



Lincoln Lore

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An Article by Harold Holzer

Abraham Lincoln:

THE IMAGE

In our modern age of 24-hour televised news, illustrated magazines, and constant information on the internet, it is difficult to imagine a time when mass-produced pictures were considered newsworthy and precious. In the Lincoln era, engravings and lithographs of national leaders, and the events that made them heroes, were widely published, aggressively marketed, eagerly collected, and lovingly displayed in many family parlors around the nation.

Lincoln and image-making in America achieved popularity together. In the late 1850s, just as his fame blossomed nationwide, photography enjoyed a technological revolution. Old-fashioned, one-image-only copper and tin plates yielded to glass negatives that could produce unlimited copies of each pose. Illustrated newspapers—still incapable of printing photographs—nonetheless began publishing cartoons and wood engravings. Publishers like Currier & Ives churned out single-sheet images by the thousands, easily affordable, and well-suited for framing.

Engravers and lithographers “discovered” Lincoln after he unexpectedly won the presidential nomination in May 1860. Faced with a “crisis” that promised huge profits—for Lincoln was all but unknown—printmakers responded with an avalanche of images introducing the Illinois nominee to an

eager public. Many were softened to mask the candidate’s homely appearance. Aware that his detractors wanted pictures that ridiculed Lincoln, many of these same publishers simultaneously issued images that lampooned him.

Printmaking was a commercial medium, and the publishers made Lincoln a favorite subject not because they admired him, but because he earned them money. For this reason, the types of prints Lincoln inspired over the next five years—images that variously depicted him as a candidate, commander-in-chief, emancipator, guardian of the Union, suppressor of civil liberties, and ultimately, national martyr—accurately reflected public attitudes.

Introducing Mr. Lincoln

Lincoln was vaulted into national prominence in 1858 by the widely attended and reported Lincoln-Douglas debates. Though he lost the Senate election, the fame he won by sharing the limelight with Douglas transformed him into a legitimate contender for the 1860 Republican presidential nomination. In February of that year, he delivered a brilliant speech at New York’s Cooper Union and posed the same day for a flattering new photograph by Mathew Brady. When the speech and portrait were mass-produced, Lincoln earned national prominence.

Still, Lincoln remained a contender only, not a front-runner for the presidential nod.

(continued on page 3)



"Long Abraham Lincoln a Little Longer," a cartoon by Frank Bellew, appeared in Harper's Weekly on November 26, 1864, after Lincoln's re-election.

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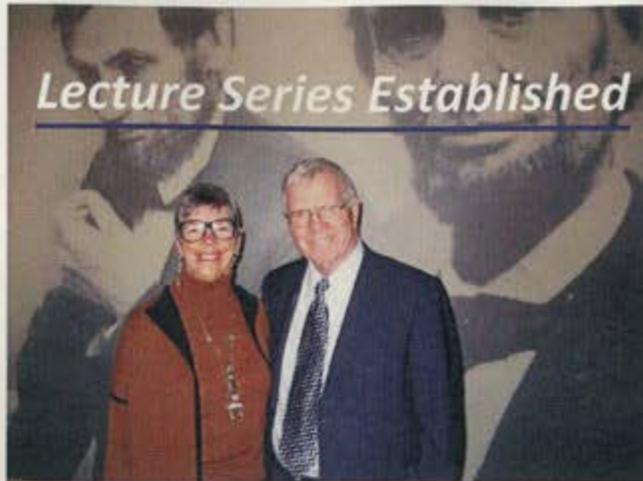
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Board members of Friends of the Lincoln Collection
of Indiana have voted to establish
THE ROLLAND FAMILY LECTURE.

*This series, to be presented annually in May,
will honor Ian and Mimi Rolland for their support
for the study of Abraham Lincoln.*

2011 McMurtry Lecture

The McMurtry lecture will be given by Ronald C. White, Jr.

Friday, September 9th

*at the Allen County Public Library, Fort Wayne
and*

Saturday, September 10th

at the Indiana State Museum, Indianapolis.

*The event in Fort Wayne will also include an informal program
by White at a "brown bag lunch"
on the day of the lecture.*

*(Members receiving Lincoln Lore will receive
separate invitations to these events.)*

His managers at the May Republican National Convention in Chicago pursued a strategy of making "Honest Abe" every delegate's second choice for the nomination. The plan worked. When front-runner William H. Seward of New York faltered, the Lincoln forces gained momentum, and catapulted him to a third-ballot victory.

At the moment he won, Lincoln supporters sitting in the balconies showered the hall with hand-colored woodcuts of the freshly anointed nominee. Issued on cheap paper in a hasty style, few survived the trampling feet of excited delegates. Hence, they are among the rarest of Lincoln prints. Lincoln and his wife, Mary, never liked the photo on which it was based, an 1857 pose notable for the "disordered condition" of his hair. The portrait became especially unsuitable once Republican leaders heard a Chicago newsboy hawking copies: "Here's your likeness of Old Abe! Will look a good deal better when he gets his hair combed!"

Brady's Cooper Union photo suited supporters—and the printmakers—as a source for dignified-looking prints. The Brady pose inspired engravings, lithographs, patriotic envelopes, stationery, sheet-music covers, campaign textiles, pins, and broadsides. The public appetite for Lincoln portraits showed no signs of abating, and publishers searched for additional images. The most ambitious printmakers sent artists to Springfield to create paintings that could be used for new engravings and lithographs, like Leopold Grozelier's lithograph of Thomas Hicks oil on canvas, the first painting of Lincoln from life.

True to the tradition of the day, Lincoln did not campaign personally. These prints represented the candidate

throughout the country. But they were an entirely commercial—not a political—phenomenon. Unlike today's campaign paraphernalia, they were not commissioned by the party, but by the publishers, and thus accurately mirrored public interest. As such they testify to Lincoln's growing fame.

Railing at the Candidates: Caricatures and Cartoons

Not all 1860 campaign prints were designed to honor the candidates. Some of the same publishers who issued flattering portraits designed for Lincoln's admirers also printed savage cartoons meant to appeal to his enemies. The resulting flurry of caricatures added a touch of clever humor to a divisive presidential campaign.

Democratic nominee Stephen A. Douglas was mercilessly lampooned as a child in search of his mother when he headed to New England, allegedly to visit his ailing parent, but managed to make "unseemly" campaign speeches along the route. Constitutional Union Party candidate, John Bell was depicted as a man of mystery—a large "bell" covering his head—while the Southern Democrats' nominee, John C. Breckinridge, was linked to the unpopular incumbent President, James Buchanan.

The log rail became the canonical emblem of Lincoln cartoons. He was usually portrayed in a workingman's shirt, rather than the refined coat and tie worn by his rivals. Lincoln used his rail to fend off opponents trying to break into the White House, or to drive the symbolic "wildcat" of sectional discord back into the Republican bag. Sympathetic caricatures showed him dressed in the oilcloth slickers worn by "Wide Awakes," the pro-Lincoln marching groups

whose members carried torches in campaign parades throughout the North.

Anti-Lincoln cartoons showed Lincoln straddling the ubiquitous rail (symbolizing the planks of the party platform), wincing in discomfort, or riding it hobbyhorse style to the dangerous tune of the controversial Republican editor Horace Greeley. The most virulent anti-Lincoln cartoons focused on the explosive issue of race, warning that Lincoln was an untested politician who might favor such "radical" policies as the immediate abolition of slavery and racial equality. These cartoons required careful reading; the characters spoke to each other, and to the viewers, to emphasize the political bias of each picture.

We know little about how these cartoons were used. Published on separate sheets of heavy-stock paper, rather than on newspaper editorial pages, they were too ribald for the home. The scant surviving evidence suggests that most cartoons ended up on tavern walls, political clubhouses, or in store windows. English visitor Charles Dickens noticed a Lincoln cartoon in a shop during an 1860 visit to New York. Whether they influenced voters is impossible to know. They certainly enlivened the presidential campaign, and introduced many of the essential, indelible elements of the Lincoln image.

Honest Old Abe

The satirical cartoon strain was never the dominant one in Victorian culture. Responding to the satirical strain was the more powerful sentimental strain.

Lincoln's face—its moles, scars, and other flaws neatly masked by sympathetic artists—seemed to reveal strength, determination, and wisdom. Flattering portraits served as powerful antidotes to

rumors that Lincoln was simply too ugly to serve as President ("Don't, for God's sake, show his picture," joked one 1860 Democratic campaign song.) The symbols of his rise from obscurity—the log cabin, the log rail, the rail-splitter's maul, and the flatboat—reminded viewers of the limitless opportunities of American democracy. Printmakers supplied portraits designed to elevate his status, showing him seated in symbolic chairs of state, amidst patriotic stars-and-stripes, and with piles of books suggesting his wisdom. Such prints might be as exaggerated as cartoons or caricatures, but they spoke eloquently to Republican supporters.

When Lincoln grew a beard following his election in November 1860, his image took on another dimension: the "Honest Old Abe" of pro-Lincoln campaign prints became the dignified "Uncle Abraham" of presidential portraiture. So eager was the public to see pictorial evidence of the President's new image, that many printmakers simply slapped imagined whiskers on their now-outdated beardless campaign prints. The resulting pictures were occasionally ridiculous—but judging from the many and varied copies that survive, wildly popular.

The Anti-Lincoln Image

The greatest caricaturist of the day was located in the enemy's camp. Adalbert Johann Volck (1828-1912) was a Bavarian-born etcher who emigrated to Baltimore, a city awash in anti-Union sentiment. Baltimore was so hostile that Lincoln was persuaded to sneak through the city to avoid assassination en route to his inauguration—an event Volck satirized mercilessly by depicting a heavily disguised Lincoln peering from a box car,

frightened by the sight of a harmless cat. Like many Marylanders, Volck argued that the Republican North worshipped the black man, and that Emancipation was an invitation to bloody slave insurrections. According to Volck, Lincoln composed his Emancipation Proclamation with an inkwell grasped by Satan, his foot resting rudely on a Bible.

Volck's technical skills were refracted through a sharp satirical eye. The President's fondness for telling funny stories inspired one etching of Lincoln as a court jester. In one of his prints, Volck portrayed Lincoln as the hopelessly idealistic Don Quixote, carrying a John Brown pike instead of a lance (or rail). He is accompanied by the much-hated Union general Benjamin Butler, known in the South as "the Beast of New Orleans," portrayed as Sancho Panza, complete with purloined Southern cutlery in his belt.

Volck's output has been identified as "Confederate" caricature, when in reality they were Copperhead cartoons, reflective of the anti-Lincoln sentiment that reigned in many Union areas, especially Border States. Other anti-Lincoln prints of the day were widely circulated. The Administration's policies on civil liberties and emancipation unleashed a torrent of critical caricature. Fortunately for Lincoln, they were not produced by major talents like Volck.

The Emancipator

"If my name ever goes into history," Lincoln confided the day he signed the Emancipation Proclamation, "it will be for this act." America's printmakers, eventually flooded the market with images of the President as "the Great Emancipator;" in some he was shown literally lifting slaves

from their knees as if he had personally gone to their plantations to unshackle them. But such images did not greet the Proclamation—or its author—immediately. Though it went into effect on January 1, 1863, the document did not inspire prints until 1864, when they became fodder in the presidential campaign.

After Lincoln's death, printmakers seemed unsure how to deal with a subject that remained sensitive among white Americans, however epochal it seems in the light of history. Would white patrons buy prints that depicted people of color? Would African Americans earn enough money to buy such mementoes for their own homes? For a time, printmakers did not know the answers to these questions. Encouraged by Frederick Douglass, who urged free blacks to adorn their homes with prints—particularly prints of Lincoln (he placed William Edgar Marshall's Lincoln engraving in his own house)—printmakers eventually produced a deluge of Emancipation graphics, cementing in public memory a vital chapter of the Lincoln story. But few emancipation prints bear a copyright date before 1865—when Lincoln's death and martyrdom transformed his most controversial act into his most sacred effort.

One print might have made a great impact during Lincoln's lifetime had it reached the public in a timely manner. When, in 1864, Lincoln signed on to receive the first proof copy of A. H. Ritchie's engraving of Francis B. Carpenter's monumental painting, *The First Reading of the Emancipation Proclamation*, he had every reason to believe his engraving would arrive shortly. But Ritchie's labors took him two years. By the time the print appeared, Lincoln was dead.

To no one's surprise, the engraving became a best seller—probably the best-selling Lincoln print of all time.

The Most Important Presidential Election

The presidential election of 1864 proved that free elections could go forward during a Civil War. The race pitted Lincoln against Democrat George B. McClellan, the former General of the Army of the Potomac who detested the Republican policy on Emancipation, but was saddled by a peace plank in his party platform that called the war a failure and urged armistice. McClellan disavowed the plank, but cartoonists exploited the "flip-flopping" by depicting McClellan as an acrobat perilously mounted simultaneously on two horses (war and peace) galloping in opposite directions.

Race played a major role throughout the 1864 campaign, in some cases bringing revolutionary (if sadly temporary) changes in the customary, minstrel-like depictions of black people in popular art. One cartoon, suggesting that McClellan's election would be a victory for Confederate leader Jefferson Davis, featured an unusual depiction of racial harmony, as white and black children emerge from a school. A contrary view held that McClellan was the genuine patriot, trying to keep extremists like Lincoln and Davis from tearing the country apart.

Most anti-Lincoln campaign cartoons warned ominously of the dangers of a bi-racial society. One series of caricatures evolved from depicting Lincoln *with* black people to depicting him as a black man—the Bard's famous Moor, Othello, a portrayal inspired by the President's fondness for Shakespeare. Other cartoons implied that despite four

years in the White House, Lincoln remained a clown, incapable of taking the national crisis seriously. His sense of humor, a quality that has endeared him to modern America, was something of a liability during this hotly contested presidential campaign. Other anti-Lincoln campaign cartoonists seized on the issue of civil liberties as a weapon. One illustrated the burial of the American Constitution.

A libelous report that Lincoln had asked a companion to sing a humorous tune on a visit to the casualty-strewn Antietam battlefield led to yet another hostile cartoon. In truth, Lincoln had asked for the song to cheer him up *after* the gloomy visit; he was miles from the battlefield when the event occurred. Lincoln angrily drafted a public letter to answer the charge, but ultimately decided not to issue it. The story was not completely scotched until the 1890s, when Lincoln's companion on the day of the visit published the text.

One of the best cartoons of the campaign—in simplicity of conception, aptness of characterization, and cleverness of literary allusion—combined two elements of the President's reputation: his fondness for both humor and Shakespearean tragedy. It showed McClellan as Hamlet (a metaphor for the general's infamous indecisiveness) holding aloft Lincoln's head in the famous burial scene, exclaiming: "A fellow of infinite jest." The print managed to criticize Lincoln and McClellan alike.

Death of a President

Nothing Abraham Lincoln did in his life ever inspired—or profited—America's printmakers as did his death. The Lincoln assassination was perhaps the most momentous news event of

the 19th century—sending the victorious North spiraling in a single week from the giddy optimism of newly restored peace to the full despair of mass mourning. Engravers and lithographers immediately launched an intense competition to reach the public first with depictions of the events of April 14 and April 15, 1865.

In their rush, many prints got the details muddled—some inaccurately portraying the presidential box and its occupants at Ford's Theatre, others adding wholly imagined details (like the lithograph that showed Lincoln rising to his feet after being shot, and clutching his bloody head). Still, with no other way for widely scattered Americans to visualize the incident, all these prints found enthusiastic audiences in the months and weeks after the murder.

The assassin, John Wilkes Booth, instantly emerged as a villain of Satanic proportions—shown as a coward sneaking up on Lincoln from behind, or, in one lithograph, receiving instructions and inspiration from the Devil himself in the seconds before shooting the President.

Lincoln died nine hours after the shooting in a tiny bedroom inside a boarding house across the street from the theatre. Though the death chamber could only accommodate a few visitors at the time, most printmakers exaggerated its proportions in order to show as many famous witnesses in their pictures as possible. Mary Lincoln—though she was not in the room when her husband breathed his last—was routinely shown in such scenes, as was Vice President Andrew Johnson, though his visit had been brief and perfunctory. Lincoln's beloved son, Tad, was also depicted, though in reality he was never brought to the scene that sorrowful night.

Scholars have nicknamed the phenomenon the "rubber room" effect: the invention of settings that expanded as needed to accommodate a panoply of figures appropriate for a history-altering event. Americans in 1865 desperately wanted depictions, however inaccurate, that provided assurance that Lincoln had died in a manner befitting our first assassinated President.

Father Abraham

The apogee of the sentimental image of Abraham Lincoln came in depictions of the President with his family. Never wholly cognizant of the power of image-making, Lincoln did not imagine the impact of the "cult of the First Family," and did not live to know of its effect on his reputation. But the myriad Lincoln family prints published after his death launched a phenomenon visible at every newsstand. Magazines vied with each other to blazon forth color pictures and pulp stories about the President's wife and children.

Lincoln never provided the printmakers or the sentimental public with a suitable portrait of the First Family (a term not used in Lincoln's day). Mrs. Lincoln was never photographed with her husband, according to legend because she worried about the difference in their heights—"the long and short of it," Lincoln liked to joke. Lincoln's sons all sat for the cameras in Washington, but only his youngest boy, "Tad," ever posed with his father.

Their first photograph together, taken on February 9, 1864 at the suggestion of artist Francis B. Carpenter, showed the two examining a thick album of photographs at Mathew Brady's Washington studio. Oddly, the charming pose produced no known print adaptations until

after Lincoln's assassination fourteen months later. Suddenly, the photo album looked enough like a family bible to inspire several prints that so identified it, suggesting the influence of religion in Lincoln's home. Other printmakers used the image of Lincoln and Tad as the central feature for composite family pictures for which the public now yearned.

There was a sad irony to the sudden popularity of these Lincoln family engravings and lithographs. The strain of war left the living President little time for his wife and children, as his oldest son, Robert, later bitterly testified. But after the President's death, his admirers demanded pictorial assurance that their beleaguered leader had enjoyed the solace of home and hearth during these nightmare years—even if it had not been the case.

Invariably, the rush to produce such pictures produced errors, too. Some prints invented long-haired drummer boys to represent Tad, while mis-identifying the Brady image of Tad as his late older brother, Willie. Other printmakers haphazardly assembled their composites without adjusting each image to the proper proportion. Still others remained uncertain of the children's names. "Tad" was short for Thomas, but some image-makers identified him as "Thaddeus."

Long on love and short on accuracy, these prints added a personal dimension to the Lincoln image that no previous president had enjoyed since the time of Washington. The pictures were popular and powerful, and became best sellers.

American Saint

With his assassination, Abraham Lincoln's critics—so

much in evidence pictorially throughout his Administration—were silenced. In his younger days, Lincoln had spoken of the "political religion" of the nation. Now he became its patron saint.

To depict the martyred President in a manner their audiences now demanded, engravers and lithographers turned to two symbols that Americans held most sacred: religion and George Washington. The sixteenth President was promptly made the equal of the first; engravers and lithographers showed them arm-in-arm bestriding the re-united national map, or side-by-side as if they were contemporaries. Religious imagery showed Washington welcoming Lincoln into heaven. Print audiences decorated their homes with images that imagined a secular American afterworld, in which these two heroes reigned as gods.

In just five years, the graphic arts had introduced, embellished, and transformed the Lincoln image. They not only illustrated Lincoln's transfiguration, but arguably influenced it as well. The backwoods candidate for President about whom audiences knew so little in 1860 became, by 1865, in the words to the caption of one typically reverential post-assassination print: "The best beloved of the nation." The graphic arts had played a major role in that metamorphosis.

Harold Holzer is Senior Vice President of External Affairs at the Metropolitan Museum of Art. He is the author/editor of 41 books on Abraham Lincoln. Harold currently serves as the Chairman of the Abraham Lincoln Bicentennial Foundation.

Abraham Lincoln: The Image

*A special exhibition from the Lincoln Financial Foundation Collection
and the Indiana State Museum*

During Abraham Lincoln's time, engravings and lithographs of political and military leaders, and of the events that made them famous, were aggressively marketed, eagerly collected and fondly displayed in family parlors around the nation. This exhibition analyzes Lincoln's portrayal in political cartoons, campaign broadsides, photographs, lithographs and memorials from 1857 to 1870. Images were selected to illustrate how Lincoln was viewed by the people of his time and how he has been remembered since.



The exhibit was originally prepared for the Lincoln Museum by guest curator Harold Holzer, pictured at left.

Introducing Mr. Lincoln

Abraham Lincoln was not always the most famous and instantly recognizable American. Only in 1858, when the 49-year-old frontier lawyer ran for a seat in the U.S. Senate did those beyond the borders of Illinois first come to know Lincoln's name. This familiarity spread rapidly following the widely attended and commonly reported Lincoln-Douglas debates. Although he went on to lose the election that fall, the fame he won by sharing the limelight with Stephen Douglas transformed Lincoln into a legitimate contender for the 1860 Republican presidential nomination. True to the tradition of the day, after becoming the candidate in May 1860, Lincoln stayed at home and did no personal campaigning. These prints, in a sense, represented the nominee throughout the county.

For information regarding the rental of the exhibit please contact:

Friends of the Lincoln Collection of Indiana
PO Box 11083
Fort Wayne IN 46855

E.H. Brown, engraver. Presidential Campaign Flyer, Chicago, 1860. Woodcut

The earliest mass-produced picture of Lincoln was printed for the 1860 Republican convention. The printmaker had to base the

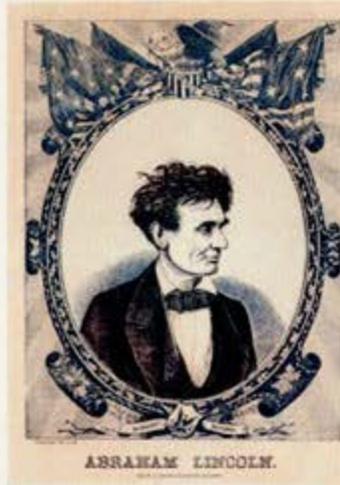
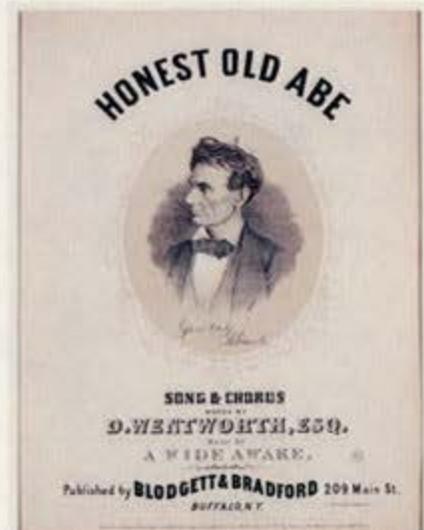


image on a three-year-old photograph — with Lincoln's wildest hairstyle. The identification is in the handwriting of Lincoln's private secretary, John G. Nicolay.

D. Wentworth, Esq., lyricist; Blodgett & Bradford, publishers. "Honest Old Abe." Buffalo, New York, 1860. Sheet Music

Like the public, image-makers knew next to nothing about Lincoln when he became the nominee. They seized on scraps of personal history that neatly illustrated the party's emphasis on Lincoln's inspiring rise from log cabin origins.



John Chester Buttre. "Abraham Lincoln." New York, 1860. Mezzotint engraving

In a creative use of Mathew Brady's famous pose, this printmaker adapted a popular 1859 print of John C. Fremont (a fellow Republican and 1856 nominee for president). Using Fremont's body and Lincoln's head, Buttre presented Lincoln as a refined and dignified statesman.



Currier & Ives, publisher. "Honorable Abraham Lincoln ..." New York, 1860. Lithograph

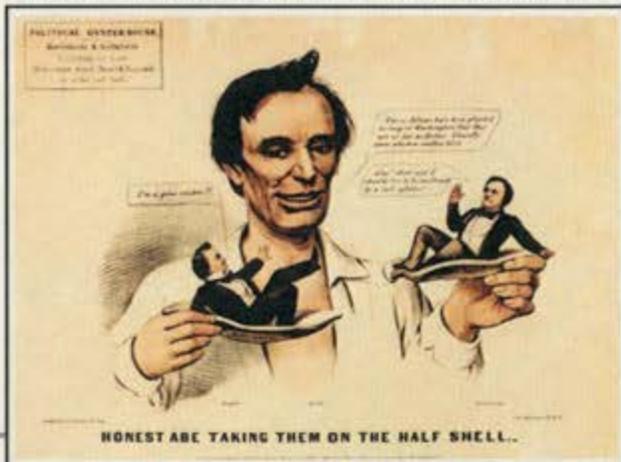


When Lincoln grew a beard following his election in 1860, the "Honest Abe" of campaign prints became the dignified "Uncle Abraham" of presidential portraiture. The public was so eager to see the new image

that many printmakers slapped wholly imagined whiskers on their outdated prints. The resulting pictures were often ridiculous, but, considering the many copies that survive, wildly popular.

Currier & Ives, publisher. "Honest Abe Taking Them on the Half Shell." New York, 1860. Hand-colored lithograph (probably by Louis Maurer)

Political observers assumed the split in the Democratic Party into Northern and Southern factions made Lincoln's victory certain. This portrait was unusually daring for printmakers accustomed to slavishly copying photographs. Victorian gentleman wanted to appear earnest, and no one knows what Lincoln's smile, or his teeth, really looked like.



Alexander Ritchie. "The First Reading of the Emancipation Proclamation" New York, 1866. After a painting by Francis Carpenter. Steel plate engraving

When, in 1864, Lincoln signed on to receive the first proof copy of this engraving, he believed his print would arrive shortly. Although he had died by the time the engraving appeared, the image became the best-selling Lincoln print of all time.



J.L. Magee, publisher. "Satan Tempting Booth to the Murder." Philadelphia, 1865. Lithograph

The assassin, John Wilkes Booth, instantly emerged as a villain of satanic proportions —



shown as a coward receiving instructions and inspiration from the devil himself.

D.T. Wiest, lithographer; William Smith, publisher. "In Memory of Abraham Lincoln." Philadelphia, 1865. Handcolored lithograph

An 1801 print of the saints assisting Washington's ascension into heaven was slightly reworked to offer equal reverence to Lincoln. Admirers decorated their homes with secular images of an American afterworld in which its two heroes reigned as gods.



J.C. Buttre, publisher. "The Lincoln Family." New York, 1867. After a painting by Francis B. Carpenter. Mezzotint engraving

A photograph of the entire Lincoln family was never taken. Though the war left the President little time for family, after his death, admirers demanded pictorial assurance that their beleaguered leader had enjoyed the solace of home and hearth. Of the innumerable Lincoln family composite images that were produced, Buttre's engraving after Carpenter's painting is, arguably, the finest.



The Collection

In 1905, a group of businessmen led by Arthur Hall founded The Lincoln National Life Insurance Company in Fort Wayne, Indiana. An admirer of Abraham Lincoln, Hall received permission from the president's son Robert to use the Lincoln name. Robert also provided a photograph he regarded as "a very good likeness" that became the company's logo. In 1928 the company created the Lincoln Historical Research Foundation, which began collecting Lincoln artifacts, and opened to the public what would later become The Lincoln Museum in 1931. Over the course of 80 years, the collection grew to include a trove of archival materials and more than 30,000 artifacts, among them 7,000 prints and engravings.

In 2008, the Lincoln Financial Group, now based in Philadelphia, ended its support for the museum in Fort Wayne. The Lincoln Financial Foundation needed to find an appropriate home for the internationally renowned collection. Following a rigorous nationwide search, the Foundation awarded the collection to a consortium of Indiana institutions headed by the Allen County Public Library (Fort Wayne) and the Indiana State Museum (Indianapolis) on behalf of the citizens of Indiana. Archival materials, documents and photographs are housed at ACPL; while three-dimensional objects, fine art and sheet music are kept at the Indiana State Museum.

Interview with Ron White

by Sara Gabbard

SG: You have achieved great success in writing about both Lincoln's life in general and his speaking and writing skills specifically. On the latter topic, is there an important and meaningful Lincoln speech which is frequently overlooked or given only a cursory glance?

RW: One of Lincoln's most famous speeches in his own day was his so-called "Letter to James C. Conkling" of August 26, 1863. I say "so-called" because this is the title given it by Editor Roy Basler in *The Collected Works of Abraham Lincoln* published in the 1950s, but I think the title throws us off the trail because this is really one of Lincoln's speeches. I choose to call it Lincoln's "Speech to the Springfield Rally" because the letter to Conkling would be read by Conkling to the largest Union rally of the war on September 3, 1863.

A modern criticism of Lincoln has been that even though he signed the Emancipation Proclamation, he did not have any real feeling for African-Americans. In this speech Lincoln began by acknowledging that many in his audience were critical of the Emancipation Proclamation.

The Proclamation made provision for the employment of black soldiers in the army, but Lincoln, along with most in the military, believed their use, if any, would not be as soldiers. During 1863 Grant and others convinced Lincoln that black soldiers had a strong role to play, not simply in denying their labor to the Confederacy, but as fighting men of great courage. Lincoln concludes with an emotional affirmation of black soldiers.

Peace does not appear so distant as it did. I hope it will come soon, and come to stay; and so come as to be worth the keeping in all future time. It will then have been proved that, among free men, there can be no successful appeal from the ballot to the bullet; and that they who take such appeal are sure to lose their case, and pay the cost. And then, there will be some black men who can remember that, with silent tongue, and clenched teeth, and steady eye, and well-poised bayonet, they have helped mankind on to this great consummation; while, I fear, there will be some white ones, unable to forget that, with malignant heart, and deceitful speech, they have strove to hinder it.

This speech became important in causing abolitionists to take a fresh look at Lincoln. Not long after, he received an invitation to speak at Gettysburg. Members of his cabinet thought he would decline—he declined

almost all invitations to speak outside of Washington up to this time—but he accepted. I believe he thought he needed to find more opportunities to speak about his vision for the nation.

SG: Conversely, is there a speech which has been overrated?

RW: Now this is tough. You are asking someone who wrote about "The Eloquent President" to find a speech that was not eloquent. I am not sure I can.

SG: While we look back today and marvel at Lincoln's use of language, what was the reaction of the crowds who heard him speak? Were some speeches received better than others?

RW: Aristotle, in his *Treatise on Rhetoric*, argues that *ethos*, credibility, what today we might call authenticity, is the key to persuasion.

We have many reports in Illinois that when audiences first encountered Lincoln they wondered about this gangly man with tousled hair whose clothes did not always look pressed and who spoke in a high tenor voice. But in these face-to-face encounters, audiences quickly discerned Lincoln's character and were thus drawn to his words.

We have often heard that the Gettysburg Address was not well received. According to his law associate, Ward Hill Lamon, Lincoln told him at Gettysburg, "that speech won't scour." But Lamon, not always reliable, made these comments some years later. Lincoln's address was not immediately popular in part because it took second fiddle to Edward Everett's long address. Some editors did not recognize its compelling vision.

It certainly is true that after Lincoln's death people looked back through the prism of his assassination to see more clearly the brilliance of his speeches.

SG: In your research for *A. Lincoln: A Biography*, what was the most surprising new material which you found?

RW: First, I was able to take advantage of the completed findings of the Lincoln Legal Project that was only in its beginning stages when David Donald wrote his biography in 1995. Early drafts of *A. Lincoln* included more material on Lincoln the lawyer but my editor kept telling me, "Ron, this is not very sexy." Much of Lincoln's legal career—handling hundreds of debt cases—was not very sexy.

Second, most people are not aware of the new Lincoln documents as well as photographs which have turned up just in the last 10 years. Let me cite just two.

In 2004, a descendent of Ohio Republican Congressman Thomas Corwin walked into the Abraham Lincoln Bookshop in Chicago claiming she had a letter

from Lincoln to her great grandfather. Dan Weinberg authenticated this lost letter, written on October 9, 1859. Lincoln, not yet thinking of himself as a candidate for president, offered his opinion on the stance that the Republican Party and candidate should take regarding slavery.

Do not misunderstand me as saying Illinois must have an extreme antislavery candidate! I do not so mean. We must have, though, a man who recognizes that Slavery issue as being a living issue of the day; who does not hesitate to declare slavery a wrong, nor to deal with it as such; who believes in the power, and duty of Congress to prevent the spread of it.

In 2008, a man in Longmont, Colorado, clicking on the Library of Congress website, believed a photograph identified as the First Inauguration of Ulysses S. Grant, was really the Second Inauguration of Lincoln. The photo showed too many soldiers and horses to be 1869. Carol Johnson, a curator, checked the three glass negatives, and declared, "These negatives add to our knowledge of this special event."

SG: Did the experience cause you to look at some aspects of his life from a different perspective than previously?

RW: Although I had written two earlier books on Lincoln, writing the biography did cause me to look at aspects of his life through a different, more focused, lens.

I have long been intrigued by the process of Lincoln's thinking, writing, and speaking. The Basler edition of *The Collected Works of Abraham Lincoln* labels as "fragments" a whole series of notes and reflections intended for Lincoln's eyes only. I think these fragments are a key to understanding Lincoln. Some, to be sure, are the drafts on issues like slavery that will appear later in his public speeches. Others, like the "Meditation on the Divine Will," discovered by John Hay after Lincoln's death—Hay gave the undated reflection a title—reveal an aspect of Lincoln's thinking—his own faith journey—that the public Lincoln had not revealed at the time he wrote it. I believe the Meditation is the chief intellectual resource for his remarkable Second Inaugural Address where Lincoln will speak about the role of God in the Civil War.

I became impressed by the way Lincoln grew into his role as Commander-in-Chief. Checking books out of the Library of Congress, he taught himself how to fulfill his ill-defined role in the Constitution. He gave more time to this part of his job description than he ever imagined—and so did I in writing about it.

SG: How should we approach the sesquicentennial of Lincoln's presidency and the Civil War? What topics need to be re-visited?

RW: We already are. The topic of Lincoln and slavery is endlessly fascinating. It is disturbing that the recent Pew poll on the causes of the Civil War found that the majority of people under 30 believe the main cause of the Civil War was states' rights.

I think the enormity of the Civil War tends to eclipse other actions of Lincoln as President—such as his strong backing for building the transcontinental railroad.

Lincoln, looking back at the Federalists and the Jeffersonian Republicans, came to believe that the two parties had about changed places by his time—if the Jeffersonians argued for a limited government, the Republicans argued for a strong central government. I wonder what Lincoln would think about Republicans and Democrats today. Casting aside the criticisms of libertarians or neo-Confederates—that Lincoln is the devil incarnate as the architect of a dictatorial presidency—we do need to look at the conception of the role of government held by Lincoln and the Republicans. In our answer to this complex question we need to be aware of the way the Civil War, just as World War II, augmented the size and scope of government.

SG: Are you planning other Lincoln-related books?

RW: I am writing a comprehensive biography of Ulysses S. Grant that will be published by Random House. This biography will be Lincoln-related because I plan to spend more time exploring the relationship between Lincoln and Grant than has been the case in Grant biographies. They had a relationship, in the sense that each man was taking the measure of the other, even before they finally met. After March 8, 1864, they saw each other on several occasions and their mutual admiration grew. Another aspect of this is Grant's conception of his role as politician and president after Lincoln's assassination.

I have no plans at the moment to write another book on Lincoln.

Ronald C. White Jr. is the author of:
A. Lincoln: A Biography
Lincoln's Greatest Speech
The Eloquent President



Lincoln and Taney and the Leadership Lessons of Ex Parte Merryman

By Colonel Mark Toole, U. S. Army

On the first floor of the U.S. Supreme Court building there are two very impressive wood-paneled conference rooms. The Court generally uses the rooms to host group visits and for ceremonial purposes. The rooms are situated across a hallway from each other in a wing of the building. They are called the East and West conference rooms. They are accessible past a metal detector on the left side of the Great Hall facing the Court Chamber and through a bronzed metal gate that must be unlocked by a Supreme Court police officer. Inside each room are large heavy inlaid tables and comfortable chairs which can be arranged for meetings and presentations. One notable feature of the rooms are the portraits of all of the past Chief Justices. The portraits are displayed on the wood-paneled walls of each conference room. Most prominently displayed, of course, is the portrait of Chief Justice John Marshall, who occupies a spot directly above the ornate marble mantle of a fireplace at the focal point of the East Conference Room.

The portraits of the various other justices from John Jay to Warren Burger and now, I assume, William Rehnquist, are arrayed around the room. Including Chief Justice John Roberts, seventeen individuals have served as Chief Justice of the Supreme Court of the United States. The portraits of half of the sixteen past-Chiefs are displayed in one room and the other half in the other. One portrait, itself apparently more somber than the others occupies a place of conspicuously less



Chief Justice Roger B. Taney (1777-1864) served on the United States Supreme Court from 1836 until his death. (LFA-0335)

prominence than the others. Seemingly in a permanent shadow in one corner of the East Conference room is the portrait of a dour looking frail old man dressed in black. It is the portrait of Roger Brooke Taney. While present with a group visiting the Court and meeting with a current Justice in that room in 2003, the Justice described the portraits for the court visitors. Upon coming to Taney's portrait, the Justice said, "and there is Taney, where he belongs, in the shadows."⁽¹⁾

Another current Justice, in a question/answer session following a lecture at a law school was asked what former Chief Justice he would most like to have a conversation with. He said he would like to meet with Roger Taney who, he said, in *Dred Scott* wrote the "most disastrous opinion in Supreme Court history." The Justice then said, "I'd like to have a conversation with him before he did that."⁽²⁾ The comment served to confirm Taney's ignominious place in

American history. Today, Lincoln is consistently ranked, along with George Washington, as one of our greatest Presidents. Among the many honors bestowed on him include streets in many cities named for him, elementary schools bear his name, and a grand monument to him dominates the Washington, D.C., landscape. For his part, Taney's monument in Washington, D.C., a portrait displayed in the shadows, is far less conspicuous.

Perhaps the difference in treatment by history is warranted. Few would contend that *Dred Scott* was not a disastrous decision. But, in their closest professional legal encounter, where the judiciary, under the leadership of Chief Justice Taney, had a chance to measure the legitimacy of executive action by President Lincoln, it may have been Taney who had the better legal argument. This paper examines the interaction of Taney and Lincoln in *Ex Parte Merryman* and concludes that while Justice Taney made a compelling argument on the limits of executive power under the Constitution, he unfortunately focused on the exercise of that power without giving adequate consideration to the specific context of the executive act and gave too little weight to the power of the President as Commander in Chief to preserve the union in time of rebellion. A native of Maryland, living with family in Baltimore while the circuit court was in session and hearing *Ex Parte Merryman*, Taney, had he fully considered those matters, might have upheld the President's act in suspending habeas corpus.

One of Chief Justice Taney's biographers spoke of how alike he and Lincoln were. Walker Lewis wrote that both were "tall, gaunt, unprepossessing, sensitive, introspective, kindly, considerate, unassuming; each had a will of iron, a rigid code of personal integrity, and a strong sense of humanity."⁽³⁾

Lewis suggests that under different circumstances, the two men might have found much in common.⁽⁴⁾

In fact, it was said of him that he inherited his father's temper but little else.⁽⁵⁾ Taney's father, however, did apparently think that he should go into the profession of law and one thing that he and Lincoln did have in common was that they were superb lawyers and were recognized as such by their contemporaries.⁽⁶⁾

At the beginning of the Civil War, the Lincoln Administration was concerned that Maryland might secede from the Union and join the Confederacy. The Administration's concerns were well-founded. Many in Maryland sympathized with the Confederacy. Those sympathies took the form of violent actions in April 1861, when union soldiers passed through Baltimore on their way to support the defense of Washington. Civilians and soldiers were killed as riots occurred when soldiers from Massachusetts marched through the city to board a train that would take them to the city of Washington, where, at the time, the threat of rebel attack was very real. The secession of Maryland would inflict a severe blow on administration efforts to suppress the rebellion and restore the union. Maryland's strategic location North and East of Washington made it vital that it remain in the Union.

John Merryman was an officer in the Maryland militia. When the governor of the state ordered that railroad bridges through the state be destroyed, Merryman participated in the execution of that order. It was that conduct that led to his arrest on 25 May 1861, by Union military authorities. As Merryman explained in his petition for writ of habeas corpus filed on 26 May 1861, he was roused from his bed by soldiers without a warrant at about 0200 hours and taken to Fort McHenry where he was confined. Fort McHenry fell under the command of General George Cadwalader who, in civilian life, had been a practicing attorney.⁽⁷⁾ In his petition, Merryman claimed his arrest was unjustified and requested that Chief Justice Taney issue a writ of habeas corpus commanding General Cadwalader to produce Merryman before Taney and establish good cause for the arrest. The writ was delivered to Taney in Washington but, in evidence of the import Taney saw in the matter, he departed that same day for Baltimore and scheduled a hearing for the next day.

Chief Justice Taney issued an order directing that Cadwalader appear before him with Merryman and explain the circumstances of his arrest. Cadwalader did not appear but gave notice to Taney that Merryman was being charged with various acts of treason and was part of an organized effort to engage in rebellion against the United States. He further told Taney that he was "duly authorized by the President of the United States in such cases to suspend the writ of habeas corpus for the public safety."⁽⁸⁾

This may have been the first time Chief Justice Taney became aware of the President's delegation of the authority to military authorities to suspend the writ of habeas corpus. Still, an educated man, Taney was surely aware of the startling events and civil unrest in Baltimore, as well as the significance of that city and state in the early stages of the rebellion. In any event, Taney did not concede that Cadwalader could appropriately disregard the Court's order to produce Merryman. Taney issued a writ holding Cadwalader in contempt for not producing the body of Merryman and ordered his arrest. The Marshall was ordered to serve the writ on Cadwalader but when he returned he explained that he could not because he had been denied entry at Fort McHenry. Chief Justice Taney, recognizing the futility of continued efforts by the Marshall, announced from the bench that the officer was excused from doing anything more to produce Merryman or Cadwalader. Taney then announced that the President could not suspend the privilege of the writ of habeas corpus, nor authorize a military officer to do so. He then held that Cadwalader had no right to arrest and hold Merryman. He directed that Merryman should be released immediately. Finally, he stated that, in order that his oral opinion not be misunderstood, he would issue a written opinion on the matter. And, in a stinging rebuke to President Lincoln, he stated he would have it presented to him so that "he might perform his constitutional duty, to enforce the laws by securing obedience to the process of the United States."

Chief Justice Taney issued his opinion in *Ex Parte Merryman* on June 1, 1861. Interestingly, he issued it as the Chief Justice of the Supreme Court, not as a Justice sitting in Circuit Court in Baltimore, as he actually was. I could not determine if that was the normal way Supreme Court justices issued opinions when hearing cases in their circuits. If it was not, Taney may have thought that the opinion carried more weight if it was issued in his capacity as the Chief Justice sitting in chambers.

The opinion was relatively concise. Taney explained the facts and pointedly mentioned that before the hearing on Merryman's petition for the writ of habeas corpus, no official notice had been provided to the courts or the public that the President was claiming the power to suspend the writ and that he was exercising it. Despite an homage to the proper respect due the President's high office, in a somewhat condescending manner that characterized much of the opinion, the Chief Justice then indicated that he listened to the administration's claim of the power with some surprise because, as he indicated, everyone knew that "the privilege of the writ could not be suspended except by act of Congress."⁽⁹⁾

Chief Justice Taney pointed out that even President Jefferson, rather than acting on his own when addressing the grave concerns raised by the alleged treasonous conspiracy of Aaron Burr, asked Congress to suspend the writ. Even if Jefferson believed the public safety demanded it, according to Taney, it was recognized that the President did not have the power to suspend it. He pointed out that the power to suspend the writ is found in Art. I, § 9 and that that article is devoted to

the legislature and "has not the slightest reference to the Executive department."⁽¹⁰⁾ Taney indicated that the Framers were very guarded about conferring power on the Executive for fear it could be abused. Taney cited English legal precedent and Blackstone's commentaries and argued that under English law the writ of habeas corpus was the most significant protection against the danger of arbitrary usurpation of individual freedom by the English equivalent of the Executive, the Crown. His argument was essentially that knowing the purpose of the writ of habeas corpus, the Framers never would have put the power to suspend it in the hands of the party who could most endanger liberty, the Executive.

After a recitation on English law and precedent, Chief Justice Taney played the equivalent of constitutional law trump cards and cited Justice Joseph Story and Chief Justice John Marshall as authority for his opinion. I believe it is fair to say that those two individuals are today, and were then, giants of constitutional law. Taney cited Story's Commentaries on the Constitution for the proposition that Congress has the exclusive power to determine whether in cases of invasion or rebellion, the public safety requires the suspension of the writ of habeas corpus. He cited Marshall's opinion in the habeas proceedings of Bollman and Swartwout, two of Aaron Burr's confederates, that the power to determine whether public safety required suspension of the writ rested with Congress.

There seems little doubt that if Taney was citing Story and Marshall correctly, his opinion deserved some

credibility. It may be that part of the opinion in particular that led some legal scholars to find merit in Taney's views that President Lincoln had acted unconstitutionally in permitting military officers to suspend the writ. The opinion concluded by giving a dire warning that if habeas corpus can be usurped by a military authority as it had been in Merryman's case, the freedom of the people of the United States existed at the will and pleasure of Army officers. Finally, he repeated his smug determination, as previously expressed when he initially announced his opinion from the bench, to send his opinion and all the proceedings to the President so that he could do his constitutional duty to take care that the laws be faithfully executed.

Of course, what is never mentioned in Taney's opinion in *Ex Parte Merryman* is that, at the time, Congress was not in session and the President, as the only capable government entity, was trying to address a very real rebellion.

If Taney was trying to prompt some rash reaction from President Lincoln with the opinion, he was disappointed. Still, for his part, one could assume that Taney wrote from principle and was aware that he might face some personal consequences from his opinion and criticism of the Administration.

Taney's first biographer, Samuel Tyler, in an extremely admiring portrait, noted that as Taney left his daughter's home in Baltimore to deliver the opinion in *Ex Parte Merryman*, he commented that it was likely that he would be imprisoned in Fort McHenry before night, but that he was going to Court "to do his duty."⁽¹¹⁾ Whether

he was sincere or not in his expression of personal concern is another question. Taney, again, was a very intelligent man and, by that time, probably had enough awareness of Lincoln and the circumstances to have some confidence that any personal danger of being arrested was exaggerated. He wasn't specifically fomenting rebellion and, unlike Merryman, he wasn't intentionally trying to undermine federal efforts to deal with a rebellion by destroying telegraph lines and railroad bridges. He was simply doing his job and deciding a case brought before him. That said, Taney's opinion could have only served to arouse even greater hostility in Maryland towards the federal government and could have been used by Confederates as a means to further rationalize the "righteousness" of their secession. The idea being that a Lincoln administration was willing to oppress individual rights as well as state prerogatives and the secessionist's rebellious acts were justified.

In regards to Administration efforts to prevent Maryland from seceding, the opinion could not have been helpful. Still, in terms of a trade-off, the security promoted by quickly arresting and detaining individuals directly hindering federal government efforts to quell a rebellion and prohibiting their resort to civil courts likely hostile to those efforts, must have outweighed, in Lincoln's mind, the danger posed by an adverse opinion from Chief Justice Taney.

President Lincoln's response to the Ex Parte Merryman opinion was not rash but, rather, very pragmatic. He initially did nothing to directly address it. For Lincoln, Taney's decision in Ex Parte Merryman may

have confirmed a concern he expressed in his first inaugural address given less than three months earlier. In that speech he said that if the policy of the government on vital functions is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, then, "the people will have ceased to be their own rulers, having to that extent practically resigned their government into that hands of that eminent tribunal."⁽¹²⁾ He was referring, of course, to the Dred Scott case, a case that, probably to Taney's chagrin, had been a significant issue in the 1860 Presidential election campaign. But, Lincoln's thoughts on the matter could have applied to Merryman. In a time of national crisis, Lincoln surely doubted that the Supreme Court could absolutely bind the government from adequate response to a situation that threatened the very continuance of the government itself.

In that same address Lincoln spoke of avoiding hasty decisions. He said:

"Nothing valuable can be lost by taking time. If there be an object to hurry any of you, in hot haste, to a step which you would never take deliberately, that object will be frustrated by taking time; but no good object can be frustrated by it."⁽¹³⁾

Heeding his own advice, over a month after it was handed down, Lincoln, without ever publicly commenting directly on Taney's opinion in Ex Parte Merryman, made reference to the situation in his Message to Congress in Special Session on July 4, 1861. In that speech he gave Congress a detailed accounting on events at Fort Sumter, the legality of secession, and addressed his actions

as President, including a calling forth of the militia, prior to the reconvening of Congress. In particular, President Lincoln addressed his authorization to military authorities to suspend the privilege of the writ of habeas corpus. Without ever specifically identifying the Merryman case, he recognized that the legality of his authorization had been "questioned" and that the attention of the country had been drawn to the idea that the individual who is constitutionally "sworn to 'take care that the laws be faithfully executed' should not himself violate them."⁽¹⁴⁾ Injecting context, he explained the weak logic of that argument by recognizing that in a rebellion all laws were in danger of being violated and the Executive, in the limited suspension of one, was trying to see that all the rest would be faithfully executed. Significantly, he said, "are all the laws but one to go unexecuted, and the Government itself go to pieces, lest that one be violated?"⁽¹⁵⁾ With that statement, he captured the essence of the problem he was dealing with and one Chief Justice Taney had neglected to acknowledge.

Absent a developing rebellion, President Lincoln might have agreed with the arguments on the limits of executive power put forth by Taney in Merryman. The fact remains, as Lincoln stated in his First Inaugural, as the new President he was taking office in a time of "great and peculiar difficulty." As he said, "[a] disruption of the Federal Union, heretofore only menaced, is now formidably attempted."⁽¹⁶⁾ At that inauguration, Justice Taney, there to administer the oath of office, sat literally a few feet from President Lincoln. He was fully aware of the

relevant facts that he chose to ignore or marginalize, in Merryman's case. The Union was being torn apart in May of 1861. Putting aside that inconvenient circumstance, Taney's opinion has great merit.

Two years later, in responding to criticism from Albany Democrats over the arrest and military trial of Clement Vallandigham, a vocal opponent of Federal efforts in Ohio, President Lincoln offered further justification for the decision to suspend habeas corpus. Lincoln's reasoning in the Vallandigham case was equally applicable to Merryman. The Albany Democrats were upset over the arrest and trial by military tribunal of Vallandigham, a former Congressman from Ohio and strong supporter of state's rights and vocal opponent to the Federal cause in the Civil War.⁽¹⁷⁾ Vallandigham had been arrested on the order of General Ambrose Burnside, Commander of the Department of Ohio. Lincoln professed a belief that certain proceedings were constitutional when, in cases of rebellion or invasion, the public safety requires them, but, those proceedings would not be constitutional when, in the absence of rebellion or invasion, the public safety did not require them. His point was that the application of Constitutional protections was different in time of invasion or rebellion than in times of peace and public security.⁽¹⁸⁾ As Lincoln explained, among the reasons that Vallandigham was arrested was because he, like Merryman before him, was laboring to leave the rebellion without an adequate military force to suppress it. Vallandigham, like Merryman, was "warring upon the military, and this gave the military constitutional

jurisdiction to lay hands upon him."⁽¹⁹⁾

In addition to his intelligence, compassion, and determination, I believe one of the greatest attributes that Lincoln had as a leader was what we call today an ability to see the big picture. That ability permitted him to act pragmatically. I think that Lincoln, as a lawyer who understood the Constitution and, as a student of history, cherished the principle of the rule of law. His faith in the rule of law was strong but his confidence in the Supreme Court had been shaken by its decision in the Dred Scott case. He had respect for the Court, but not much faith in Chief Justice Taney. Lincoln understood that if he did not take decisive action in Maryland in the Spring of 1861, that key state might also secede and join the confederacy. The direct consequence of that would be the need to move the Federal capital from Washington, D.C. The potential detriment that move posed to efforts to preserve the Union was profound. Lincoln understood that. If Taney understood the concept, he did not afford that likelihood appropriate consideration.

In the Spring of 1861, President Lincoln took decisive actions that, at a critical juncture in the early days of the Civil War, might have prevented Maryland from seceding. Chief Justice Taney, author of the regrettable Dred Scott opinion that, whatever his intent in drafting it, served to further divide a troubled nation over the issue of slavery, was antagonistic to those efforts. As he acknowledged in his First Inaugural, Lincoln took office in a time of great and peculiar difficulty. There was no precedent to guide the Executive on how to constitutionally address a

civil war. While it seems accepted today that in time of invasion or rebellion, if the public safety demands, only Congress has the power to suspend the writ of habeas corpus, that question had not been ruled on by a court prior to 1861. Under the circumstances, it would be hard to label as unreasonable President Lincoln's determination that in the incipient days of a rebellion, where the public safety required it, he could suspend the writ of habeas corpus. That is particularly true when danger to the government was imminent and Congress was not in session. The personal legacy Chief Justice Taney shaped with his opinion in Dred Scott was not redeemed by his opinion in Ex Parte Merryman. He might have been able to accomplish a great deal of good in that case by highlighting the extraordinarily difficult choices facing the Administration in a time of crisis, and, perhaps, while the issue wasn't directly before him,⁽²⁰⁾ he might have commented on the illegality of secession. He did neither. While he may not have wanted to preserve slavery, considering his landed aristocratic background, his bias and sympathies were probably shaded more with Virginia and the South than they were with the Lincoln Administration.⁽²¹⁾ On the contrary, when the country most needed an insightful leader capable of appropriately balancing decisiveness and pragmatism, it found him in Abraham Lincoln. In the early days of the war, it is difficult to conceive of all the difficulties with which Lincoln had to deal. One of those difficulties was Chief Justice Roger B. Taney. Their relative positions in history are now fixed. For Chief Justice Taney, that is unfortunate.

- (1) Authors visit to Supreme Court with USMA cadets, March 2003
- (2) Jason Plautz, "Chief Justice Roberts Displays Wit at Law School Lecture," North by Northwestern (2 Feb 2007) <http://www.northbynorthwestern.com/2007/02/1690/chief-justice-roberts-displays-wit-at-law-school-lecture/> accessed, 7 January 2011).
- (3) Walker Lewis, *Without Fear or Favor, A Biography of Chief Justice Roger Brooke Taney*, (Boston, Houghton Mifflin and Company, 1965), 445.
- (4) Ibid.
- (5) James Simon, *Lincoln and Taney: Slavery, Secession, and the President's War Powers*, (New York: Simon and Shuster Paperbacks, 2006), 6.
- (6) Ibid.
- (7) Coincidentally, Cadwalader's brother was a Federal District Court Judge in Philadelphia, PA.
- (8) General Cadwalader's response to Chief Justice Taney's Writ of Habeas Corpus, 27 May 1861. in Basler, Roy P., *Abraham Lincoln, His Speeches and Writing* (585).
- (9) Ex Parte Merryman, 17 F. Cas. 144 (1861).
- (10) Ibid.
- (11) Samuel Tyler, *Memoir of Roger Brooke Taney, LL.D.*, (Baltimore: John Murphy & Co., 1872), 427.
- (12) Basler, *Abraham Lincoln, His Speeches and Writing, First Inaugural Address*, 585.
- (13) Ibid. at 588.
- (14) Ibid. at 600.
- (15) Ibid. at 601.
- (16) Ibid. at 582.
- (17) Vallandigham's arrest and subsequent trial by military tribunal is, arguably, more constitutionally troubling than the Merryman case, however, the Supreme Court, asserting a lack of jurisdiction, refused to hear the case.
- (18) Ibid. at 705.
- (19) Ibid. at 704.
- (20) Just as the issue of African-American citizenship had not been directly before him in Dred Scott.
- (21) Lewis, at 441. Pertinently, Lewis wrote, "In Maryland and the so-called border states, slavery was on the way out. Nor did Taney and those who thought as he did wish to prolong it. What they wanted to preserve was their accustomed way of life and the right to control their own affairs."

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Perspectives on the Civil War: An Essay Review

By Myron A. Marty

1861: THE CIVIL WAR AWAKENING:

Adam Goodheart: Alfred A. Knopf, 2011:
481 pages.

LINCOLN AND CITIZENS' RIGHTS IN CIVIL WAR MISSOURI: BALANCING FREEDOM AND SECURITY:

Dennis Boman: LSU Press, 2011: 356 pages.

Observing the sesquicentennial anniversary of the American Civil War (2011-2015) gives us a chance to refresh our understanding of events that claim a permanent place in our collective memories. In the years between such milestone anniversaries as this, Civil War devotees, especially those most interested in the military aspects of the War, do their part to keep interest in the War alive by participating in "roundtable discussions" and reenacting battles. Scholars use the celebration of anniversaries to offer insightful perspectives to remembrances of the conflict. The books considered here complement one another very well, although they are starkly different in purpose, style, and content.

Adam Goodheart's *1861: The Civil War Awakening* is a selective review of major events and characters across the country in the years leading to the War and in the first half of 1861. Written in a conversational style, Goodheart embellishes his narrative by seeming to say, from time to time, "that reminds me of a story." Such stories, including some appearing in endnotes, add immeasurably to the appeal of the book.

Dennis Boman's more narrowly focused *Lincoln and Citizens' Rights in Civil War Missouri* is a workmanlike account of nitty-gritty aspects of the bloody conflict in Missouri for the duration of the war. Lincoln's dealings with citizens' rights, Boman asserts, are revealed mainly through orders issued to his commanders in the state, particularly Nathaniel Lyon, Henry W. Halleck, and John C. Frémont. Lincoln's inclination, he writes, "was to leave the details of war to the generals and their subordinates as much as possible," but in critical situations he found it necessary to intervene, for as a border state, Missouri, like Kentucky, was vital to the Union's efforts.

Goodheart describes the Civil War as "not just a Southern rebellion but a nationwide revolution—fought even from within the seceding

states—for freedom.” The War began, he asserts, “with the raising of a Union flag, not the firing of a Confederate shot.” The South’s protracted rebellion failed, and “the Confederacy was fated to become a historical dead end,” but the revolution, driven by progressive impulses “to create new freedoms” and by conservative tendencies seeking “to preserve a cherished legacy, reinvented America.”

By telling stories about events in locales where issues between North and South were contested, Goodheart gives readers a sense of what it was like to have been there. For example, after a brief account of Abraham Lincoln’s election as president and his virtual invisibility in subsequent months, he turns to anti-slavery sentiments and actions in the Boston area and to a slave auction in the nation’s capital. Attempts, then and now, to deny that slavery was the central issue in the conflict meet a convincing rebuttal in Goodheart’s stories.

The War began in the Charleston, South Carolina harbor, where Union forces, directed by leaders in Washington, sought unsuccessfully to preserve Fort Sumter as a federal base, while the Confederacy battled to take control of the island fortress. Gripping accounts of the diplomatic and military maneuvers surrounding this contest reveal that while this might have been seen as a quick and bloodless victory for the secessionists, raising the Confederate flag there turned out to be, Goodheart writes, their “worst strategic blunder.”

Lincoln saw it that way, too, remarking to a confidant: “They attacked Sumter—it fell, and thus, did more service than it otherwise could.” But why and how? Perhaps, Goodheart muses, there was an explanatory power in the flags themselves and their wordless symbolism. Citizens could see a flag as representing their sentiments, no matter the diverse feelings of the flag’s supporters. In any event, Lincoln’s call for 75,000 volunteers after the fall of Fort Sumter produced a rush of men far exceeding that number. They were eager to fight to preserve the flag of the United States.

Goodheart describes the first soldiers in New York marching proudly down Broadway “with heavy dirks and bowie knives tucked into each belt for hand-to-hand fighting, and cigars in each headband for the more leisurely hours of soldiering.” In St. Louis, writes Goodheart, a group of German women, not wanting to be mere onlookers while their men dedicated themselves “with joyful courage to the service of the Fatherland,”

made a flag, “stitched together out of heavy silk with stars of silver thread.” It was for a regiment of Missouri volunteers. Across its red and white stripes they painted in gold letters: “III. Regiment Missouri Volunteers. *Lyons Fahnenwacht*.” “Lyon’s Color Guard” was a new unit under the command of Franz Sigel, a German immigrant.

Nathaniel Lyon would command Union forces for a few months in Missouri. He “embodied in his five-foot-five frame nearly everything the Southerners loathed and feared,” Goodheart remarks, and he “hated the South, detested its authoritarian institutions, and tasted bile at the very thought of secessionist treason.” Even though some called him mentally unbalanced, Lyon inspired loyalty in his troops. On August 10, 1862, in an ill-advised battle with secessionists at Wilson’s Creek in southwest Missouri, he became the first Union general to die in the Civil War. During those months, incidentally, two future heroes, William Tecumseh Sherman and Ulysses S. Grant, were serving as a trolley car executive in St. Louis and a luckless clerk.

Throughout the book, Goodheart dramatizes key points by following the adventures of singular figures and citing succinct quotations from them. One such is James Garfield, a young professor at the Western Reserve Eclectic Institute (Hiram College today). He met Lincoln when the president-elect’s train, en route to Washington, stopped in Columbus, Ohio, on February 13, 1861. Puzzling lines in Lincoln’s lackluster speech to the state legislature (e.g., “[T]here is nothing going wrong. . . . We entertain different views upon political questions, but nobody is suffering anything”), disappointed Garfield and many others. But that did not dampen his pleasure in meeting Lincoln at a reception that evening. He wrote to a friend that Lincoln’s “evident marks of indomitable will” gave him “great hopes for the country.” Driven by his own indomitable will, he became a brigadier general in the Union army and commanded troops at Shiloh and Chickamauga. Garfield left the army “at Lincoln’s behest,” to be elected to the United States House of Representatives, where he was a staunch supporter of emancipation and civil rights.

Another captivating figure is Elmer Ellsworth, who, seemingly coming from nowhere, attracted considerable attention, including that of Lincoln. He led a handpicked corps of sixty volunteers in sensational, morale-building maneuvers he learned from a French immigrant who had served in an elite

fighting force, known as Zouaves. Circumstances soon allowed him to form a special friendship with the President. So close was their relationship that when Ellsworth was shot after removing a Confederate flag from the roof of a hotel in Alexandria, Virginia, his death affected Lincoln "like no other soldier's in the four years that followed."



Jessie Benton Frémont
(1824-1902),
daughter of
Sen. Thomas Hart Benton
and wife of
John C. Frémont, was
a writer and reformer.
(OC-0594)

Yet another is Jessie Frémont, the wife of John C. Frémont, the Union military commander in Missouri. She traveled by train to Washington to protest Lincoln's countermanding her husband's edict "summarily liberating all slaves in the state belonging to masters who aided the rebel cause." Lincoln was adamant, and offended her by remarking, "You are quite a female politician." Years later she wrote: "Strange, isn't it, that when a man expresses a conviction fearlessly, he is reported as having made a trenchant and forceful statement, but when a woman speaks thus earnestly, she is reported as a lady who has lost her temper."

Toward the end of the book, Goodheart provides an astute critique of Lincoln's first message to Congress on July 4, 1861. New to the presidency, he toiled for months preparing it. Those who criticized him for taking so long, including Ralph Waldo Emerson, did not understand, says Goodheart, that Lincoln "had been arming himself for the terrible conflict ahead." He "never again needed to ask himself whether he should be fighting or what he was fighting for. With these large questions settled, the smaller ones of how to fight often answered themselves."

Boman's *Lincoln and Citizens' Rights in Civil War Missouri* provides a valuable case study of the state's role in preserving the Union. It shows that nothing was accomplished easily in this border state, as there seemed to be perpetual guerrilla and political warfare between secessionists and Unionists, persistent conflict between radical and conservative anti-slavery factions, and, justified by military necessity, frequent suppression of citizens' rights.

That there was a secession crisis in Missouri, the eighth most populous state in the Union, is not surprising. The slave population had grown from around 87,000 in 1850 to nearly 115,000 in 1860 (almost ten percent of the state's total). Slave interests were well represented in the legislature and found support in all parts of the state. Missouri shared borders with other slave states—Arkansas, Tennessee, and Kentucky—and with the Kansas Territory, where bloody battles over slavery in the 1850s spilled into the state. Kansas was admitted to the United States as a free state in January 1861. Arkansas joined the Confederacy in May 1861 and Tennessee a month later. Kentucky remained in the Union.

In 1861, secessionists controlled Missouri's entire state government, and the governor, Claiborne Jackson, strongly favored secession and worked toward accomplishing it. Hoping for support for his cause, he called a convention "to determine Missouri's future standing in the union of states" and asked for legislation to strengthen the state militia. Hamilton Gamble, a former chief justice of Missouri's Supreme Court, was elected to the convention and served as chairman of a committee on federal relations. There he crafted a report stating that no valid cause existed to justify secession. The delegates agreed—even though a majority of them could be called, in today's terminology, "pro-South"—and rejected secession almost unanimously. Jackson, however, continued to work for secession, purchase arms, and establish camps for training his followers for combat. Soon he aligned himself openly with the Confederacy, as did his followers.

The Lincoln administration, despite the President's desire to have Missourians achieve reconciliation on their own, was "pulled along by events and the need to meet the very real emergencies it confronted," writes Boman, "while at the same time, to the extent possible, trying to respect the civil liberties of the people."

That protection did not amount to much. Very early in the conflict, General Lyon established "a strict surveillance" over river traffic to prevent the import of secessionist troops and supplies to sustain them. He also ordered the suppression of the *Missouri State Journal*, whose editor had close ties with former governor Jackson. The infringement on liberties increased when General John Frémont took charge of military affairs. Without consulting Lincoln, he ordered that all persons bearing arms against the United States should be shot and that property of disloyal citizens should be confiscated. He also established martial law over all of Missouri. Perhaps most significantly, without consulting his commander-in-chief, he declared the emancipation of disloyal persons' slaves. These orders were also at odds with the efforts of the newly elected governor, Hamilton Gamble.



Major General
John C. Frémont (1813-1890)
was an explorer,
first Republican Party
presidential candidate,
and Civil War officer.
(LN unnumbered)

They were also more than President Lincoln could support, as he recognized how they would provoke the wrath of citizens he wanted to draw into the Union fold even though they were favorable to slavery and secession. So, as gently as possible he countermanded all of Frémont's actions except the one on martial law, pointing out the damage they would cause, both in Missouri and implicitly in Kentucky his native state. He did everything possible to avoid driving that state into the Confederacy.

In similar fashion Boman describes the complicated efforts of General Henry Halleck and General William Rosecrans, Frémont's successors, to establish order in Missouri. To accomplish this, they too suppressed publications hostile to the Union cause, and, with Lincoln's tacit support, took

other measures that would not be tolerated in peacetime.

After treating in great detail all of these matters and others not mentioned here, Boman concludes that "it is difficult to imagine a scenario in which Missouri came through the conflict without a great amount of trouble and at least some significant curtailment of civil liberties," particularly because the vast majority of its citizens identified with the South and the institution of slavery.

This book reflects a prodigious amount of careful research, and it is generally well written. While it is easy to lose one's way in the maze of detail Boman offers, he rescues readers by occasionally offering succinct summaries that give meaning to the detail.

As I read Goodheart's *1861*, I frequently remarked to myself and anyone around me who would listen, "this is no ordinary book." Even the endnotes are worth scanning for gems. Neither is Boman's an ordinary book, but it lacks the sparkle that makes its counterpart so appealing.

Civil War aficionados tend to focus on major battles, which receive scant treatment in these books. Boman, for example, makes only a passing reference to the battle in August 1861 at Wilson's Creek in Southwest Missouri, and he does not mention Nathaniel Lyon's death there.

The battles described in *Hearts Touched by Fire: The Best of Battles and Leaders of the Civil War*, edited by Harold Holzer (Modern Library, 1227 pages, \$38) would no doubt appeal to battle-focused persons. It is drawn from a four-volume collection of essays by leaders in Civil War battles, such as P.G.T. Beauregard, Joseph E. Johnson, Lew Wallace, John Pope, Oliver O. Howard, George McClellan and Ulysses S. Grant, as well as by lesser-known people who participated in the battles. These essays were first published in 1887-88. Contemporary Civil War scholars have written introductions for each year of the war.

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