



Lincoln Lore

November, 1986

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GRANT AND CIVIL LIBERTIES SOME CLUES FROM HIS EARLY SERVICE IN MISSOURI

The bicentennial of the United States Constitution in 1987 brings into focus issues in the history of Lincoln's presidency which have been overlooked heretofore. Since the Revolution human liberty had not hung so precariously in the balance in America as it did during the Civil War. Nearly every Civil War commander made decisions which profoundly affected the lives and liberties of United States citizens not serving in the armed services. Save for a few spectacular cases that made their way into the highest court in the land, these routine conflicts between civilians and the military have been little chronicled or studied.

To recover some of these little-known incidents is to glimpse some American social history rarely seen. It also provides a body of cases or incidents which may be of use some day in assessing the overall fate of civil liberty in the Civil War. Finally, it shows some famous figures of the war acting in scenes they may not themselves have bothered to tell us about in their postwar reminiscences.

The early Civil War career of Ulysses S. Grant, most often studied in the past for clues to the military genius he would display later in the war, also provides interesting vignettes of the troubled condition of civil liberty in the United States from the earliest moments of civil war. Even before assuming command in the field, Grant, as a military aide to Governor Richard Yates of Illinois in the earliest weeks of the war, witnessed an event which highlights the early confusion over civil liberties. In St. Louis, on May 10, 1861, Grant apparently witnessed events surrounding the capture of the Missouri militia at Camp Jackson, on the western outskirts of the city.

The militia had most likely been assembled to seize the United States Arsenal in St. Louis for the secessionist cause. But Captain Nathaniel Lyon, with some United States Army troops and Unionist home guards organized by Francis P. Blair, Jr., the brother of Lincoln's Postmaster General, marched on the camp and

caused the surrender of the pro-Southern militia. A riot ensued as the prisoners were marched into St. Louis, and twenty-eight persons were killed.

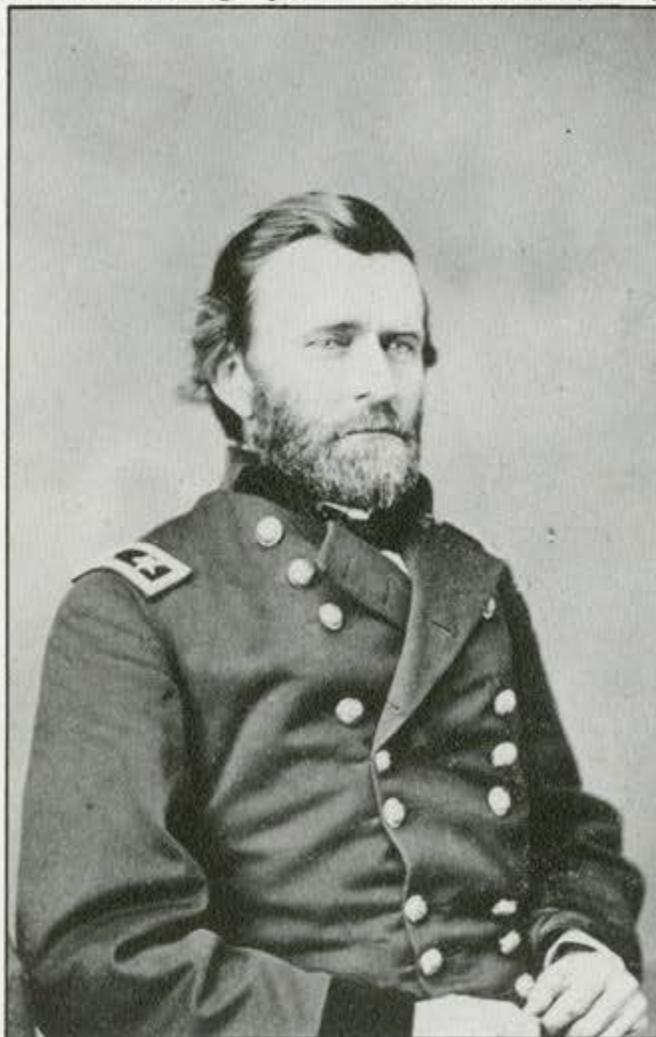
Just as Blair started out with Lyon for Camp Jackson on the tenth, Grant introduced himself and "expressed . . . sympathy for his purpose." Grant did not see the riot nor did he mention it in his famous *Memoirs*. But while riding in a street car that day, he encountered "a dapper little fellow — he would be called a dude at this day —" who was denouncing the Union bitterly and with much profanity. Excited Unionists in St. Louis had just pulled down a secession flag in front of a building, and the dude exclaimed, "Things have come to a _____ pretty

pass when a free people can't choose their own flag. Where I come from if a man dares to say a word in favor of the Union we hang him to a limb of the first tree we come to." Grant replied, ". . . after all we were not so intolerant in St. Louis as we might be; I had not seen a single rebel hung yet, nor heard of one; there were plenty of them who ought to be, however."

Large issues of legality and loyalty were already being raised by the Camp Jackson incident. A captain from Camp Jackson, named Emmett McDonald, was taken ten miles from St. Louis with some Illinois troops. Judge Samuel H. Treat of the United States Court, Eastern District of Missouri, issued a writ of habeas corpus for McDonald's release. General William S. Harney, who assumed command of the area, replied to Judge Treat on May 15, 1861:

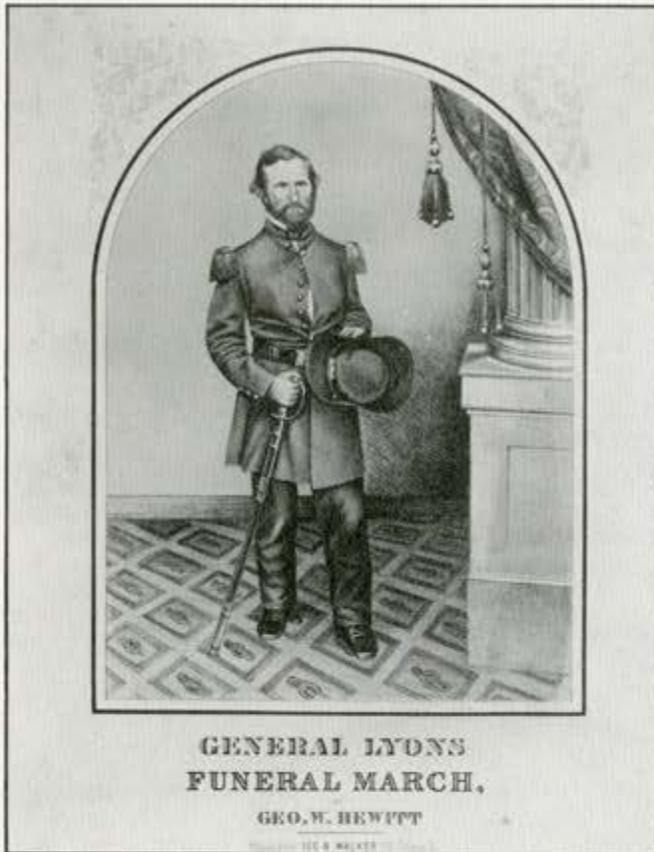
I declare my wish to sustain the Constitution and laws of the United States and of the State of Missouri. But while making this declaration I find myself in such a position that in deciding upon a particular case I must take to what I am compelled to regard as the higher law, even by so doing my conduct shall have the appearance of coming in conflict with the forms of law.

To obey President Lincoln's proclamation ordering the dispersion of all armed rebels



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FIGURE 1. Ulysses S. Grant.



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FIGURE 2. Sheet music honoring Nathaniel Lyon, killed in battle in Missouri in 1861.

hostile to the United States government, General Harney pleaded, forced him to disobey the judge's writ. The case attracted enough attention to be discussed in the article on habeas corpus in *The American Annual Cyclopaedia and Register of Important Events of the Year 1861*.

U. S. Grant may have been unaware of the developments in the McDonald case, as duty soon took him from St. Louis, but of one thing highlighted by the case, he and every other Union general who was to exercise authority in the West became aware: the Lincoln administration provided very little by way of explanation of their powers over citizens. By the time of General Harney's conflict with Judge Treat, President Lincoln's proclamation allowing General Winfield Scott to suspend the privilege of the writ of habeas corpus along military lines in the East was already over two weeks old. But Lincoln would do nothing to clarify the boundaries of military power and authority in the West until September and his sensational conflict at that time with General John C. Frémont over an order freeing the slaves of disloyal Missourians.

Until then, and long after for all practical purposes, the Western commanders were on their own. West Point and Annapolis paid little attention to the subject of international law or to any of the more abstract or philosophical questions of war. The generals would have to rely on native wit and instinct.

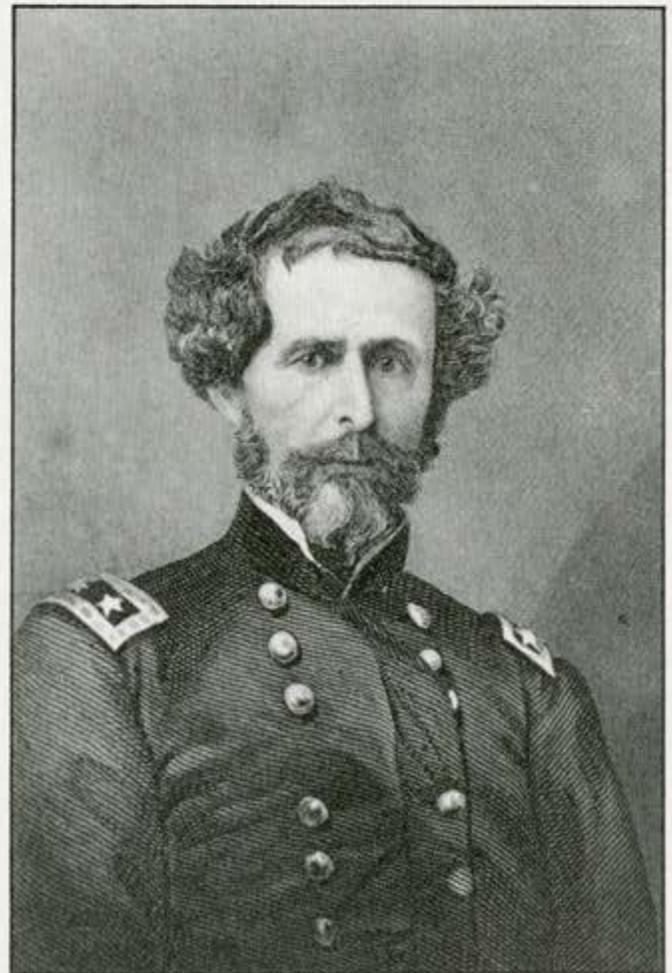
Grant's instincts proved to be practical, decisive, and tough. In several incidents of his early military career in the war, he showed himself willing to apply the military power at his disposal to bring about the practical result of crushing disloyalty without worrying much about law or precedent. Grant did not write about these incidents in his *Memoirs*, though he surely had records of them at hand when he composed the famous work in later life. Despite a notion to the contrary that often colors writing about military history in the Civil War, there really was no necessary conflict between

effective generalship and careful record-keeping. For every desk-bound paper-shuffler who proved inept and feeble in battle, there was a man of vigorous action, like Grant, who was also a systematic administrator and a meticulous archivist. One reason Grant's famous *Memoirs* are so good is that the old general had good records to consult when he finally sat down to write and reflect on his war years.

For whatever reason — perhaps the inconsequence of the incidents in a military career as important as Grant's, or perhaps their rather controversial nature — the general chose not to tell his readers about these incidents. Some of his biographers, even hostile ones, have followed the general's lead in not mentioning some of the incidents. Except to close readers of the *Official Records of the War of the Rebellion* or to readers of the definitive *Papers of Ulysses S. Grant*, some of these early scenes from Grant's life, therefore, may well be unknown.

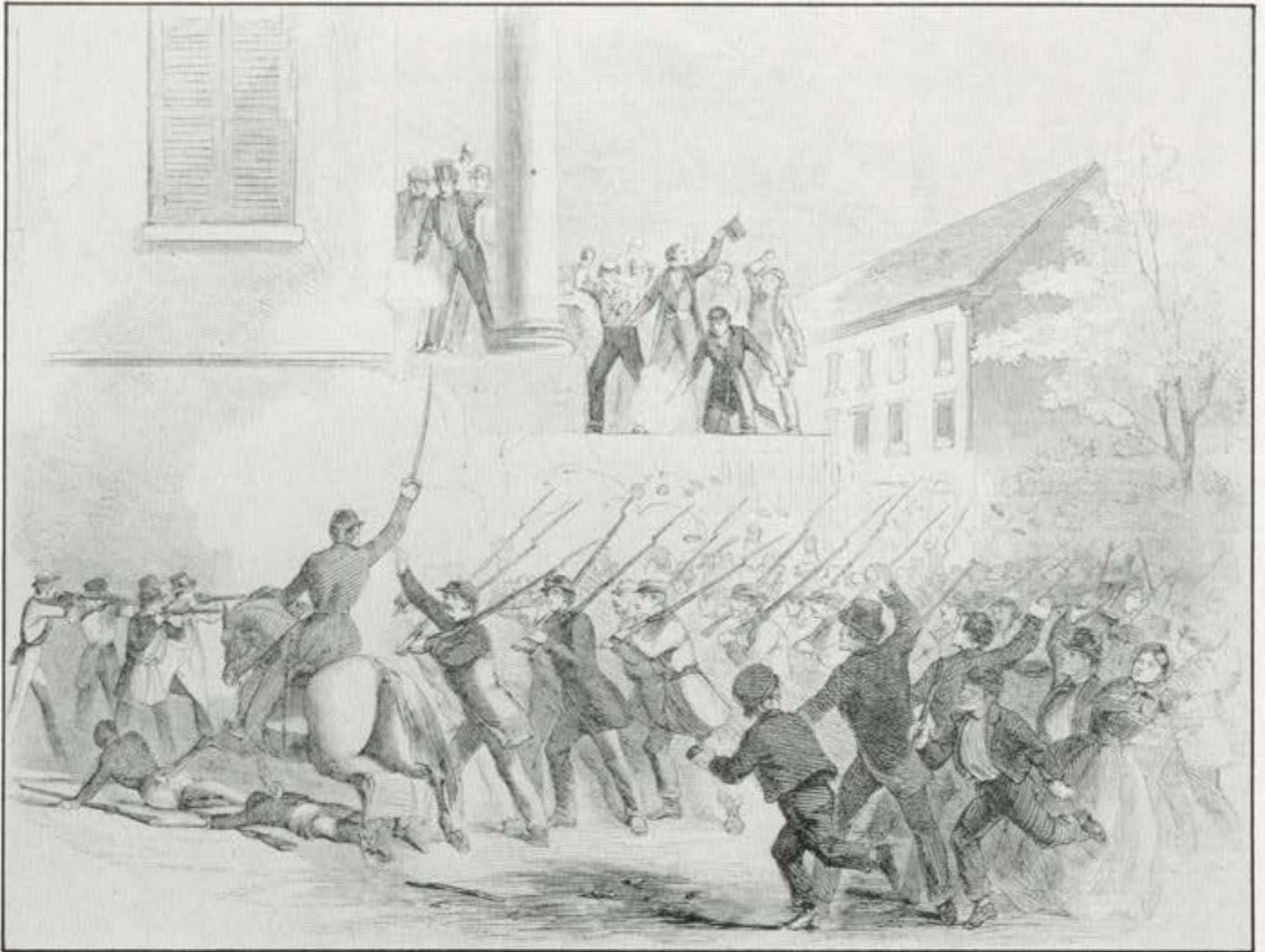
1. **A HOSTAGE INCIDENT.** By late August 1861 Grant was a Brigadier General commanding troops at Jefferson City, Missouri. On the twenty-fifth he sent a Captain Chitwood one of those ambivalent letters, so common in the Civil War, which seem to counsel caution and urge ferocity at the same time:

You will march your men through the country in an orderly manner. Allow no indiscriminate plundering — but everything taken must be by your direction, by persons detailed for the particular purpose, keeping an account of what taken, from whom, its value, etc. Arrests will not be made except for good reasons. A few leading and prominent secessionists may be carried along, however, as hostages, and released before arriving here. Property which you may know to have been used for the purpose of aiding the Rebel cause will be taken whether you require it or not. What you require for the



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FIGURE 3. John C. Frémont.



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FIGURE 4. The riot in St. Louis, as depicted in *Harper's Weekly*.

subsistence of your men and horses must be furnished by people of secession sentiments, and accounted for as stated above. No receipts are to be given unless you find it necessary to get supplies from friends.

By this time in August, General Frémont, commander of the Western Department, had taken affairs into his own hands and issued, on August 14, a declaration of martial law in the City and County of St. Louis. But Grant was in command many miles and several counties away from St. Louis. And, though the precise destination of Captain Chitwood's expedition is unknown, it almost certainly had nothing to do with St. Louis County.

Like the rest of the Union commanders in this rebellious but technically and legally loyal state, General Grant had, more or less on his own authority, to order the confiscation of private property, the arrest of private citizens, and the application of the laws of war to a civilian population — even to the point of ordering the taking of civilian hostages. Although he hoped for caution and insisted on circumspection and the use of certain procedural safeguards on the part of his subordinates, Grant had ultimately to leave crucial judgments to be made by questionable agents. For the decision in regard to who was or was not a secessionist, Grant was apparently relying in this case on a home guard commander. In other words, the decision would be made perhaps by local men with old scores to settle.

2. **A NEWSPAPER SUPPRESSED.** The day after he issued the order to Captain Chitwood, General Grant ordered Colonel William H. Worthington of the Fifth Iowa Volunteers, to "See E. B. McPherson, a true Union man, who will show you

a copy of the 'Booneville Patriot.' Bring all the printing material, type &c with you. Arrest J. L. Stevens and bring him with you, and some copies of the paper he edits. Baily is a particularly obnoxious person and should be arrested."

Grant almost certainly did not dream up on his own the suppression of the *Booneville Patriot* or the arrest of prominent secessionists there. Frémont suppressed the *State Journal*, published in St. Louis, in July, even before he declared martial law in the city. And, as William F. Swindler has shown, newspapers in Cape Girardeau, Hannibal, and Lexington were suppressed before the *Booneville* paper, and papers in Warrensburg, Platte City, Troy, Osceola, Oregon, and Washington fell before the year was over. On January 2, 1862, the Provost Marshal in St. Louis ordered newspapers published outside the city to furnish copies to him each day for inspection or face certain suppression.

3. **SUPPRESSING THE U.S. MAIL.** Earlier in August, when Grant's headquarters were at Ironton, Missouri, he reported to his seniors in St. Louis:

To-day [August 12] my Guards detained the mail coming in and I have stoped the delivery of letters to a few suspected persons, and the forwarding of six packages of letters, as follows: four to points in Arkansas, one to Memphis, via Little Rock, & one to Brunot. These will be detained awaiting the decision of the Department Commander thereon.

I am entirely without orders for my guidance in matters like the above and without recent Acts of Congress which bear upon them.

(To be continued)

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by Ruth E. Cook

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LINCOLN COLLEGE 1985-24

Lincoln/Newsletter/(Device)/Volume V, Number 5 Lincoln, Ill. Fall, 1985/(Cover title)/

Pamphlet, paper, 11" x 8 1/2", (12) pp., illus. Requests for information should be directed to Lincoln College, Lincoln, IL 62656.

LINCOLN MEMORIAL UNIVERSITY 1985-25

Lincoln Memorial University Press/(Device)/Fall 1985/Vol. 87, No. 3/Lincoln Herald/A Magazine devoted to historical research in the field of Lincolniana and/the Civil War, and to the promotion/of Lincoln Ideals in American/Education./[Harrogate, Tenn.]

Pamphlet, flexible boards, 10 1/8" x 7 1/8", 66-104 pp., illus., price per single issue, \$5.00.

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Pamphlet, flexible boards, 10 1/8" x 7 1/8", 105-140 pp., illus., price per single issue, \$5.00.

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Special Inaugural Edition/The Lincoln Times/Volume 1, Number 5 January-February, 1985, Indianapolis, Indiana/(Cover title)/

Pamphlet, paper, 17 1/4" x 11 1/4", 20 (1) pp., illus. For subscription information write to The Lincoln Times, P.O. Box 208, Carmel, IN 46032.

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1986

[ABRAHAM LINCOLN-VROEGINDEWEY COLLECTION] 1986-1

Abraham Lincoln/(Photograph 0-26)/Vroegindewey Collection/

Pamphlet, paper, 9" x 6", (28) pp., entire contents illustrated with photographs offered for sale. Requests for information should be directed to Gary Vroegindewey, 210 S. Keene Street, Columbia, MO 65201.

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Pamphlet, paper, 10" x 6 3/4", 402-405 pp., illus. Requests for information should be directed to Dr. Joseph George, Jr., Department of History, Villanova University, Villanova, PA 19085.

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Lincoln Parks/The Story Behind The Scenery/by Larry Waldron/(Biographical sketch of the author)/... /... /Published in cooperation with Eastern National Park & Monument Association/Edited by Mary Lu Moore; Designed by K. C. DenDooven/Lincoln: The Story Behind The Scenery ©1986 KC Publications, Inc./LC 86-81141. ISBN 0-88714-008-4./

Pamphlet, paper, 12" x 9", 48 (14) pp., illus., price, \$4.50 plus \$1.50 postage and handling. Copy autographed by author. Requests should be directed to KC Publications, P.O. Box 14883, Las Vegas, NV 89114.