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## Civil Liberties in a Time of Rebellion: Lincoln's Suspension of Habeas Corpus

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One of the fundamental rights guaranteed to citizens of the United States granted through the Sixth Amendment of the Constitution is the right to a fair trial by a jury of peers. The right to be free from arbitrary detention is necessarily connected to this fair trial right. Outlined in Article 1, Section 9, Clause 2 of the Constitution, habeas corpus protects citizens from being detained without charges through the powers of the legislative branch of the federal government. President Abraham Lincoln faced a series of daunting constitutional questions as president, his suspension of habeas corpus not the least among them. Historians have approached this topic from two different perspectives: whether Lincoln's actions were necessary given the crisis and whether they were constitutional. Often scholars emphasize either morality or legality and hence talk past each other. Approaching the debate from another angle might aid in understanding the fundamental questions about Lincoln's decision to suspend habeas corpus. This study considers both Lincoln's moral and legal justifications for his decision, weighing the constitutionality of and precedents for his actions, as well as political realities, in particular the opposition he faced from Congress and from groups like the Copperheads. In the end, this study concludes that while Lincoln was justified in his decision to suspend habeas corpus, some of the actions which followed were not.

Lincoln was a man of his times: he acted pragmatically according to the events around him and made decisions based on what was best for the nation in the long run. The suspension of habeas corpus resulted from Northern antiwar aggression and came in response to the situations in border states like Missouri and Maryland, where the tide could quickly turn out of favor for the North. In a time of war and rebellion, moral questions often become cloudy. In a time of war, every possible course of action must have an alternative option available, like a fork in the road. Lincoln's suspension of habeas corpus cannot be understood either legally or morally without understanding the times in which he lived.

When he took office in 1861, Lincoln was left without Congress to guide him as the nation moved towards rebellion and conflict following his election to the presidency. As the country descended into Civil War, Congress would not reconvene until July 1861, leaving the first months and the initial reactions to Southern secession solely in the hands of the president. The Constitution offered little guidance for many of the decisions Lincoln faced at this time, leaving the president to push against traditional limits on presidential powers. Scholar Brian Dirck states that "no American president prior to Abraham Lincoln really explored the various problems, difficulties, and blind spots contained in the Constitution's war making system."<sup>1</sup> The suspension of habeas corpus was a major issue throughout the war for many Northerners, but Lincoln's other stretches of presidential powers at the beginning of the war were more concerning: calling up the militia, his blockade proclamation, and his use of congressional powers were more immediate and therefore more

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<sup>1</sup> Brian Dirck, "Lincoln as Commander-in-Chief," *Perspectives on Political Science* 39, no. 1 (January 2010): 20. Dirck is referencing Lincoln's actions calling the militia and his blockade proclamation, but Dirck intends this here as a general statement to Lincoln's exploration of presidential powers outlined in the Constitution.

prevalent concerns for American citizens. Although calling the militia had precedence in a 1795 law used by George Washington, Lincoln's blockade proclamation was technically an act of war, and his censorship of newspapers was an act of congressional authority.<sup>2</sup> Lincoln moved outside of the presidential powers outlined in the Constitution because many of these powers, especially war powers, were not clearly defined. The power to suspend habeas corpus was also loosely defined, and not attributed to any specific branch of government: "the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."<sup>3</sup> The nation's founders had found habeas corpus to be an important aspect of civil liberties, and for many Americans in 1861, it remained a "symbol of individual freedom."<sup>4</sup> As a lawyer, Lincoln knew that he needed valid justification and precedent for his actions, and he would also need the support of Congress as the country prepared for war with the South.

Lincoln justified the suspension of habeas corpus on three grounds: national versus state authority, presidential versus congressional authority, and as a reaction to aggressors. Publicly, Lincoln stated that "these rebels are violating the Constitution to destroy the Union. I will violate the Constitution if necessary to save the Union," acknowledging his actions as dubious, but not immoral.<sup>5</sup> By interpreting the constitutional provision for the suspension of habeas corpus to mean that in times of rebellion, national power ruled, Lincoln's act could be justified as the national government stepping up to the requirements of war.<sup>6</sup> In making the decision to solve the crises of rebellion without congressional endorsement, Lincoln ignored the legislative side of the national government—understandable since Congress was not in session. Still, when congress returned on July 4, 1861, Lincoln took a pragmatic stance. He "admitted doubts as to the legality of some of his measures," recognizing the importance of congressional authority.<sup>7</sup> But, since he had already made the decision on habeas corpus and the South was in rebellion, Lincoln was prepared to bypass Congress if need be. He "neither indicated that he particularly cared about [congressional] ratification, nor that he felt it was relevant, nor that he would revoke any of his measures in case it was not forthcoming."<sup>8</sup> He was willing to comply with congressional authority to a certain extent, but would do what he intended with or without the backing of Congress. Lincoln may have acknowledged doubts about the legality and morality of his actions, but he did not acknowledge error in the suspension of habeas corpus, and he certainly did not give ground as far as its necessity.

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<sup>2</sup> Phillip Paludan, *The Presidency of Abraham Lincoln* (Lawrence, Kansas: University Press of Kansas, 1994), 71-73. Paludan argues that in a time of civil war, questions about the extent of national power were not answerable from experience, and instead "answers came from the imagination." State and national authorities, courts and powers existed in a web of confused determination that *something* must be done, but no one was sure who should do it. To Paludan, Lincoln's decision to suspend habeas corpus without approval was the final word at the national level and set precedence for the rest of the war. Paludan's analysis of questions of national power at the start of the Civil War relies closely on statements from Lincoln himself, but also from Lincoln's Secretary of State, Seward, and from some individuals such as Chief Justice Taney who were in opposition to the Lincoln administration's handling of the writ. These sources are consistent in two areas: a) that there was general confusion over the extent of national power, and b) that Lincoln's actions, while sparking further debate, also settled it.

<sup>3</sup> *Ibid.*, 71.

<sup>4</sup> Mark E. Neely, *The Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991), xiv, xvi.

<sup>5</sup> Dietze Gottfried, *America's Political Dilemma: From Limited to Unlimited Democracy* (Baltimore: The Johns Hopkins Press, 1968), 36, 42, 49. Gottfried argues that many of Lincoln's acts, including the suspension of habeas corpus, "were required to save the traditional constitutional order," and were therefore constitutional. Gottfried finds that this is the grounds on which Lincoln justified his actions. Gottfried goes on to argue that Lincoln's defense of his war measures "was always based on his desire to protect the Constitution." Gottfried's analysis of Lincoln's actions, like Paludan's, relies closely on Lincoln's public and personal statements regarding the suspension. While she questions the sentiment behind the statements, she also points out their consistency. It is the consistency of Lincoln's statements which lead Gottfried to argue that while the suspension of habeas corpus may not have been constitutionally justified, the basis of his actions—the preservation of the Constitution and the Union—was.

<sup>6</sup> Paludan, 73. "Lincoln spoke the final word: Civilian justice and due process had ended where the writ was suspended... national power ruled," writes historian Philip Paludan.

<sup>7</sup> Gottfried, 37.

<sup>8</sup> *Ibid.*

As a reaction to the nation entering the Civil War, Lincoln's haste in acting without the approval of Congress was logical. The suspension of habeas corpus was originally a reaction to the rebellion taking place in Baltimore, Maryland. Historian Mark Neely, Jr., states that "the purpose of the initial suspension of the writ of habeas corpus" was to "keep the military enforcement route to the nation's capital open."<sup>9</sup> That the suspension amounted to a war measure against rebellion helps explain some statements from Lincoln reported in the papers. For example, the Baltimore *American*, quoted Lincoln as saying that "public safety renders it necessary that the grounds of these arrests should at present be withheld."<sup>10</sup> In a time of war, reporting the charges of detainees could incur further rebellion.

Lincoln's first goal was the preservation of the Union, and if that was to be done, "all indispensable means must be employed."<sup>11</sup> The presidential powers stated in the Constitution gave Lincoln the means to do what he saw as fulfilling his oath of office: preserving the Union and the Constitution. Lincoln's argument for suspension of habeas corpus was summed up when he asked: "Are all the laws, *but one*, to go unexecuted, and the government itself go to pieces, lest that one be violated?"<sup>12</sup> The question that should follow this one is whether the writ of habeas corpus was such a central Constitutional right that its suspension would fundamentally change American politics, not preserving the Union, but destroying it.

Seeking validation, Lincoln asked of Congress whether it was plausible that "the Founders intended that he should stand by as danger ran its course, waiting for Congress to gather."<sup>13</sup> Like many of Lincoln's actions at the beginning of the war, this seems to have been a pragmatic acceptance of congressional authority rather than true acceptance of its constitutional power. In fact, Phillip Paludan views this "request for congressional endorsement" as an offer "to share authority, to involve both branches of government in meeting the crisis."<sup>14</sup> The national government, however, was established on checks and balances, and the offer to share authority would have been unnecessary without Lincoln's own actions, many of which slighted the authority of Congress and of the legislative branch. In spite of this, Congress moved quickly to ratify a "joint resolution that recited Lincoln's actions—calling the militia, blockading Southern ports, calling for volunteers, increasing the army and the navy, suspending the writ – and declared them lawful."<sup>15</sup> Congress's ratification helped to justify the suspension of habeas corpus since the majority had recognized that swift government action was necessary in war.

Opposition to this decision and to Lincoln's actions abounded, but for many Northerners it was not a major issue as the war progressed. Senator Lyman Trumbull (R-IL), however, asked the secretary of state "whether, in the loyal States of the Union, any person or persons have been arrested and imprisoned and are now held in confinement by orders from him or his Department; and, if so, under what law said arrests have been made."<sup>16</sup> Chief Justice of the Supreme Court Roger Taney also criticized Lincoln, claiming "that Lincoln violated his oath that 'the laws be faithfully executed' because he had stolen congressional authority over the writ," despite authority over the writ being undefined in the Constitution.<sup>17</sup> Lincoln responded that his action was taken as a war

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<sup>9</sup> Neely, 9.

<sup>10</sup> Ibid, 18.

<sup>11</sup> Gottfried, 43.

<sup>12</sup> Ibid, 49.

<sup>13</sup> Paludan, 77.

<sup>14</sup> Ibid, 80-81.

<sup>15</sup> Ibid, 81. This decision was made on July 3, 1861.

<sup>16</sup> Neely, 189. Trumbull introduced this resolution to the Senate in December of 1861, which shows that there was growing concern either among Trumbull's constituents, or in the Senate, or both.

<sup>17</sup> Paludan, 77.

measure against Southern rebellion, insisting “the whole of the laws which are required to be faithfully executed were being resisted...in nearly one third of the states,” and that Taney’s criticism was unjustified in that it ignored Southern secession.<sup>18</sup> Responding to the criticism voiced by Washington politicians, Lincoln addressed some of the major concerns about his actions privately without having to make a public address.<sup>19</sup> This gave Lincoln a platform to state his justification for the suspension of habeas corpus without alienating segments of the American public.

A political organization formed in the North that was critical not only of Lincoln’s actions at the start of the war, but of the war itself. With an ideology of strict constructionism, this opposition party took the name “Copperheads” and attracted people with Southern roots, German and Irish immigrants, and people on the Western frontier.<sup>20</sup> Historian Jennifer Weber sees the “opponents of the war,” as suspicious “of centralized government and concentrated power..., standing armies, and most of all, threats to liberty.”<sup>21</sup> Part of their opposition to the war stemmed from a belief that Southern states had the right to secede from the Union, and the sudden split of the Democratic Party added to this. Stephen A. Douglas’s statement of support for Lincoln: “there can be but two parties, the party of patriots and the party of traitors. We [Northern Democrats] belong to the former,” drew the lines between War and Peace Democrats.<sup>22</sup> Despite this abrupt split, many Democratic newspapers took an “agree-to-disagree” stance in criticizing the administration that Weber asserts was not shared by most Copperheads, although it may have been shared by the elites.<sup>23</sup> Copperheads talked their way around the issue. As one New Yorker wrote: “the sane portion of our [Northern] people...do not esteem cutting the throats of one’s countrymen as proof of patriotism,” and many believed that Confederate independence could be more beneficial to the Union than war.<sup>24</sup> Lincoln’s response to Democratic criticisms centered on his continued goal of reuniting the Union: “I am yet unprepared to give up the Union for a peace which, so achieved, could not be of much duration,” and reiterated that the Confederacy had begun the war in order to destroy the Union.<sup>25</sup> This justification of war on the grounds of saving the Union and reacting to Southern secession did not hold much sway with Peace Democrats.

For constitutionally conservative Democrats, Lincoln’s 1861 actions, especially the suspension of habeas corpus, taken without consulting Congress were at the root of their opposition. Representative George H. Pendleton (D-OH), for example, argued that “you cannot make a nation jealous of its rights by teaching it that, in times of great public danger, the citizen has no rights.”<sup>26</sup> Copperhead newspapers like *The Age* accused “Yankee civilians” of only being concerned with “how to profit from the war, how to prolong the fighting, how to dodge the draft, and how large a percentage of his earnings a man would have to spend to buy a substitute.”<sup>27</sup> The conservative idea that a centralized government was fundamentally corrupt and could or would not serve the needs of its citizens appealed greatly to indigenous and immigrant Copperheads, who had long felt that they had been abandoned by their government. At a Copperhead rally, Fernando Wood spoke on the oppression of “an Administration which, in [his] judgement, [was] far beneath the

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid. Lincoln’s response was in a private letter to Chief Justice Roger Taney, who “had claimed that Lincoln violated his oath.”

<sup>20</sup> Jennifer L. Weber, *Copperheads: the Rise and Fall of Lincoln’s Opponents in the North* (New York: Oxford University Press, 2006), 17-18.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid, 15-16.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid, 21.

<sup>25</sup> Ibid, 173. Lincoln’s response was “in a letter turning down an invitation to speak in Buffalo,” New York, in 1864.

<sup>26</sup> Ibid, 31-32.

<sup>27</sup> Ibid, 159.

Administration of the Confederacy,” and was met with “deafening and prolonged applause.”<sup>28</sup> The strong arguments against Lincoln’s actions and administration and for peace had a conservative constitutional component, but they also had a racist component which was infrequently addressed by Lincoln and Republican politicians.

Many Copperheads had white supremacist views and were suspicious that the Republican Party would move toward emancipation. Weber writes that “from the earliest days of the Republican Party,” conservative Democrats believed “that abolitionists controlled it and that the party’s main objective was to free the slaves;” an issue that united War and Peace Democrats, as “even War Democrats were wary of a hidden agenda to get rid of slavery.”<sup>29</sup> Copperheads believed African Americans to be inferior to whites and that Republicans intended to oppress the white race. Connecticut Governor Thomas Seymour, a Democrat, wrote as much and more when he stated that “the policy of the Lincoln dynasty” seemed to be to “*free the blacks and enslave the whites.*”<sup>30</sup> Copperheads went further, blaming “fanatical Abolitionism” for starting the war.<sup>31</sup> The racism of the Copperheads was not uncommon at the time, but as a political argument, it proved difficult to counter. Lincoln saw this and seized on it when he wrote that his administration should not “be weak enough to allow the enemy to distract us with an abstract question [of race] which he himself refuses to present as a practical one.”<sup>32</sup>

While Copperheads wanted habeas corpus rewritten so it did not apply to slaves, they bristled at Lincoln’s suspension as a draconian federal act aimed at stripping his opponents of a basic right. The racism of Copperheads was directly connected with their opposition to the suspension of habeas corpus, since abolitionists had long believed that the writ could be used to liberate the slaves. Despite the Compromise of 1850 and the subsequent court decision in 1859 that the “writ of habeas corpus [was] not the proper method of trying the right of a [slave] to Freedom,” pro-slavery Democrats still felt that the writ of habeas corpus presented a substantial threat to slavery.<sup>33</sup> After the 1850 decision, abolitionists came to see slavery as an issue to be resolved by the military, while Copperheads still feared the power of the federal government to intervene in what they considered to be matters of state jurisdiction. As the war drew to a close, so did the heyday of the Copperheads, many of whom simply disappeared from politics.<sup>34</sup> Without the support of War Democrats, who did not want to “risk gaining an unpatriotic reputation,” and with fleeting opposition to the suspension from Republicans, the Copperheads did not have enough Northern support to dismantle Lincoln’s justifications for his actions.<sup>35</sup> With Congress and a majority in the North behind him, Lincoln was able to maintain support for his suspension of habeas corpus and other dubious war legislation.

One of the results of the suspension of the writ was government censorship of newspapers, something which Lincoln personally opposed but was unable to curb. Journalists, seemed at first glance, to support this violation of the Bill of Rights. As some newspapers argued, “*the constitution protects only those who acknowledge and support it,*” and by that logic, did not protect secessionist

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<sup>28</sup> “Copperheads in Council: Resolutions Denunciatory of the Administration and its Policy. Speeches of Fernando Wood, Mr. Carlile, and Others. Wood’s Principles and Plans, his Hopes and Fears, his Wrath and Impotence,” *New York Times*, April 8, 1863, in *The New York Times on Critical Elections, 1854-2008*, ed. Gerald M. Pomper (Washington, D.C.: CQ Press, 2010), 67.

<sup>29</sup> Weber, 22.

<sup>30</sup> Ibid, 23. Emphasis original to Thomas Seymour. Seymour’s use of the word “dynasty” is significant here, as Confederates argued that secession was their equivalent to the American Revolution, when the United States threw off the yoke of royalty, and thus of a royal dynasty. Seymour is playing into this analogy.

<sup>31</sup> Ibid, 159-160. Written in the Copperhead newspaper *The Age* in 1864.

<sup>32</sup> Ibid, 162.

<sup>33</sup> Neely, xv, xiv.

<sup>34</sup> Weber, 205.

<sup>35</sup> Neely, 189.

newspapers.<sup>36</sup> Like the suspension of habeas corpus, censorship began in the border states where secessionist attitudes were strong.<sup>37</sup> As a war measure, the censorship of anti-Union newspapers was important as it discouraged support for secession, just as Lincoln had refused to release the charges of arrests after the suspension of habeas corpus. However, Lincoln's limited censorship policy was not reflected in the reality that many saw. After "Maryland, Kentucky, and Missouri were secured for the Union," Lincoln was "not eager to suppress newspapers...but did not control all the authorities."<sup>38</sup> Many newspapers became extremely politicized and highly critical of the Democratic Party. In an article from November 6, 1860, for example, the *New York Times* wrote that "the leaders of the Democracy... charge it upon the Republicans that they, and only they, are to be held responsible for this fearful and imminent catastrophe [the dissolution of the Union]."<sup>39</sup> Despite his personal discomfort with government censorship of the press, Lincoln also understood censorship as a necessary war measure that would preserve the Union and uphold his oath of office.

In understanding the relatively limited criticism of the suspension of habeas corpus, it is important to understand the geographic extent of the suspension. Like the extent of censorship of the press, the intended reach of the suspension of habeas corpus was originally limited to the border states. Neely found that the border states "as a whole supplied 42.8 percent of [all political and war] prisoners," and he adds that Missouri was underrepresented because of clumsy bookkeeping in that state and in southern Illinois.<sup>40</sup> In terms of Northerners above the border states, Neely found that, if distributed evenly, "there would have been at a maximum seven Northerners arrested in each state."<sup>41</sup> Individual arrests of journalists were geographically widespread, but overall "most arrests had little or nothing to do with the issue of dissent or free speech." Most arrests were "of Confederate citizens and blockade runners"—not journalists.<sup>42</sup> Neely stated that "a tally of the number of civilians in Northern military prisons" does not represent the number of arbitrary arrests since "a large number of those civilians would doubtless have been in prison regardless" of the writ's suspension.<sup>43</sup> Lincoln brought the concept of "war powers" into fruition during the Civil War, but he also brought the concept of "arbitrary arrest," a term which was used infrequently before the writ's suspension.

The case of *Ex parte Milligan* was an arbitrary arrest case which came before the Supreme Court in 1866, although the arrest had occurred during the war. Milligan had been arrested for involvement with the Sons of Liberty, a rebel organization, and he was tried by an Indiana military commission.<sup>44</sup> The Supreme Court held that a civilian could not be tried in a military court and that Milligan should have been tried in a civil court instead.<sup>45</sup> Neely states that this decision "first had an

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<sup>36</sup> Mark E. Neely, *The Union Divided: Party Conflict in the Civil War North* (Cambridge, Massachusetts: Harvard University Press, 2002), 92. From the original quotation: "How long shall it be before all are made to heed the simple truth that *the constitution protects only those who acknowledge and support it*," written in August 1861 by the editor of the *New York Evening Post*.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*, 97. Neely found that while the modern view of press censorship by the national government is negative, and Lincoln himself "was not eager to suppress," the reactions of the press at the time towards censorship was not consistent and of the sources he examined, "all at some time or other endorsed suppression of the press by the government" (95). Neely argues that modern opinions on press censorship are not consistent with opinions of contemporaries of Lincoln's censorship of the press. The examination of articles and newspapers was central to Neely's analysis of press censorship during the Lincoln administration. Neely addressed the ever-present concerns about press censorship but noted the role of the press in accepting censorship during the Civil War: "the press explained. It did not complain" (92). Neely's analysis of press sources offers important insight into the issue of press censorship as it was viewed at the time.

<sup>39</sup> "Editorial: Democratic Dilemmas," *New York Times*, November 5, 1860, in *The New York Times on Critical Elections*, 53.

<sup>40</sup> Neely, *The Fate of Liberty*, 26.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, 28.

<sup>43</sup> *Ibid.*, 123.

<sup>44</sup> *Ibid.*, 176.

<sup>45</sup> *Ibid.*

entirely partisan reputation,” which was inaccurate given the makeup of the court: Lincoln had appointed five judges to the Supreme Court during the war, making the court, and its decision in *Milligan*, bipartisan.<sup>46</sup> This postwar decision marked a postwar interpretation of Lincoln’s suspension of the writ – one that could ignore the suspension as a war measure and take into account its effect on civilian lives.

During the war, however, both Lincoln and Seward justified the suspension of habeas corpus based on its results in Maryland and Missouri. The suspension was first implemented as a result of conflict in Maryland, and after its application, Maryland returned to the Union. This is a weak justification at best, considering the variety of other factors that went into the situation in Maryland, but this connection “became almost a truism in Lincoln’s day.”<sup>47</sup> William H. Seward, Lincoln’s Secretary of State, was responsible for the application of the suspension of the writ. When asked about citizens who were imprisoned without charge, Seward answered: “I don’t care a d – n whether they are guilty or innocent. I saved Maryland by similar arrests, and so I mean to hold Kentucky.”<sup>48</sup> Most at the time believed the so-called arbitrary arrests were effective in curbing the rebellion and reuniting the Union, regardless of whether or not that was true. In the state of Missouri, arbitrary arrests went a step farther. That state “saw the origins of trials by military commission,” which would, after the war, lead to the *Ex parte Milligan* decision.<sup>49</sup> The high arrest records of civilians in Missouri were a result of the continuous warring in that state, and also perhaps of overreaction from federal authorities in an attempt to get Missouri to side with the Union. Whether it was the suspension of habeas corpus, hidden Unionist sentiment, continued military presence, or some combination of these and other factors which saved the border states for the Union, for Lincoln, Seward and many Northerners, the suspension of the writ was the deciding factor which forced secessionist sympathizers out of the public eye and allowed Unionist sentiment to prevail.

Lincoln’s suspension of habeas corpus was justified; he was not hesitant to do what he needed to in a time of war, but he sought constitutional and congressional support and was troubled by the censorship of the press and other oversteps by subordinates. Lincoln knew he would need justification for his actions – as a lawyer, he was aware that precedent and tradition did not support his use of presidential powers and seizure of congressional powers. Using the war powers clause of the Constitution, the president justified the suspension of habeas corpus as a reaction to the rebellion. Without Congress to guide him until it reconvened in July 1861, Lincoln was left to handle the first months and the first reactions to Southern secession alone. Many of the decisions he faced were not clearly defined in the Constitution, leaving Lincoln to push against traditional uses of presidential powers. The suspension of habeas corpus was a major issue throughout the war for many Northerners, but Lincoln’s other extensions of presidential powers at the beginning of the war were more concerning. Lincoln moved outside of the presidential powers outlined in the Constitution because many of the powers of the federal government were not clearly defined. The Constitution stated that “the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it,” but the secession of Southern states was an act of rebellion.<sup>50</sup> In times of rebellion, swift government reaction was necessary. Lincoln upheld his oath of office in the best way he knew how: by preserving the Union and the Constitution through the suspension of habeas corpus.

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid, 29.

<sup>48</sup> Ibid, 30.

<sup>49</sup> Ibid, 49.

<sup>50</sup> Paludan, 71.