



# Lincoln Lore

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## LINCOLN'S LYCEUM SPEECH AND THE ORIGINS OF A MODERN MYTH (continued)

It may seem like a heavy-handed piece of reductionism to link Wilson's depiction of Lincoln as a tyrant with the author's discomfort at learning the state's efficiency in punishing income tax evasion, but Wilson made the link himself. In an undated letter sent to Max Eastman, probably in 1962, Wilson spoke of *Patriotic Gore*:

I know my Introduction is inadequate, but I am supplementing it with a kind of pamphlet, which I'll be sending you in due course. The chief reason that we're being soaked for taxes is that we're supposed to need billions for national defense against the Russian bugaboo, in which (the bugaboo) I do not believe. . . . I can't conceive that there is or has ever been any danger of the Russians invading and dominating the U.S. . . .

It seems quite illuminating to look at Wilson's famous introduction to *Patriotic Gore*, with its comparison of Lincoln to Bismarck and Lenin, as an essay which could be logically "supplemented" with a tract on income tax evasion. Wilson did characterize in his little book the rate of taxation as extortionate because the money was to be spent for a ridiculous purpose, the Cold War. But he was candid in the book and nowhere stated that his income tax evasion began as a political protest. Instead, he explained his straitened financial circumstances in the mid-1940s, the domestic turmoil of the period in his life when he decided not to file a return, and his ignorance of the rigors of the law regarding failure to pay taxes.

How does all this affect Lincoln? The peculiar political bias of Wilson's introduction to the book containing the Lincoln piece warns the reasonable reader that the author may have unreasonable views on the legitimacy of the power of the state — so unreasonable that any defense of its power in history or extension of its powers in the course of such a defense might seem suspect and dangerous. Abraham Lincoln, after all, imposed the first national income tax in the country's history while attempting to save the national state from disintegration.

The historical writers most influenced by Wilson admired his work primarily for its psychological approach or insight. That is what they sought to imitate. They were not necessarily seeking an argument proving that Abraham Lincoln was a dictator during the Civil War, but they got one, or rather the assumption that Lincoln was. In other words, in the course of adopting Wilson's approach to Lincoln through psychoanaly-

sis they also unconsciously adopted part of the substance of Wilson's argument, that is, the view that Lincoln was a dictator.

Most reasonable scholars would think twice before swallowing the assertion that Lincoln was a tyrant if they knew that the champion of such a view was an oddball political thinker who regarded the income tax as tyrannical and refused to pay it! But *The Cold War and the Income Tax* appeared after *Patriotic Gore* was published, and Wilson wrote mostly on non-historical subjects. Most American historians probably read only one of his books. They probably did not realize what a bizarre political odyssey Edmund Wilson had taken from the socialist beliefs of his early life to the income tax evasion of

his later years. And this significant change in attitude toward the confiscatory and income distributing powers of the government occurred while Wilson was writing *Patriotic Gore*.

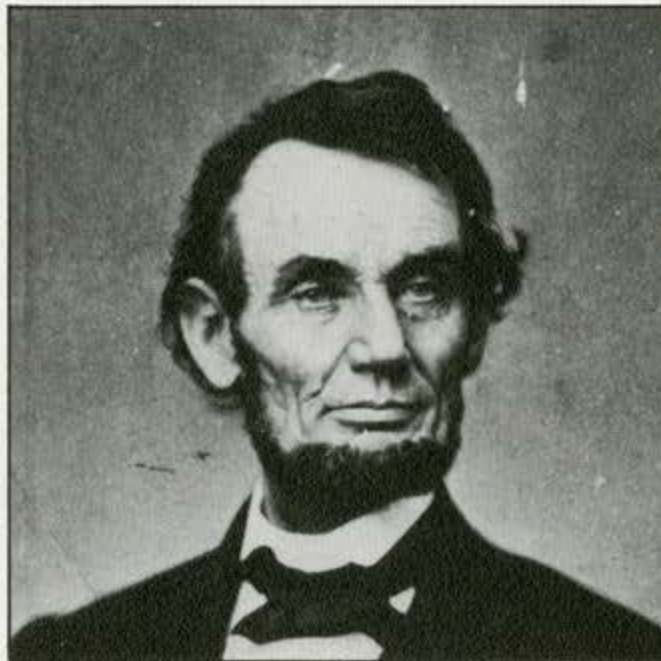
In the end, Wilson embraced an old and familiar attitude toward Abraham Lincoln, which he revealed in a letter written to one Lewis M. Dabney, who had reviewed *Patriotic Gore*. Dabney had attributed New England roots to Wilson, but the author corrected him, saying that his important ancestors came from central New York.

This is important [Wilson explained] because the New York point of view is quite distinct from the New England one. . . . I purposely left out of *Patriotic Gore* the disaffection of New York toward the Civil War — which I suppose is behind my own attitude — Horatio Seymour, Harold Frederic, the Copper-

heads, and all that; but I am now going to write about it.

Seymour, a Democrat, was New York's governor at the time of the New York City draft riots in 1863. Frederic, a novelist and journalist, was the author of a novel called *The Copperhead*, about a stubbornly partisan Democratic farmer in upstate New York during the Civil War. Wilson's was a Copperhead view of Abraham Lincoln.

Of course, Copperheads knew no more about Freudian psychology and the so-called Oedipus complex than did Abraham Lincoln. But historians who were interested in psychoanalysis took over from Wilson, unawares, an essentially Copperhead view of Lincoln. More than anything else, the modern study of "The Perpetuation of Our Political Institutions" has perpetuated a Copperhead myth.



## LINCOLN AND THE CONSTITUTION: AN OVERVIEW

Among the less fortunately titled books on Abraham Lincoln is John M. Zane's *Lincoln the Constitutional Lawyer*. As a lawyer, Lincoln was occasionally involved in constitutional cases, and as president, he certainly faces stupendous constitutional problems. Yet it was not a habit of Abraham Lincoln's mind to think first of the constitutional aspects of the problems he faced in his political career. His impulse was almost always toward the practical.

When Lincoln thought about the constitutional aspect of a question, the doctrines of his political party shaped his ideas in important ways. By the standards of his own day, his constitutional heritage was that of broad rather than narrow interpretation, and this was probably a function of his Whiggery. Lincoln was a thorough-going Whig in politics, a member of that party from its beginning to its end, a Whig twice as long as he was a Republican. In general, the Whig party took a broad view of what the Constitution allowed the federal government to do: create a national bank and fund canals, roads, and railroads, for example. As the youthful victim of rural isolation and lack of economic opportunity, Lincoln proved eager in his later career as a politician to provide the country with what had seemed lacking in his own hardscrabble past. That eagerness made him quite impatient with Democratic arguments that internal improvements funded by the federal government were unconstitutional.

As a United States Congressman in the late 1840s, Lincoln thought "the question of improvements" was "verging to a final crisis," in part because the national Democratic platform in 1848 declared "That the constitution does not confer upon the general government the power to commence, and carry on a general system of internal improvements." Speaking in the House of Representatives on this subject, Lincoln expressed plainly his feeling that "no man, who is clear on the questions of expediency, needs feel his conscience much pricked upon this."

The emphasis on the practical was characteristic of Lincoln, as was his care in the speech to include all the constitutional arguments on his side as well. In context, his statement was not cavalier in tone, for Lincoln had already reiterated the impressive constitutional arguments for his side of the question. In effect, he was saying that the constitutional arguments, though this be admittedly a controversial question, were good enough for the Whig view that one could vote for it without violating one's conscience.

The policies advocated in this 1848 speech on internal improvements were standard for an economic Whig like Lincoln, but the speech was uncharacteristic of the young Illinois politician in one respect: its heavy emphasis on constitutional questions. Despite suggesting that practical demands for internal improvements should outweigh any minor constitutional doubt or controversy, Lincoln seemed nevertheless preoccupied with the constitutional side of the question in the speech, devoting 8 of 26 paragraphs — almost a third of his time — to that issue. And all of this he prefaced with a modest disclaimer:

Mr. Chairman, on the . . . constitutional question, I have not much to say. Being the man I am, and speaking when I do, I feel, that in any attempt at an original constitutional argument, I should not be, and ought not to be, listened to patiently. The ablest, and the best of men, have gone over the whole ground long ago.

Lincoln then quoted and summarized at some length arguments from Chancellor Kent's commentaries on the Constitution.

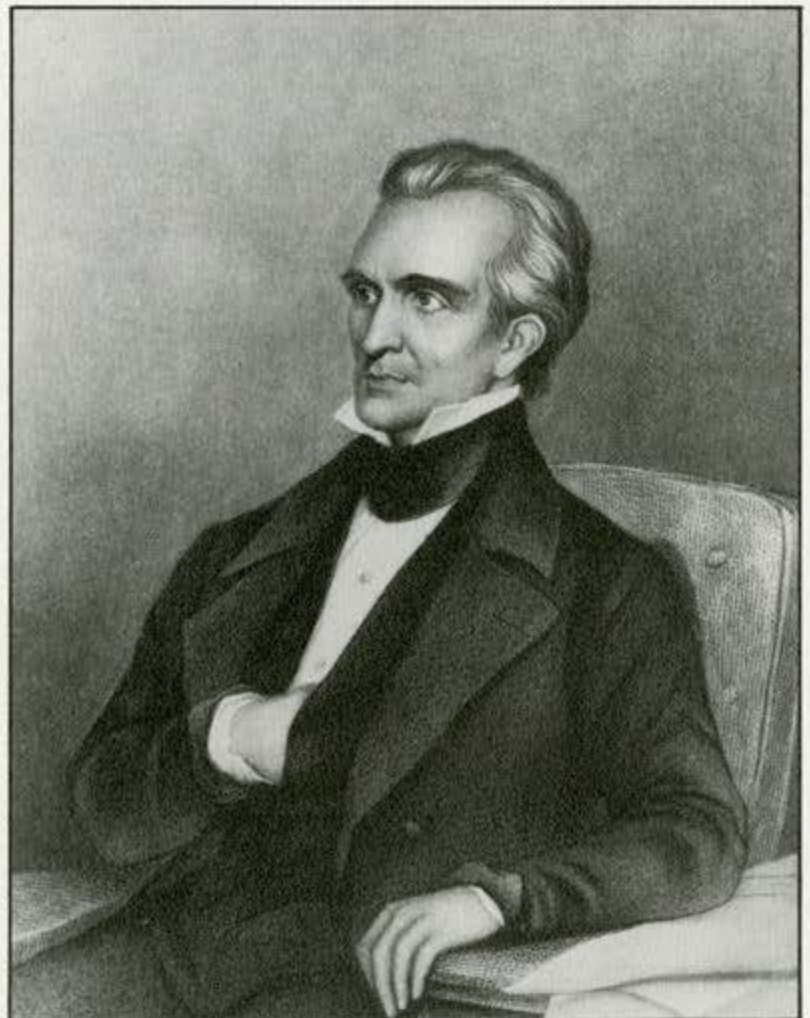
Yet the Illinois congressmen proved not to be content with deferring to authority. He went on instead with four paragraphs on the question of amending the Constitution, President James K. Polk having suggested that such an amendment would be necessary to make internal improvements possible. Lincoln did not much like this idea, no doubt in part because of its

impracticality, but he attacked it with an invocation of constitutional conservatism:

I have already said that no one, who is satisfied of the expediency of making improvements, needs be much uneasy in his conscience about it's constitutionality. I wish now to submit a few remarks on the general proposition of amending the constitution. As a general rule, I think, we would [do] much better [to] let it alone. No slight occasion should tempt us to touch it. Better not take the first step, which may lead to a habit of altering it. It can scarcely be made better than it is. New provisions, would introduce new difficulties, and thus create, and increase appetite for still further change. No sir, let it stand as it is. New hands have never touched it. The men who made it, have done their work, and have passed away. Who shall improve on what *they* did?

Often quoted by constitutional conservatives, this passage has almost ironic meaning in context: what Lincoln was really saying was that amendment was not needed if a broad interpretation of the existing document were accepted.

To dwell on constitutional issues as Lincoln did in this 1848 speech was unusual. Before that, he had rarely made pronouncements on constitutional questions. Back in 1832, when he spoke at length on internal improvements (mainly for the Sangamon River) in his first political platform, Lincoln had spoken only of practical questions of cost and navigability. Again in 1836, when declaring his candidacy for reelection to the Illinois state legislature, Lincoln went on record in favor of a plan to make internal improvements possible, and he focused only on the financial difficulty: "Whether elected or not, I go for distributing the proceeds of the sales of the public



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James K. Polk.

lands to the several states, to enable our state, in common with others, to dig canals and construct rail roads, without borrowing money and paying interest on it." Except for a brief comment in 1837 on the legality of the Illinois State Bank under the state constitution, Lincoln's first statement of some length on a constitutional question came in his speech on the sub-treasury, delivered on December 26, 1839. After a long argument on the practical questions, insisting that the national bank would increase the circulation of the money supply, operate more economically, and provide more security, Lincoln addressed the question of constitutionality. He was satisfied that a national bank had been declared constitutional by the United States Supreme Court and by a majority of the country's founders, but, rather than go over that well-trod path again, he wanted "to take a view of the question which I have not known to be taken by anyone before. It is, that whatever objection ever has or ever can be made to the constitutionality of a bank, will apply with equal force in its whole length, breadth and proportions to the Sub-Treasury." If there were no "express authority" in the Constitution to establish a bank, he quipped, there was none to establish a sub-treasury either.

Of course, Lincoln thought them both constitutional:

The Constitution enumerates expressly several powers which Congress may exercise, superadded to which is a general authority "to make all laws necessary and proper," for carrying into effect all the powers vested by the Constitution of the Government of the United States. One of the express powers given Congress, is "To lay and collect taxes; duties, imports, and excises; to pay the debts, and provide for the common defence and general welfare of the United States." . . . To carry it into execution, it is indispensably necessary to collect, safely keep, transfer, and disburse a revenue.

In the end, Lincoln sounded almost impatient with his adversaries on this point:

The rule is too absurd to need further comment. Upon the phrase "*necessary and proper*," in the Constitution, it seems to me more reasonable to say, that *some* fiscal agent is *indispensably necessary*; but, inasmuch as *no particular sort* of agent is thus *indispensable*, because some *other sort* might be adopted, we are left to choose that sort of agent, which may be most "*proper*" on grounds of expediency.

Lincoln had returned to more comfortable ground for this practical legislator from central Illinois; he seemed not much to care for the inflexible high ground of constitutional dictate.

Lincoln appeared to be marching steadily toward a general position of gruff or belittling impatience with arguments against the constitutionality of the beleaguered Whig economic program in the 1840s. A set of resolutions adopted at a Whig meeting in Springfield in 1843, for example, reiterated Lincoln's position on the constitutionality of a national bank and followed that with this brief discussion of the constitutional aspect of Henry Clay's bill for the distribution of revenues from the sale of the national lands: "Much incomprehensible jargon is often urged against the constitutionality of this measure. We forbear, in this place, attempting to answer it, simply because, in our opinion, those who urge it, are, through party zeal, resolved not to see or acknowledge the truth."

But Lincoln's movement away from constitutional modes of thought was halted abruptly by the presidential administration of James K. Polk. When he had spoken against the sub-treasury back in 1839, Lincoln had devoted but 3 of 51 paragraphs to the constitutional issue. When he made his last-ditch defense of internal improvements in 1848, he devoted 8 of 26 paragraphs to the constitutional question. The reason was not so much the greater importance of the constitutional question to the subject of internal improvements rather than the national bank as it was Lincoln's heightened awareness of the importance of constitutional issues altogether. And that awareness was probably a function of the Mexican War.

Like most Whigs, Lincoln hated the Mexican War, which he considered to be "unconstitutional and unnecessary." He was not an internationally-minded man, worried about Mexico and Mexicans. In a lecture on discoveries and inventions which he

gave in 1859, Lincoln revealed this when he celebrated what he called the yankee "habit of observation and reflection": "But for the difference in *habit* of observation, why did yankees, almost instantly, discover gold in California, which had been trodden upon, and over-looked by indians and Mexican greasers, for centuries?" Nor was Lincoln's an abolitionist critique of the Mexican War. He told one Williamson Durley, on October 3, 1845, that "individually I never was much interested in the Texas question. I never could see much good to come of annexation; inasmuch, as they were already free republican people on our own model; on the other hand, I never could very clearly see how the annexation would augment the evil of slavery. It always seemed to me that slaves would be taken there in about equal numbers, with or without annexation." Indeed, Lincoln stated flatly while campaigning for Zachary Taylor in the East in the summer of 1848 that he "did not believe with many of his fellow citizens that this war was originated for the purpose of extending slave territory."

Lincoln claimed, rather, that "it was a war of conquest brought into existence to catch votes," an interpretation which he had further refined by 1860, when, as a presidential candidate, he found himself liable to criticism for his opposition to the war:

Mr. L. [he wrote in his third-person autobiography for newspaperman John Locke Scripps] thought the act of sending an armed force among the Mexicans, was *unnecessary*, inasmuch as Mexico was in no way molesting, or menacing the U.S. or the people thereof; and that it was *unconstitutional*, because the power of levying war is vested in Congress, and not in the President. He thought the principal motive for the act, was to divert public attention from the surrender of "Fifty-four, forty, or fight" to Great Britain, on the Oregon boundary question.

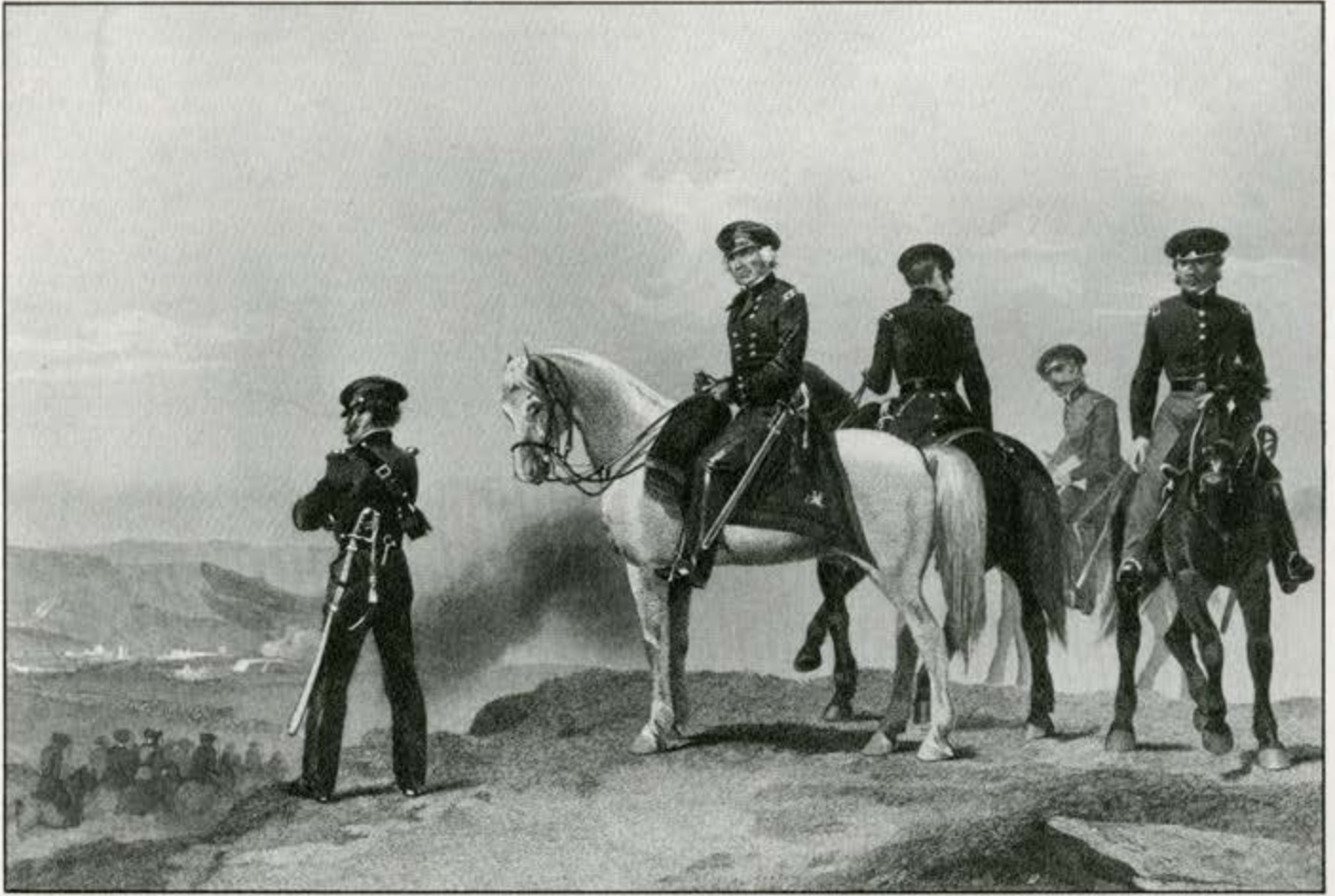
Thus, even twelve years later as the head of a political party committed to halting the expansion of slave territory, Lincoln did not embrace the antislavery interpretation of the origins of the Mexican War.

When Lincoln's law partner, William H. Herndon, disputed his interpretation of the origins of the Mexican War in 1848, Lincoln had indulged himself in a rare exercise: a long letter, lecturing in tone, on a constitutional question. Herndon's letter (now lost) protesting his partner's speech in Congress against the Mexican War probably caused Lincoln to focus more exclusively on the constitutional question, for Lincoln's letter began, "Your letter of the 29th. Jany. was received last night. Being exclusively a constitutional argument, I wish to submit some reflections on it. . . ." Whatever the cause, once focused, Lincoln's scrutiny of the question proved close and intense. He concluded his letter to the junior partner this way:

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that *no one man* should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood.

When he thought about the Constitution in the 1850s, and he seems to have done so more than in the previous decades, Lincoln interpreted it as most antislavery men did. Unlike abolitionists, who saw the document as a covenant with death because it protected the institution of slavery in the Southern states, Lincoln saw the Constitution as a reluctant guarantor of the slave interest which existed at the government's foundation.

Antislavery sentiments and Whig tradition explain Abraham Lincoln's views on the Constitution, and not, it should be stressed, his choice of profession. There has been too much emphasis in recent years on the influence of Lincoln's profession as a lawyer upon his political ideas. In part, this has been brought on by biographers and historians interested in psychological interpretation who have, in turn, created a



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### Scene from the Mexican War.

vogue of emphasis on one early speech in Lincoln's corpus, the Lyceum speech of January 27, 1838. This speech contains, not any constitutional thought of real substance, but rather some cheer-leading for the constitution and the laws, widely quoted in later years:

Let reverence for the laws, be breathed by every American mother, to the lisping babe, that prattles on her lap — let it be taught in schools, in seminaries, and in colleges; — let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the *political religion* of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars.

Later, Lincoln invoked "Reason, cold, calculating, unimpassioned reason" to "furnish all the materials for our future support and defence. Let those [materials] be moulded into *general intelligence*, [sound] *morality* and, in particular, a *reverence for the constitution and laws*. . . ."

Historian George M. Frederickson has relied particularly upon this speech for his judgment that "Abraham Lincoln's early speeches as an aspiring young lawyer and Whig politician were clearly party of . . . [a general] 'conservative' response [from lawyers] to the unruly and aggressive democracy spawned by the age of Jackson." In the Lyceum speech Lincoln was "giving eloquent expression to the developing ideology of his profession."

Frederickson goes on to posit a strong conservative law-and-order strain in Lincoln's political thought, an element that, though gradually modified, remained substantially unshaken until the *Dred Scott* decision in 1857 undermined "Lincoln's faith in the bench and bar as the ultimate arbiters of constitutional issues." The problem with this interpretation

lies in its approach, that of "intellectual history," which Frederickson forthrightly declares to be his method in the first sentence of his article on this subject. Lincoln was not an intellectual, certainly not a systematic political thinker; he was a politician and one slights the instrumental side of Lincoln's statements only at great peril. He was not always or often thinking about the Constitution and the laws. He thought about them only when a particularly pressing political problem arose. It seems less significant to note that Lincoln, at the time of the Lyceum speech in 1838, had recently been admitted to the bar and may have been justifiably proud of his new professional status than to notice what his invocation of the Constitution aimed to accomplish in context. Broadly, it was meant in the Lyceum speech to protect the rights of minorities: Mississippi gamblers, unfortunate black people, and abolitionists. In general, most interpreters of Lincoln's speech in modern times have assumed that the real shadow hanging over the words was that of the martyred Elijah Lovejoy, recently killed by an anti-abolition mob in Lincoln's state. Using this to put Lincoln at odds with the "aggressive democracy spawned by the age of Jackson" seems hardly fair to Lincoln, and it quite misrepresents the way Lincoln thought about the Constitution.

He mostly thought about it when he had to. James K. Polk forced it on Lincoln's attention dramatically in 1846, 1847, and 1848, and Herndon apparently caused Lincoln to spell out his constitutional arguments more explicitly than he had done for his constituents in his speech in Congress on the Mexican War. There was less a profound "search for order and community," to borrow Frederickson's words, than a search for usable arguments.

(To be continued)