

## LINCOLN AS COMMANDER-IN-CHIEF

*This paper served as the basis for a presentation to the New South Wales Chapter of the American Civil War Round Table of Australia in February 2009 as part of the Chapter's commemoration of the 200<sup>th</sup> Anniversary of the birth of America's Sixteenth President. The presentation and the paper leans heavily on the incisive description and penetrating analysis by the famous Civil War scholar and author, James McPherson, in his recent book *Tried By War – Abraham Lincoln as Commander-in-Chief*. This book represents a major contribution to contemporary historical scholarship on America's Civil War and its contribution to the author's understanding of this aspect of Lincoln's life during the War is gratefully acknowledged.*

In a presentation to New South Wales Chapter of American Civil War Table of Australia some eight or nine years ago, the former Labor Senator, Stephen Loosely, asserted that:

*“... During his first term of office, Lincoln defined the role of the U.S. President as Commander-in-Chief in a way that had not been taken up by any of his predecessors”*

Indeed, Lincoln might be thought of as “inventing” the present role of Commander-in-Chief since neither the US Constitution nor the existing legislation specified how the President ought to declare war or dictate strategy for the conduct of a war. By assuming the powers now associated with Commander-in-Chief, Lincoln overstepped a narrow range of rights that had been granted to the President. Many would agree that this was a good thing, since historians agree that it was Lincoln's strategic insight and his will to fight that changed the course of the War and saved the Union.

Loosely's statement was particularly interesting and warranted further investigation. It was found, however, that despite Lincoln being the only US President whose term of office was completely bounded by war, there is very little written about him as a military leader. It is for this reason that Pulitzer Prize winner, James McPherson, of “*Battle Cry of Freedom*” fame, has made such a breakthrough for contemporary Civil War literature with his latest book published in 2008 by Penguin Press. This book, “*Tried By War – Abraham Lincoln as Commander in Chief*”, provides an incisive description and analysis of how Lincoln worked with (and often against) his senior commanders, molded fickle public opinion and even his own fears to defeat the Confederacy, save the Union and create the role of Commander-in-Chief as we know it today.

Lincoln had to learn the functions of Commander-in-Chief “on the job”. In this regard, both the Constitution and previous experience of America in war offered little or no guidance. Article II of the US Constitution states simply:

*“The President shall be the Commander in Chief of the Army and Navy of the United States and the Militia of the several States, when called into actual Service of the United States.”*

Nowhere does the Constitution define the **powers** of the president as Commander-in-Chief. Alexander Hamilton, one of America's “founding fathers” and the first US Secretary of the Treasury, (1789 – 1795) sought to clarify the situation to those who opposed the Constitution by stating that the Commander-in-Chief:

*“... would amount to nothing more than supreme command and direction of the military forces, as first General and Admiral”*

It should be noted that Hamilton's phrase "...supreme command and direction", whilst seemingly quite forceful, lacked specificity. Furthermore, the precedents created by Presidents James Madison in the War of 1812 and by James Polk in the Mexican War provided little guidance to Lincoln in the much greater conflict he faced with the combination of the most dangerous aspects of an internal war and war against another nation. Following the Mexican War, the US Supreme Court had ruled that the President as Commander-in-Chief was authorised to employ the country's army and navy:

*"... in a manner that he may deem most effectual to harass and conquer and subdue the enemy"*

In this ruling, however, the Court did not define "most effectual" and appeared to limit the president's powers by specifying that they must be confined to "purely military matters".

A direct consequence of the vagueness of these definitions and precedents was Lincoln having to establish most of the role and powers of Commander-in-Chief for himself and, in so doing, he proved to be a more "hands-on" Commander-in-Chief than any of his predecessors.

Lincoln was on a steep "learning curve" being particularly conscious of the gap in military experience between himself and the Confederate President, Jefferson Davis. Lincoln's experience was limited to that of a Militia Captain in the Blackhawk War of 1832, which, in his own words, he described later in a speech in his single term in Congress of how he:

*"...fought, bled and came away... (after)... charges among wild onions... and a good many struggles with the musketoes (sic)".*

Davis, on the other hand, was a graduate of West Point, had fought with a Mississippi Regiment during the Mexican War and was U.S. Secretary for War from 1853 to 1857.<sup>1</sup> To redress this imbalance, Lincoln was known to have applied himself to a rigorous program to master the intricacies of military strategy in the same way he taught himself Euclidian geometry and later the practice of law. His Private Secretary, John Hay, was to write:

*"He read a large number of strategic works. He pored over the reports from various departments and districts of the field of war. He held long conferences with eminent generals and admirals and astonished them by the extent of his special knowledge and the keen intelligence of his questions."*

Some of the generals found themselves in the embarrassing situation of being "trumped" by this "self-taught amateur" who was their Commander-in-Chief. One can only speculate that the sound knowledge base of military strategy that Lincoln had developed was one reason why George McClellan refused to meet with his President when Lincoln called on him at his home one evening in 1862. Surely, Lincoln's understanding of military strategy must have really upset the supreme egotist McClellan with his exhortations for action on McClellan's part. Lincoln's grasp of military strategy led one historian to declare, albeit incorrectly, that Lincoln was:

*"... a natural strategist, a better one than any of his generals"*

The fact remains, however, that Lincoln was **not** a "natural strategist". He had to work hard to master the subject of military strategy, in the same way he had earlier worked hard to become a lawyer and his achievements as Commander-in-Chief were part of his on-the-job-training. Certainly, he made mistakes but he learnt from these and was able to achieve ultimate victory for the Union.

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<sup>1</sup> As an aside, it would have been much better for the Confederacy if Davis had concentrated getting the fledgling Confederate Government up and running rather than interfering with its military operations and seeking to be its general-in-chief rather than commander-in-chief.

In his war-time capacity as Commander-in-Chief, Lincoln may be considered to have performed or provided oversight to five functions, (in diminishing order of personal involvement):

1. National Policy
2. National Strategy
3. Military Strategy
4. Operations, and
5. Tactics

Neither Lincoln nor anyone one else associated with the conduct of the War defined explicitly these functions at the time. If they had, McPherson suggests that the definitions might have been something like:

**National Policy** – refers to the war aims – the political goals of the nation in time of war.

**National Strategy** – refers to the mobilization of the political, economic, diplomatic and psychological, as well as military resources of the nation to achieve these war aims.

**Military Strategy** – concerns plans for the employment of armed forces to win the war and fulfill the goals of policy.

**Operations** – concerns the management and movement of armies in particular campaigns to carry out the purposes of military strategy.

**Tactics** – refers to the formations and handling of an army in actual battle.

Lincoln as President and as leader of his party as well as Commander-in-Chief was responsible for specifying and defining the **national policy** or war aims. Essentially, this was the preservation of the United States as one nation, indivisible and as a republic based on majority rule. On a number of occasions throughout his presidency Lincoln articulated this policy with possibly the most eloquent offering being in his Gettysburg Address – where he asserted that the War was a test of whether the nation conceived in 1776 “... *might live*” or would “... *perish from the earth*”.

The **policy** of there being national sovereignty over a union of **all** states was **non-negotiable**. Indeed, Lincoln’s frequent statements on this policy were characterised by their **Inflexibility**, reinforcing the non-negotiable nature of the policy.

The national policy is closely tied to **national strategy**. Indeed, in the context of America’s Civil War, which had its origins in a political conflict over the future of slavery and the decisions of various states to secede, *national policy* and *national strategy* can never be separated. Lincoln shared with Congress and key members of his Cabinet the tasks of:

- Raising, organising and sustaining an army;
- Preventing foreign intervention in the War;
- Maintaining public support for the War.

Each of these depended on the population’s support of the purpose for which the War was being fought and reinforced the need for a congruence of the national strategy with the war aims. Furthermore, neither *national strategy* nor its underlying *national policy* could be separated from *military strategy*.

As Clausewitz asserts in his famous treatise - "*Vom Kriege*" (*On War*):

*"...The political objective is the goal, war is the means of reaching it ... means can never be considered in isolation from its purpose ... Therefore, it is clear that war should not be thought of as something autonomous but always as an instrument of policy."*

It is highly unlikely that Lincoln had ever read Clausewitz's treatise, but his actions as Commander-in-Chief were the consummate expression of the central tenet of Clausewitz just quoted.

Some of Lincoln's senior officers **did** think the war was "something autonomous", decrying the political intrusion into military matters. Henry Halleck, on his appointment as general-in-chief in August 1862, complained, albeit privately, about the political "string pulling" in military appointments, suggesting that if the "incompetent and corrupt politicians" were to:

*"... follow the example of their ancestors, enter a herd of swine, run down some steep bank and drown themselves in the sea, there would be some hope of saving the country"*

Lincoln, however, never ignored the political context in which the War was being fought and on which military strategy was built. His view was probably similar to that of the French politician of a later era who said:

***"The War was too important to be left to the generals."***

Lincoln recognised that in a highly politicised and democratic society where the mobilization of the volunteer army was implemented through state governments, political considerations would inevitably affect the scope and timing of military strategy and even operations. As leader of the party that controlled Congress and most state governments, Lincoln, in his capacity of Commander-in-Chief, needed to continually juggle the complex interaction between policy, national strategy and military strategy.

In this regard, the issue of slavery offers an excellent example of such interplay. In early 1861, the goal of preserving the Union united the population in the North, whereas the issue of slavery and emancipation divided them. In order to maximise support for the war effort, Lincoln, therefore, initially proclaimed that the War was being fought solely for the preservation of the Union with the national strategy and military strategy supporting this policy requiring the issue of slavery to be "left alone". The slaves refused, however, to cooperate with this policy. The administration was confronted with the problem of what to do with the thousands of "contrabands", slaves that came within Union lines. Furthermore, it became increasingly clear that slave labour sustained the Confederate economy and, importantly, their armies' logistical support. Northern opinion moved or, more accurately, was moved to making the War a war against slavery and, by 1862, national and military strategies emerged that targeted Confederate resources, including slavery, as part of the Union's arsenal. This culminated with the issue of the Emancipation Proclamation and the commitment of the Republican Party to abolish slavery. At this time, the policy of the War being for Union and freedom came into harmony with the national and military strategies of striking against the vital Confederate resource of slave labour. As McPherson notes:

*"Lincoln's skilful management of this contentious process was a crucial part of his war leadership"*

In both military strategy and operations, Lincoln initially deferred to the aging Winfield Scott, who had fought with distinction in both the War of 1812 and the Mexican War. With Winfield Scott's poor health and lack of energy, it was soon obvious that he could not run the war now facing the Union. The situation was confounded by the fact that Lincoln had some doubt that Winfield Scott, as a native Virginian, would be able to make some of the "hard" decisions or provide "fearless" advice required of the general-in-chief during the anticipated conflict with the Confederacy. Winfield Scott's

loyalty was not in question, but rather his Virginian heritage was considered to have a potential for colouring his thinking on how the War might be fought in his native state of Virginia.

Winfield Scott's immediate successor, George McClellan was even a greater disappointment and the succession of generals including Halleck, Buell, Pope, Burnside, Hooker and Rosecrans all failed to live up to their early expectations. Their shortcomings led Lincoln to become, in effect, general-in-chief as well as commander-in-chief. He became involved, on occasion, in the operational planning, where he would offer astute suggestions to which, in hindsight, his generals should have paid more attention. He did not become directly involved in the tactics aspects of the War, although he was solely tempted to do so when Meade did not follow up the victory at Gettysburg by failing to immediately pursue Lee and attack his Army of Northern Virginia trapped with its back to the flooded Potomac River. Even when Grant was appointed as general-in-chief in March 1864, Lincoln continued to exercise a significant degree of oversight of military strategy, particularly in relation to the conflict in the Shenandoah Valley in the late summer of 1864.

In the final part of this paper, it is proposed to provide two "snapshots" of Lincoln's actions in the early days of the War that will illustrate his unique contribution to the war effort as Commander-in-Chief.

From the time of his election as President in November 1860 Lincoln confronted issues of policy and strategy. The South Carolina legislature immediately called a convention to take the state out of the Union and within six weeks, six more state legislatures had voted to do the same thing. With each of these secessions, the state militias seized federal forts, arsenals and other federal property within their state and in February 1861, these seven states met in Montgomery, Alabama, to form a new nation – the Confederate States of America. Lame-duck President James Buchanan stated that secession was unconstitutional but did nothing about the situation. The eight upper-South and border slave states threatened also to secede if the Federal Government tried to "coerce" the seceded states.

Although he had no power before he took office in March 1861, Lincoln set about exploring his options for when he legally became Commander-in-Chief on March 4, 1861. Lincoln insisted that:

*"... the right of a State is not an open or debatable question ... it is the duty of the President to execute the laws and maintain the existing Government ... He cannot entertain any proposition for dissolution or dismemberment"*

Lincoln never changed his position from these principles although the more difficult issue was how they might be put into practice. In December 1860, Lincoln sent word indirectly to Winfield Scott to be prepared to re-take the forts and other installations seized by the State militias. There emerged a stalemate on whether to withdraw from Southern installations still held by government forces or try to re-take those forts already seized by the militias. On taking office, Lincoln's Cabinet led by Seward was in favour of the withdrawal option for Fort Sumter with only the Postmaster, Montgomery Blair, opposing an evacuation. The evacuation option was particularly distasteful to Lincoln but he was concerned that any action to reinforce Fort Sumter would drive Upper South and the Border States out of the Union to join the Confederate banner. He was said to have explored an option of a significant *quid pro quo* where a withdrawal from Sumter would be approved if the Virginian convention that was meeting in Richmond, were to dissolve without seceding. If there were such a proposal, the delegates who met with Lincoln did not have the authority to agree to it and the deal fell through.

Lincoln pursued, also, a plan to re-provision Fort Sumter, which went astray when the most powerful warship (USS Powhatan) intended to support the re-provisioning was tasked to reinforce Fort Pickens. Lincoln had signed off on the orders to this effect without reading them carefully, (he was distracted with being preoccupied with patronage appointments as well as the Sumter problem), and by the time the mistake was discovered, it was too late to recall the Powhatan. This error was part of

Lincoln's steep path to become an effective Commander-in-Chief and one from which he learned well.

On the same day as the Powhatan muddle occurred, (April 1) Lincoln asserted his authority as Commander-in-Chief over Winfield Scott by bringing him "into the loop" for the re-provisioning of Pickens and Sumter. The plan to implement the relief of these forts had changed significantly since its original conception by Gustavus Fox (Montgomery Blair's brother-in-law). The original plan was for there to be a full-scale attempt to reinforce the Forts, backed by warships that would shoot their way into Charleston Bay. Lincoln reasoned that this would make out the North as the aggressor, drive the uncommitted States into the Confederacy with Lincoln seen to have started the war. He then conceived a plan to split the issue of reinforcement with that of re-provision and showed his hand by advising the South Carolina governor of his intentions (on April 6) so that if the Confederates were to open fire on the unarmed tugs carrying the provisions, they would be seen to have started the war. Alternatively, if the Confederates allowed the boats to land with the provisions, the uneasy *status quo* that had existed for the previous two months would be allowed to continue.

### **Who said Lincoln was not cunning – the consummate politician!**

It was to become a stand-off situation with whoever blinked first being the loser! On April 8, the Confederate Secretary of War advised General Beauregard, the commander of Confederate forces in Charleston, that:

*"... under no circumstances are you to allow provisions to be sent to Fort Sumter"*

This was followed up by a telegram two days later saying:

*"You will at once demand its evacuation and if this is refused proceed ... to reduce it"*

After a further two days, Confederate guns opened fire on Fort Sumter and this shot was heard around the world.

Lincoln could now claim with some justification that the onus for starting the War lay with the Confederates and while this did not immediately force the uncommitted Border States into the Confederacy, Lincoln's call for 75,000 men<sup>2</sup> from State militias into federal service for 90 days<sup>3</sup> certainly did! Meeting with three representatives of the Virginia convention that had previously rejected secession, but remained in session "awaiting events", Lincoln spoke to them coldly:

*"... now that actual war against the government" ... had commenced, he intended not only to ... "possess, occupy and hold ..." national property in the Confederate states, but also "... if I can, the places which have been seized before the Government was devolved upon me"*

As McPherson notes:

*"Here was the beginning of a military of a military strategy consistent with Lincoln's policy of rejecting the legitimacy of secession and continuing to regard the Confederate states as part of the United States"*

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<sup>2</sup> This proclamation which had been drafted by Lincoln was approved by the Cabinet in an emergency Sunday meeting on April 14, 1861

<sup>3</sup> The 90 days for militia to be brought into federal service was the **maximum** that was allowed under the 1795 *Militia Act* which was still operative at that time.

Lincoln's effort in placing the onus on the South for starting the war had certainly paid off with the attack on Fort Sumter uniting the previously divided Northern peoples more than ever they would be again.

The second "snapshot" of Lincoln that will be discussed relates to his enacting a series of measures by executive order, including the suspension of writs of *habeas corpus*, which were in apparent violation of the U.S. Constitution. Recognising the need for troops for a longer period than the 90 days allowed by the 1795 Militia Act, Lincoln issued a call for 43,034 three-year volunteers and, also, increased the size of the regular army by 22,714 men and the navy by 18,000 men. These actions were enacted by executive order, even though *Article 1, Section 7* of the Constitution granted Congress the exclusive authority to

*"... raise and support armies" and to "... provide and maintain a navy"*

His order to the Treasury to advance \$2,000,000 for three private citizens to purchase arms and vessels directly contravened *Article 1, Section 9* of the Constitution which stipulated that:

*"... no Money may be drawn from the Treasury, but in Consequence of Appropriations made by Law"*

Lincoln considered these and other actions, including his proclamation of the naval blockade of Confederate ports, were justified under his constitutional mandate as Commander-in-Chief. Lincoln's rationale for his actions came from his oath of office that required him to " ... preserve, protect and defend" the Constitution and this duty over-rode any specific constraint on executive action. He explained that:

*"It became necessary ... for me to choose whether, using existing means, agencies and processes which Congress has provided, I should let the government fall at once into ruin, or whether, availing myself of the broader powers conferred by the Constitution in cases of insurrection, I should make an effort to save it with all its blessings for the present age and for posterity"*

Congress supported Lincoln's position and by an overwhelming majority passed into law an act which legalised all proclamations and orders made by Lincoln as if they had been enacted with the express authority of the Congress.

One of the more interesting actions of Lincoln was his authorising the suspension of the writ of *habeas corpus*<sup>4</sup> and the resulting "showdown" he had with the Chief Justice of the Supreme Court. At the end of April 1861, Lincoln authorised Winfield Scott to suspend the constitutionally right to writs of *habeas corpus*. Initially, this applied only to Maryland and parts of the Mid-western states – any military line between Washington and Philadelphia. Subsequent orders expanded the area where the writ was suspended until a proclamation in September 1862 suspended it throughout the whole country.

In response to the arrest and imprisonment of a wealthy Maryland secessionist, John Merryman, for tearing down telegraph lines near Baltimore, Merryman petitioned the federal circuit court for a writ of *habeas corpus*. Hearing the application was none other than the then Chief Justice of the Supreme Court, Roger B Taney (of the infamous Dredd Scott decision). Taney issued a writ ordering the commanding officer of Fort McHenry to bring Merryman before the court to show cause for his

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<sup>4</sup> A writ of *habeas corpus* is a judicially enforceable order issued by a court of law to a prison official ordering that a prisoner be brought to the court so it can be determined whether or not that prisoner had been lawfully imprisoned and, if not, whether he or she should be released from custody. A *habeas corpus* petition is a petition filed with a court by a person who objects to his own or another's detention or imprisonment. The petition must show that the court ordering the detention or imprisonment made a legal or factual error. The right of *habeas corpus* is the constitutionally bestowed right of a person to present evidence before a court that he or she has been wrongly imprisoned.

arrest. The Commanding Officer refused, citing Lincoln's recent suspension of the writ, to which Taney immediately delivered a ruling denying the President's authority to do so. Taney argued that what was at issue here was whether the writ could be suspended and who could suspend it. Taney insisted that only the Congress and not the President had this power under the Constitution. A number of constitutional lawyers, including the Attorney General, Edward Bates, upheld Lincoln's right to suspend the writ under his Commander-in-Chief responsibilities. Taney had no power to enforce his ruling and Lincoln simply refused to obey it. It should be noted, however, in this early part of the War, Lincoln was restrained in his use of the suspension of the writ. He refused to have Maryland legislators arrested to prevent their meeting to discuss secession and even in Washington D.C., where Confederate sympathizers were numerous, he opposed their arrest unless it was "manifest and urgent".

The issue of "arbitrary arrests" became highly controversial, particularly as the number of arrests increased as the War progressed. The opposition to the suspension of *habeas corpus* focused on Taney's ruling which, in effect, denounced Lincoln as a tyrant. Lincoln responded to this criticism with disarming logic and presented the core concept of his war powers as Commander-in-Chief. He asserted that his supreme constitutional obligation was to preserve the nation by winning the War and the measures necessary to achieve this over-rode lesser constitutional restrictions.

As a final comment, it is worth noting McPherson's summing up of Lincoln's involvement throughout the War - that at all levels of policy, strategy and operations, Lincoln was:

***"... a hands-on commander-in-chief who persisted through a terrible ordeal of defeats and disappointments to final triumph – and tragedy - at the end."***

## REFERENCES

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Further citations and references available upon request to  
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