, just past, has encouraged the compilation of a few statements which Lincoln made with reference to the Constitution.

Abraham Lincoln delivered an address before the Young Men's Lyceum at Springfield, Illinois, on January 27, 1837, in which he said, "To the support of the Constitution and laws let every American pledge his life, his property, and his sacred honor—let every man remember that to violate the law is to trample on the blood of his father and to tear the charter of his own and his children's liberty." Lincoln at this time was but twenty-eight years of age and still a resident of the little village of New Salem.

In the debate with Douglas at Galesburg Lincoln had occasion to argue about the strength and jural authority of the Constitution. No one who reads his argument will conclude that he had any misgiving about the power of the Constitution.

On his way to Washington for the inaugural Lincoln spoke at Philadelphia. In referring to Independence Hall where both the Declaration of Independence and the Constitution were originally framed and adopted, Lincoln said: "All the political sentiments I entertain have been drawn, so far as I am able to dray them, from the sentiments which originated in and were given to the world from this hall."

If it were possible to select a subject for Lincoln's First Inaugural Address it might be worded something like this: "The Union as Viewed Through the Constitution." Lincoln for the first time emphasized the conclusion that the Union is perpetual. Some of the many excerpts from the address which made direct mention of the Constitution follow:

"I take the official oath today with no mental reservations, and with no purpose to construe the Constitution or laws by any hypercritical rules."

"I hold that, in contemplation of universal law and of the Constitution, the Union of these States is perpetual."

"Continue to execute all the express provisions of our National Constitution, and the Union will endure forever—it being impossible to destroy it except by some action not provided for in the instrument itself."

"The Union is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured, and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And, finally, in 1787 one of the declared objects for ordaining and establishing the Constitution was 'to form a more perfect Union'."

"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."

The signing of the Emancipation Proclamation caused the first general charge that Lincoln had violated the Constitution and his own viewpoint is expressed within the proclamation itself as follows:

"Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as commander-in-chief of the Army and Navy of the United States, in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord One Thousand Eight Hundred and Sixty-three, etc . . .

"And upon this act, sincerely believed to be an act of

justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God."

Some months after the signing of the Emancipation Proclamation, Lincoln had occasion to write a letter to James C. Conkling at Springfield, in which he used an expression which reveals that at this time he was still confident he had been within his constitutional rights in issuing the proclamation. He said:

"You dislike the Emancipation Proclamation, and perhaps would have it retracted. You say it is unconstitutional. I think differently. I think the Constitution invests its commander-in-chief with the law of war in time of war."

Next to the Emancipation Proclamation the Vallandigham case brought forth the most severe criticism of Lincoln's constitutional procedure. It had to do with the question of military arrests.

On May 19, 1863, a letter was written to Lincoln enclosing some resolutions drawn up by a public meeting at Albany. Some excerpts from Lincoln's reply follow:

"The meeting, by their resolutions, assert and argue that certain military arrests and proceedings following them, for which I am ultimately responsible are unconstitutional. I think they are not."

"Ours is a case of rebellion—so called by the resolutions before me—in fact, a clear, flagrant, and gigantic case of rebellion; and the provision of the Constitution that 'the privileges of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it,' is the provision which specially applies to our present case. This provision plainly attests the understanding of those who made the Constitution that ordinary courts of justice are inadequate to 'cases of rebellion'—attests their purpose that, in such cases, men may be held in custody whom the courts, acting on ordinary rule, would discharge."

"If I be wrong on this question of constitutional power, my error lies in believing that certain proceedings are constitutional when, in cases of rebellion or invasion, the public safety requires them, which would not be constitutional when, in absence of rebellion or invasion, the public safety does not require them; in other words, that the Constitution is not in its application in all respects the same in cases of rebellion or invasion involving the public safety, as it is in times of profound peace and public security."

Possibly one of the most important direct references bearing on Lincoln's attitude toward the Constitution is found in a letter written to A. G. Hodges, of Lexington, Kentucky, on April 4, 1864, to whom he wrote on the slavery question in part as follows:

"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 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 the 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 assume 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."