



AMERICAN CONSTITUTIONALISM
 VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 6: The Civil War/Reconstruction Era - Federalism

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*Abraham Lincoln, Fourth of July Message to Congress (1861)*¹

Lincoln inherited a Union that was coming apart. As was expected, Lincoln's election to the presidency sparked immediate moves in the South to secede. Led by South Carolina, the southern states began to organize to leave the Union as soon as the election results were known. By the time of Lincoln's inauguration on March 4, 1861, seven states had adopted resolutions of secession and held a convention to create the Confederate States of America. After the start of war on April 12, 1861, four more states left the Union. On July 4, 1861, Lincoln sent a special message to Congress explaining and justifying his actions since the start of hostilities in April. The Fourth of July message provided Lincoln's first accounting of the administration's war aims and justification for war against the southern states. The message built on Lincoln's argument in his inaugural address for the invalidity of secession and the necessity of maintaining a perpetual union.

Why does Lincoln think that secession is illegitimate? Why does he think that popular government and secession are incompatible? If California held a referendum on leaving the Union, and the resolution passed by large popular vote, would Lincoln's argument rule out the possibility of an independent California?

....
 In this act [firing on Fort Sumter], discarding all else, [the Confederacy] have forced upon the country, the distinct issue: "Immediate dissolution, or blood."

And this issue embraces more than the fate of these United States. It presents to the whole family of man, the question, whether a constitutional republic, or a democracy---a government of the people, by the same people---can, or cannot, maintain its territorial integrity, against its own domestic foes. It presents the question, whether discontented individuals, too few in numbers to control administration, according to organic law, in any case, can always, upon the pretences made in this case, or on any other pretences, or arbitrarily, without any pretence, break up their Government, and thus practically put an end to free government upon the earth. It forces us to ask: "Is there, in all republics, this inherent, and fatal weakness?" "Must a government, of necessity, be too *strong* for the liberties of its own people, or too *weak* to maintain its own existence?"¹

So viewing the issue, no choice was left but to call out the war power of the Government; and so to resist force, employed for its destruction, by force, for its preservation.

....
 The people of Virginia have thus allowed this giant insurrection to make its nest within her borders; and this government has no choice left but to deal with it, *where* it finds it. And it has the less regret, as the loyal citizens have, in due form, claimed its protection.

Those loyal citizens, this government is bound to recognize, and protect, as being Virginia.

In the border States, so called---in fact, the middle states---there are those who favor a policy which they call "armed neutrality"---that is, an arming of those states to prevent the Union forces passing one way, or the disunion, the other, over their soil. This would be disunion completed. . . . It recognizes no fidelity to the Constitution, no obligation to maintain the Union; and while very many who have favored it are, doubtless, loyal citizens, it is, nevertheless, treason in effect.

¹ Excerpt taken from *A Compilation of the Messages and Papers of the Presidents*, ed. James D. Richardson, vol. 6 (Washington, D.C.: Government Printing Office, 1897), 20-31.



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It might seem, at first thought, to be of little difference whether the present movement at the South be called "secession" or "rebellion." The movers, however, well understand the difference. At the beginning, they knew they could never raise their treason to any respectable magnitude, by any name which implies *violation* of law. . . .

. . . . Much is said about the "sovereignty" of the States; but the word, even, is not in the national Constitution; nor, as is believed, in any of the State constitutions. What is a "sovereignty," in the political sense of the term? Would it be far wrong to define it "A political community, without a political superior"? Tested by this, no one of our States, except Texas, ever was a sovereignty. And even Texas gave up the character on coming into the Union; by which act, she acknowledged the Constitution of the United States, and the laws and treaties of the United States made in pursuance of the Constitution, to be, for her, the supreme law of the land. The States have their *status* IN the Union, and they have no other legal status. If they break from this, they can only do so against law, and by revolution. The Union, and not themselves separately, procured their independence, and their liberty. By conquest, or purchase, the Union gave each of them, whatever of independence, and liberty, it has. The Union is older than any of the States; and, in fact, it created them as States. Originally, some dependent colonies made the Union; and, in turn, the Union threw off their old dependence, for them, and made them States, such as they are. Not one of them ever had a State constitution, independent of the Union. Of course, it is not forgotten that all the new States framed their constitutions, before they entered the Union; nevertheless, dependent upon, and preparatory to, coming into the Union.

Unquestionably the States have the powers, and rights, reserved to them in, and by the National Constitution; but among these, surely, are not included all conceivable powers, however mischievous, or destructive; but, at most, such only, as were known in the world, at the time, as governmental powers; and certainly, a power to destroy the government itself, had never been known as a governmental---as a merely administrative power. . . .

What is now combated, is the position that secession is *consistent* with the Constitution---is *lawful*, and *peaceful*. It is not contended that there is any express law for it; and nothing should ever be implied as law, which leads to unjust, or absurd consequences. The nation purchased, with money, the countries out of which several of these States were formed. Is it just that they shall go off without leave, and without refunding? The nation paid very large sums, (in the aggregate, I believe, nearly a hundred millions) to relieve Florida of the aboriginal tribes. Is it just that she shall now be off without consent, or without making any return? . . .

. . . . If all the States, save one, should assert the power to *drive* that one out of the Union, it is presumed the whole class of seceder politicians would at once deny the power, and denounce the act as the greatest outrage upon State rights. But suppose that precisely the same act, instead of being called "driving the one out," should be called "the seceding of the others from that one," it would be exactly what the seceders claim to do; unless, indeed, they make the point, that the one, because it is a minority, may rightfully do, what the others, because they are a majority, may not rightfully do. These politicians are subtle, and profound, on the rights of minorities. They are not partial to that power which made the Constitution, and speaks from the preamble, calling itself "We, the People."

. . . . This is essentially a People's contest. On the side of the Union, it is a struggle for maintaining in the world, that form, and substance of government, whose leading object is, to elevate the condition of men---to lift artificial weights from all shoulders---to clear the paths of laudable pursuit for all---to afford all, an unfettered start, and a fair chance, in the race of life. Yielding to partial, and temporary departures, from necessity, this is the leading object of the government for whose existence we contend.

. . . . This is the patriotic instinct of the plain people. They understand, without an argument, that destroying the government, which was made by Washington, means no good to them.

Our popular government has often been called an experiment. Two points in it, our people have already settled--the successful *establishing*, and the successful *administering* of it. One still remains--its successful *maintenance* against a formidable [internal] attempt to overthrow it. It is now for them to



demonstrate to the world, that those who can fairly carry an election, can also suppress a rebellion--that ballots are the rightful, and peaceful, successors of bullets; and that when ballots have fairly, and constitutionally, decided, there can be no successful appeal, back to bullets; that there can be no successful appeal, except to ballots themselves, at succeeding elections. Such will be a great lesson of peace; teaching men that what they cannot take by an election, neither can they take it by a war--teaching all, the folly of being the beginners of a war.

....

He desires to preserve the government, that it may be administered for all, as it was administered by the men who made it. Loyal citizens everywhere, have the right to claim this of their government; and the government has no right to withhold, or neglect it. It is not perceived that, in giving it, there is any coercion, any conquest, or any subjugation, in any just sense of those terms.

The Constitution provides, and all the States have accepted the provision, that "The United States shall guarantee to every State in this Union a republican form of government." But, if a State may lawfully go out of the Union, having done so, it may also discard the republican form of government; so that to prevent its going out, is an indispensable *means*, to the *end*, of maintaining the guaranty mentioned; and when an end is lawful and obligatory, the indispensable means to it, are also lawful, and obligatory.

It was with the deepest regret that the Executive found the duty of employing the war-power, in defense of the government, forced upon him. He could but perform this duty, or surrender the existence of the government. No compromise, by public servants, could, in this case, be a cure; not that compromises are not often proper, but that no popular government can long survive a marked precedent, that those who carry an election, can only save the government from immediate destruction, by giving up the main point, upon which the people gave the election. The people themselves, and not their servants, can safely reverse their own deliberate decisions. As a private citizen, the Executive could not have consented that these institutions shall perish; much less could he, in betrayal of so vast, and so sacred a trust, as these free people had confided to him. He felt that he had no moral right to shrink; nor even to count the chances of his own life, in what might follow. In full view of his great responsibility, he has, so far, done what he has deemed his duty. You will now, according to your own judgment, perform yours. He sincerely hopes that your views, and your action, may so accord with his, as to assure all faithful citizens, who have been disturbed in their rights, of a certain, and speedy restoration to them, under the Constitution, and the laws.

And having thus chosen our course, without guile, and with pure purpose, let us renew our trust in God, and go forward without fear, and with manly hearts.