

# “Jackson Redivivus” in Lincoln’s First Inaugural

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At mid-day on March 4, 1861, as president-elect Abraham Lincoln rode in procession to the Capitol, an ominous feeling pervaded the air. Soldiers lined the streets adjacent to Pennsylvania Avenue, and sharpshooters watched like hawks from the rooftops, ready to prevent any attempt on Lincoln’s life. The inauguration of a new president, in normal times a festive affair, was this time marked more by anxiety than gaiety, a reflection of the dark state of the Union this president-elect was inheriting.<sup>1</sup>

At one o’clock in the afternoon, from the east portico of the Capitol, Lincoln would deliver his inaugural address, before taking the oath of office and commencing the work of repairing a fractured nation. He had spent six weeks preparing the address, and Americans everywhere had spent even longer wondering what he would say in it.<sup>2</sup> How would he respond to the secession of seven Southern states? Would he threaten or conciliate? Would it be war or amicable divorce?

One question that all Americans pondered, especially those with a historical sensibility: *What would Andrew Jackson do?* It does not strike us as obvious today, but in 1861 the Nullification Crisis of 1832–33 was considered the preeminent historical analogue to the Secession Crisis. Correspondingly, the strength of Lincoln’s response to the crisis was thought to depend on how well he could emulate Jackson. Three decades earlier, the South Carolina government had defiantly nullified two federal laws and threatened to secede from the Union, only to back down in the face of Jackson’s mythic resolution and toughness. If Lincoln was anything like Jackson, the thinking went, he would handle the South forcefully. If not, he would do so feebly. As one *New York Herald* correspondent put it, “The present aspect of the country, I

1. David Herbert Donald, *Lincoln* (New York: Simon & Schuster, 1995), 282–83; Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* (New York: Simon & Schuster, 2005), 327.

2. Marie Hochmuth, “Lincoln’s First Inaugural,” in *American Speeches*, ed. Wayland Maxfield Parrish and Marie Hochmuth (New York: Longmans, Green, 1954), 47.

think, augurs one of the most difficult terms which any President has yet been called to weather . . . The times demand a Jackson."<sup>3</sup>

So penetrating did Americans find the analogy to Jackson and the Nullification Crisis that Jackson became, in the words of one scholar, "far and away the most ubiquitous historical reference" in American political discourse.<sup>4</sup> Of course, attitudes toward the analogy varied by section, as did so much in that era. Hawkish Northerners hoped Lincoln would give the South a taste of Jacksonian might—"Oh, for one hour of Jackson!" the *Springfield Republican* prayed.<sup>5</sup> In the South, the prospect of a Jacksonian response inspired dread. If Lincoln resolved to "play the Andrew Jackson," the *Charleston Mercury* warned, he would "throw the bloody spear" at the South and plunge the continent into civil war.<sup>6</sup> Even the president-elect's closest associates drew the comparison. Writing to the abolitionist Wendell Phillips, Lincoln's law partner William Herndon predicted that President Lincoln would be as "firm" and "courageous" as the legendary general. "Lincoln is 'Jackson redivivus,'" Herndon wrote. "He will in my opinion, judging from his nature, make a grave yard of the South."<sup>7</sup> Above or below the Mason-Dixon line, inside or outside of his own coterie, Lincoln would not be able to evade Jackson's memory.

Being compared to Jackson might have made a different man anxious. In fact, Lincoln found power and counsel in Jackson's example. The proof is his First Inaugural. A close analysis of its content and rhetoric, together with the history of its drafting, unveils a deep Jacksonian influence. Lincoln studied the Nullification Proclamation, the presidential statement Jackson had published apropos the Nullification Crisis, at least two times between his election and inauguration, and the document's influence on both the substance and style of Lincoln's address is impossible to miss when the two texts are considered in tandem. At the specific level, the First Inaugural duplicates the Proclamation's account of the Union and its constitutional critique of

3. Henry Villard, *Lincoln on the Eve of '61: A Journalist's Story* by Henry Villard, ed. Harold G. Villard and Oswald Garrison Villard (New York: Alfred A. Knopf, 1941), 17.

4. Russell McClintock, *Lincoln and the Decision for War: The Northern Response to Secession* (Chapel Hill: University of North Carolina Press, 2008), 127.

5. Quoted in Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: W. W. Norton & Company, 2005), 780.

6. "Our Washington Correspondence," *Charleston Mercury*, February 26, 1861, quoted in *Abraham Lincoln: A Press Portrait*, ed. Herbert Mitgang (New York: Fordham University Press, 2000), 233.

7. William H. Herndon to Wendell Phillips, December 28, 1860, in *Herndon on Lincoln: Letters*, by William H. Herndon, ed. Douglas L. Wilson and Rodney O. Davis (Urbana: University of Illinois Press, 2016), 15.

secession. At the holistic level, it overflows with the Proclamation's constitutional vision and political philosophy. In some cases, as we shall see, Lincoln lifted argumentation and language directly from the Proclamation, while in other cases, he further developed Jackson's conceits. But in all cases, the degree of intellectual and rhetorical parallel is remarkable, and the influence unmistakable.

And yet, despite the power and preeminence of the Jackson analogy for Lincoln and his contemporaries, Jackson barely turns up in the literature on Lincoln's rhetoric. Rarely is he named as having influenced Lincoln at all,<sup>8</sup> and when he does receive the occasional credit, he is almost always denied pride of place, upstaged by figures like Daniel Webster and Henry Clay.<sup>9</sup> Only a handful of scholars have spotted Jackson's influence on Lincoln. Even fewer have considered Jackson's influence on the First Inaugural in particular, and even these scholars have not developed the profound connections between Lincoln's address and Jackson's proclamation in sufficient detail.<sup>10</sup> For

8. Two examples of this general tendency are Garry Wills's *Lincoln at Gettysburg* and Ronald White's *Lincoln's Greatest Speech*. Both provide excellent treatments of Lincoln's rhetoric, including of the First Inaugural, but omit that Lincoln read Jackson's Nullification Proclamation prior to writing it. Both, however, do mention Webster's "Second Reply to Hayne." Wills, *Lincoln at Gettysburg: The Words That Remade America* (New York: Simon & Schuster, 1992), 127. White, *Lincoln's Greatest Speech: The Second Inaugural* (New York: Simon & Schuster, 2002), 73.

9. Examples here include the biographies by David Herbert Donald, Doris Kearns Goodwin, and Michael Burlingame, as well as the rhetorical biographies by Ronald White and Douglas Wilson. Each notes only that Lincoln read Jackson before writing the First Inaugural—the possibility of a more extensive intellectual or rhetorical influence is never raised. Donald, *Lincoln*, 270; Goodwin, *Team of Rivals*, 324; Burlingame, *Abraham Lincoln: A Life*, 2 vols. (Baltimore: Johns Hopkins University Press, 2008), 1: 657; Ronald C. White, Jr., *The Eloquent President: A Portrait of Lincoln through His Words* (New York: Random House, 2005), 7; Douglas L. Wilson, *Lincoln's Sword: The Presidency and the Power of Words* (New York: Vintage Books, 2007), 45.

10. Works that propose a Jacksonian influence on Lincoln, but not on the First Inaugural in particular, include William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816–1836* (New York: Harper & Row, 1966), 294–95; Robert V. Remini, *The Course of American Democracy, 1833–1845*, vol. 3 of the biography *Andrew Jackson* (1984; repr., Baltimore: John Hopkins University Press, 1998), 23; Michael Les Benedict, "Lincoln and Federalism," *Journal of the Abraham Lincoln Association* 10 (1988–89): 8, 11; Phillip S. Paludan, "Lincoln's Prewar Constitutional Vision," *Journal of the Abraham Lincoln Association* 15, no. 2 (Summer 1994): 17; Daniel A. Farber, *Lincoln's Constitution* (Chicago: University of Chicago Press, 2003), 61–62; Herman Belz, "Lincoln's Construction of the Executive Power in the Secession Crisis," *Journal of the Abraham Lincoln Association* 27, no. 1 (Winter 2006): 23–24; and Sean Wilentz, "Abraham Lincoln and Jacksonian Democracy," *History Now*, no. 18 (Winter 2008): accessed May 12, 2020, <https://www.gilderlehrman.org/history-resources/essays/abraham-lincoln-and-jacksonian-democracy>.

instance, in his classic article on "The Concept of a Perpetual Union," Kenneth Stampp conjectured that "Jackson's conclusion appears to be the model from which Lincoln drew inspiration for some critical statements" in his inaugural address.<sup>11</sup> This, as we shall see, is a tremendous understatement. In fact, Jackson gave Lincoln the crucial argumentative and rhetorical foundations for his address's most quintessential propositions—much more than "inspiration for some critical statements."<sup>12</sup> The constitutional scholar Michael Gerhardt and the political scientist Matthew Brogdon have come closest to showing how Lincoln "adapted Jackson's arguments" and "emulate[d] the rhetoric of the Nullification Proclamation to a remarkable degree," but since their focuses were Lincoln's political education and Jackson's constitutional thought, as opposed to Lincoln's rhetoric, their treatments are more sketches than studies, more cursory than comprehensive.<sup>13</sup>

By and large, scholars have overlooked the rich relationship between Jackson's Nullification Proclamation and Lincoln's First Inaugural Address. This essay seeks to remedy that oversight. Just as the Nullification Crisis was the Secession Crisis's principal historical analogue, the Nullification Proclamation was the First Inaugural's principal rhetorical model. One cannot fully understand the latter without understanding how it grew out of the former.

### Twin Crises

Ever the lawyer, Lincoln began hunting for a precedent to what we now call the Secession Crisis as soon as he won the presidency in November 1860. As fate would have it, he had little time to celebrate his victory: just three days after the election, South Carolina's general

11. Kenneth M. Stampp, "The Concept of a Perpetual Union," *The Journal of American History* 65, no. 1 (June 1978): 32, <http://www.jstor.com/stable/1888140>.

12. In another essay, Stampp wrote that for his constitutional interpretations Lincoln's "debts were especially great to Daniel Webster and to President Andrew Jackson's Proclamation on Nullification of 1832," and Eric Foner, drawing on Stampp, designated the Proclamation a "key influence" on the First Inaugural. But Jackson's influence on Lincoln went beyond just constitutional interpretations, and in any case, neither Stampp nor Foner fleshed out the claim. Kenneth M. Stampp, "Lincoln's History," 1995, in *We Cannot Escape History: Lincoln and the Last Best Hope of Earth*, ed. James M. McPherson (Urbana: University of Illinois Press, 1995), 27. Eric Foner, *The Fiery Trial: Abraham Lincoln and American Slavery* (New York: W. W. Norton & Company, 2010), 159.

13. Michael J. Gerhardt, *Lincoln's Mentors* (New York: Custom House, 2021), 277-80; Matthew S. Brogdon, "Defending the Union: Andrew Jackson's Nullification Proclamation and American Federalism," *The Review of Politics* 73, no. 2 (Spring 2011): 269, <https://www.jstor.org/stable/23016381>.

assembly passed a resolution stating its intention to secede from the Union.<sup>14</sup>

Foreseeing crisis, Lincoln turned to history. On November 13, four days after South Carolina's resolution and just a week after becoming president-elect, Lincoln made his way to the Illinois State Library and checked out a copy of Edwin Williams's two-volume *Statesman's Manual*, the definitive anthology of the messages, speeches, and proclamations of presidents past. Later that same day, a *New York Evening Post* journalist spotted him reading the book in his office, "studying with particular interest Andrew Jackson's 1832 proclamation against South Carolina nullification."<sup>15</sup> It is safe to say Lincoln was not reading the Nullification Proclamation for pleasure. His time as president-elect was surely precious (we suppose that he would have preferred reading Byron or Shakespeare to a presidential proclamation). What moved him to read the Proclamation that day?

Some background on the Nullification Crisis is necessary. The crisis ensued in November 1832, when the South Carolina state government tried to escape the purview of two federal tariff laws, the Tariff of 1828 (also known as the Tariff of Abominations) and the Tariff of 1832. The state's objections to the tariffs were grounded in political economy, specifically in the disproportionate burden the tariffs exacted on the Southern economy due to its position in the North-South-Europe trade triangle. The South, in net terms, was an importer of manufactures (from the North and Europe) and an exporter of agricultural goods (to the North and Europe). As a result, tariffs levied on imported manufactures would necessarily hurt the South and help the North, because such tariffs would make Northern products cheaper vis-à-vis European competition and allow Northern manufacturers to raise their prices and profits. The flip side for Southerners was an unavoidable price hike on manufactured goods. If a Southerner bought a Northern good, he would have to pay the artificially propped-up price; otherwise, if he imported the good from Europe, he would have to pay the federal tariff. Either way, his cost increased. What's more, such tariffs could set off a trade war, prompting European nations to retaliate

14. "Resolution to Call the Election of Abraham Lincoln as U.S. President a Hostile Act and to Communicate to Other Southern States South Carolina's Desire to Secede from the Union," November 9, 1860, in *Resolutions of the General Assembly, 1779–1879* (Columbia: South Carolina Department of Archives and History), accessed May 14, 2020, <https://digital.sctv.org/teachingAmerhistory/tTrove/ResolutiontocalltheelectionofAbrahamLincolnaHostileActNovember1860.html>.

15. Quoted in Harold Holzer, *Lincoln President-Elect: Abraham Lincoln and the Great Secession Winter, 1860–1861* (New York: Simon & Schuster, 2008), 255–56.

against the United States with tariffs of their own (or, even worse, taking their business elsewhere) and causing Southern exports of rice and cotton to suffer.<sup>16</sup> For these reasons, South Carolina complained that the Tariffs of 1828 and 1832 protected and promoted Northern industry at the expense of Southern economic security, that they in effect subsidized the North by bleeding the South, that they amounted to a redistribution of wealth, that they flew in the face of the Article I constitutional requirement that "all Duties, Imposts, and Excises shall be uniform throughout the United States"—and thus that they were unconstitutional.<sup>17</sup>

South Carolina also had a second, subtler yet deeper, reason for fearing the tariffs. To the leading South Carolinian politicians and planters, the tariff controversy was about not just economics, but also political theory, state sovereignty, and ultimately slavery. Why, they asked, should they tolerate an inequitable tariff imposed by an external legislature? After all, according to the *compact* theory of the Constitution devised by South Carolinian John C. Calhoun and well-accepted in Charleston, the Constitution represented nothing more than a "compact" between independently sovereign parties.<sup>18</sup> As a sovereign entity, South Carolina had the right to regulate its local affairs "free . . . from the molestation or interference of any legislative power on earth but our own," in the words of essayist Robert J. Turnbull.<sup>19</sup> To Calhoun, Turnbull, and other Southerners, the tariff laws were the product of just such molestation, and they put the federal government on the slippery slope toward exterminating South Carolina's sovereignty.

State sovereignty, South Carolinians believed, was all that was standing between the federal government and their beloved peculiar institution. If Congress could meddle with their trade today, what would stop it from meddling with slavery tomorrow? As historians have come to recognize, it was this fear of a future federal attack on slavery that inspired South Carolina to resist the tariffs.<sup>20</sup> Calhoun himself considered the tariffs merely "the occasion, rather than the real

16. Freehling, *Prelude to Civil War*, 106–8.

17. "Ordinance of Nullification," November 24, 1832, in *The Nullification Era: A Documentary Record*, ed. William W. Freehling (New York: Harper & Row, 1967), 150–51; U.S. Const. art. I § 8, cl. 1.

18. John C. Calhoun, *Exposition and Protest*, December 19, 1828, in *Union and Liberty: The Political Philosophy of John C. Calhoun*, ed. Ross M. Lence (Indianapolis: Liberty Fund, 1992), 349–50.

19. Robert J. Turnbull, *The Crisis*, 1827, in Freehling, ed., *The Nullification Era*, 34.

20. Freehling, *Prelude to Civil War*, x–xi, 139–41, 254–59. See also Elizabeth R. Varon, *Disunion!: The Coming of the American Civil War, 1789–1859* (Chapel Hill: University of North Carolina Press, 2008), 57.

cause” of the crisis. Even more than the tariffs, he wrote privately to a friend, “the peculiar domestick institution of the Southern states”—stripped of euphemism, slavery—put the South “in opposite relation to the majority of the Union.”<sup>21</sup> With the stakes so high, the South could not afford to wait until the North took concrete action against slavery, for unless Southerners monitored federal laws closely and guarded their sovereignty carefully, Northerners would not fail to oppress them. Formulated like that, the problem suggested its own solution. To repel the imminent threat to its sovereignty, the South had to strike the federal government preemptively. It had to put its foot down now against the injurious tariffs, in order to demonstrate to the North that it could not intrude upon the South’s domestic institutions. Only in this way could state sovereignty be secured and federal interference with slavery be kept off-limits.

Enter nullification. Each state, Calhoun asserted in the same tract in which he debuted the compact theory, possessed a “right of interposition,” intrinsic and “essential” to its sovereignty. In practice, this right of interposition allowed a state to “veto” any federal act it judged to be in excess of the federal government’s limited powers. Calhoun thereby formalized the doctrine of *nullification*, whose intellectual ancestry he traced back to the Kentucky and Virginia Resolutions of Jefferson and Madison.<sup>22</sup> In November 1832, a South Carolina state convention actualized Calhoun’s theory, passing an Ordinance of Nullification that declared the Tariffs of 1828 and 1832 “null, void, and no law” and prohibited their enforcement within the state.<sup>23</sup>

Further, to make sure that Jackson and the rest of the federal government heard her message loud and clear, South Carolina threatened to secede from the Union. *Secession*, like nullification, was derived from the compact theory. Just as South Carolina, as a sovereign state, had entered into a compact with other sovereigns, so could it revoke the compact, exit the Union, and return to its pre-compact status, especially if it deemed the compact to have been breached by the other parties (i.e. the other states, whether in their own capacity or through the federal architecture).<sup>24</sup> “We will not submit to the application of force on the part of the federal government, to reduce this State to obedience,” the

21. John C. Calhoun to Virgil Maxcy, September 11, 1830, in *The Papers of John C. Calhoun*, ed. Robert L. Meriwether (Columbia: University of South Carolina Press, 1959), 11:229.

22. Calhoun, *Exposition and Protest, in Union and Liberty*, 348–50.

23. “Ordinance of Nullification,” in Freehling, ed., *The Nullification Era*, 151.

24. Forrest McDonald, *States’ Rights and the Union: Imperium in Imperio, 1776–1876* (Lawrence: University Press of Kansas, 2000), 41–43. See also Varon, *Disunion!*, 34–36.

Ordinance warned. If the government attempted to enforce the tariffs within state lines or otherwise coerce the state into compliance with federal law, the people of South Carolina would consider themselves "absolved from all further obligation" to the Union and would "proceed to organize a separate government."<sup>25</sup> All told, the Ordinance hit Jackson and his federal colleagues twice, following a claim to nullify two federal laws with a solemn threat to leave the Union altogether.

It should now be clear why the Nullification Crisis, and Jackson's part in it, would interest Lincoln and his contemporaries. In both crises, the survival of the Union was threatened. In both, North and South were pitted against each other. In both, it was the state of South Carolina that challenged federal supremacy, out of concern for the future of slavery and with support from Calhoun's compact theory.<sup>26</sup> Then again, one should not take the analogy too far. In the former crisis, secession was only "menaced," as Lincoln would say in the First Inaugural; in the latter, it was actually and "formidably attempted."<sup>27</sup> Moreover, in 1832 it was economic policy that occasioned the crisis, the issue of slavery only lurking beneath the surface; in 1860, it was slavery plain and simple—specifically, the election of a man "whose opinions and purposes are hostile to slavery"—that moved South Carolina to rebellion.<sup>28</sup> Still, the similarities are pronounced. If Lincoln was hunting for a model to guide him through the Secession Crisis, Jackson's handling of the Nullification Crisis was a good place to start.

### Jackson's Response

Jackson's most authoritative response to the Nullification Crisis came in the form of a "Proclamation to the People of South Carolina." Drafted by his Secretary of State Edward Livingston and published

25. "Ordinance of Nullification," in Freehling, ed., *The Nullification Era*, 151–52.

26. The South Carolina secession convention referred explicitly to the "law of compact" in explaining its decision to secede. "Declaration of the Immediate Causes Which Induce and Justify the Secession of South Carolina from the Federal Union," December 24, 1860, in *South Carolina Secedes*, ed. John Amasa May and Joan Reynolds Faunt (Columbia: University of South Carolina Press, 1960), 78. More generally, as historian Drew Faust has written, "[t]he political philosophy most influential in shaping the South's progress toward independence" was Calhoun's. Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge: Louisiana State University Press, 1988), 36.

27. Abraham Lincoln, "First Inaugural Address," 1861, in Roy P. Basler, et al., eds., *Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick: Rutgers University Press, 1953–55, for the Abraham Lincoln Association), 4:264. Hereinafter, *Collected Works*.

28. "Declaration of the Immediate Causes," in *South Carolina Secedes*, 80.



on December 10, 1832, the Proclamation sought to answer and refute South Carolina's Ordinance of Nullification.<sup>29</sup> It remains to this day one of the most remarkable, assertive, and aggressive statements ever issued by an American president.

In the most elemental analysis (the deeper analysis is in the next section), the Proclamation has two parts. In the first, Jackson rendered something akin to a judicial decision on the constitutionality of nullification and secession. Rejecting South Carolina's Ordinance, Jackson declared nullification "*incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.*"<sup>30</sup> Secession fared no better. South Carolina had committed a "gross error" in fancying secession a constitutional right, Jackson wrote. A secession attempt would constitute a "breach" of the Constitution and an act of "revolution."<sup>31</sup> In Jackson's analysis, nullification and secession were decidedly unconstitutional.

After the judgment came discussion of the enforcement. In the Proclamation's second part, Jackson raised the stakes by telling South Carolina what he was prepared to do to effect his constitutional views. If South Carolina attempted to secede, its "offence against the whole Union" would necessitate consequences. Here at his most menacing, he did not mince words: "disunion, by armed force, is *treason*. Are you really ready to incur its guilt?" To clarify, Jackson never explicitly called for violence. Indeed, he hoped that "the necessity of a recourse to force" would not arise.<sup>32</sup> But the implication was clear: just by conjuring the specter of violence, just by raising the possibility of coercion, the Proclamation effectively threatened the people of South Carolina.<sup>33</sup>

29. On the Proclamation's drafting, see Remini, *The Course of American Democracy*, 17–20.

30. Emphasis in original. "Proclamation Respecting the Nullifying Laws of South Carolina," Proclamation No. 26, 11 Stat. 771 (Dec. 10, 1832), [https://www.google.com/books/edition/The\\_Public\\_Statutes\\_at\\_Large\\_of\\_the\\_Unit/a4PXCA6En9QC](https://www.google.com/books/edition/The_Public_Statutes_at_Large_of_the_Unit/a4PXCA6En9QC). Jackson personally ordered the italicization of these lines. Remini, *The Course of American Empire*, 20.

31. Jackson, "Proclamation," 776–77.

32. Emphasis in original. *Ibid.*, 776, 780–81.

33. If Jackson was coy in public, he was far more brazen in private. "If one drop of blood be shed [in South Carolina] in defiance of the laws of the United States," he told a congressman, "I will hang the first man of them I can get my hands on to the first tree I can find." He also told Martin Van Buren, his Minister to England, that John C. Calhoun, his Vice President, "ought to be hung as a traitor." Quoted in Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York: Oxford University Press, 1987), 78.

Jackson's threat, in concert with other measures, worked. In early 1833, Congress passed a Force Bill authorizing Jackson to deploy federal troops to South Carolina if the state resisted federal law, along with a new tariff law (called the Compromise Tariff) designed to ease the tax burden on the South. On March 15, South Carolina officially backed down by repealing the Ordinance of Nullification, thereby ending the Nullification Crisis but portending more calamitous times to come. Jackson himself, in a private letter later that year, doubted that South Carolina's rebellious tendencies would abate and predicted that the next battle would be fought over slavery. "The tariff was only the pretext, and disunion and southern confederacy the real object," he wrote. "The next pretext will be the negro, or slavery question."<sup>34</sup> Like Calhoun, Jackson speculated presciently that the Nullification Crisis would be, to borrow from William Freehling, the "prelude to civil war."<sup>35</sup> What he probably did not imagine was that his Proclamation would serve as the prelude to one of his successor's inaugural addresses.

### **Influence of the Nullification Proclamation upon the First Inaugural**

The notion of a Jacksonian influence on Lincoln's First Inaugural may seem curious at first. Didn't Lincoln cut his teeth as a Whig, in opposition to Jackson's politics? Weren't his real political heroes men like Daniel Webster, whose "Second Reply to Hayne" he could recite by heart, and Henry Clay, the Great Compromiser who tried to undermine Jackson at every turn? Most scholarship presumes that Jackson influenced Lincoln only in the negative sense, that is, that Lincoln defined his own politics in part as a reaction against Jackson's, a reasonable inference given Lincoln's early attachment to the Whig Party and his veneration of Jackson's archnemesis Clay.<sup>36</sup> Lincoln himself contributed to this view by describing his early politics as "anti-Jackson" in an 1860 campaign biography.<sup>37</sup>

34. Quoted in Jon Meacham, *American Lion: Andrew Jackson in the White House* (New York: Random House, 2008), 247.

35. More than 50 years after it was first published, Freehling's remains the classic account of the Nullification Crisis. Freehling, *Prelude to Civil War*.

36. See, for example, Donald, *Lincoln*, 42, 52.

37. Lincoln's campaign biographer William Dean Howells had originally described Lincoln as an "Adams man." Lincoln corrected that by hand, crossing out "Adams" and writing "anti-Jackson" in its place. Howells, *Life of Abraham Lincoln* (1860; repr. with Lincoln's hand-written corrections, Springfield: Abraham Lincoln Association, 1938), 40.

In fact, in his later years Lincoln came to admire Jackson for his willpower and backbone, and he particularly respected Jackson's handling of the Nullification Crisis. In an 1856 speech, Lincoln praised "General Jackson" for exhibiting "that decision of character that ever characterized him" when the "Calhoun Nullifying doctrine sprang up."<sup>38</sup> When he moved to Washington in 1861, he brought this respect for Jackson with him. "There is no Washington in that—no Jackson in that—no manhood nor honor," he complained, a week after the Battle of Fort Sumter, to a committee urging him to make peace with the Confederacy.<sup>39</sup> He also kept a portrait of Jackson by the artist Miner Kelbourne Kellogg above the fireplace in his White House office.<sup>40</sup> (This portrait graces the back wall, behind the president and his Cabinet, in Francis Carpenter's iconic 1864 rendering of *The First Reading of the Emancipation Proclamation*.)<sup>41</sup>

Clearly, Lincoln looked up to Jackson, and we may even speculate that he identified with Jackson on a personal level. Considering the remarkable similarity of their life stories, it is surely conceivable. Both were born in the South into poor families that then migrated to the frontier. Both were self-made men who received little to no formal education as children. Both griped against major Supreme Court decisions, *Worcester v. Georgia* (1832) in the former's case and *Dred Scott v. Sandford* (1857) in the latter's. Both waged a war, the former metaphorically and the latter literally, against states' rights doctrines, and in doing so both forcefully brandished the executive power. Both were elected to a second term. (Lincoln became the first president since Jackson to win re-election.) Perhaps Lincoln found some solace in these parallels to his predecessor.

But we need not flirt with psychoanalysis to sustain the argument, for the historical record supplies direct evidence that Lincoln consulted the Nullification Proclamation both before and while he wrote his First Inaugural. Even before the 1860 election, Kentucky politician and abolitionist Cassius Clay advised Lincoln to "put Andrew Jackson's 'union' speech in your inaugural address," presumably referring

38. Abraham Lincoln, "Speech at Princeton, Illinois," 1856, *Collected Works*, 2:346.

39. Abraham Lincoln, "Reply to Baltimore Committee," April 22, 1861, *Collected Works*, 4:341.

40. William G. Allman, "The Lincoln Bedroom: Refurbishing a Famous White House Room," *White House History*, no. 25 (Spring 2009): 63; Burlingame, *Abraham Lincoln*, 2: 250.

41. United States Senate Catalogue of Fine Art, S. Doc. No. 107-11, 2d Sess. at 119-20 (Jan. 23, 2002). Accessed September 17, 2020. <https://www.govinfo.gov/app/details/GPO-CDOC-107sdoc11/summary>.

to the Proclamation.<sup>42</sup> Owing to either Clay's suggestion or his own initiative, Lincoln borrowed the *Statesman's Manual* one week after winning the presidency and read the Proclamation, as noted above. His reading shaped his views on the volatile developments his election had set in motion. "The right of a State to secede is not an open or debatable question," he told his personal secretaries John Nicolay and John Hay on November 15, two days after the *New York Evening Post* journalist saw him studying the Proclamation in his office. "It was fully discussed in Jackson's time, and denied not only by him, but by the vote of Congress."<sup>43</sup> In the Nullification Proclamation, Lincoln found the precedent for which he had been searching.

Even more than decisive evidence against secession's constitutional validity, the document offered Lincoln a model, a template of sorts, for a presidential response to state mutiny. Through the Proclamation, Jackson had sent South Carolina a pointed and forceful message: the federal government will not tolerate nullification or secession. On inauguration day, Lincoln would have to deliver a message of his own, in part to the states of the South, wherein he would have to address their secession, the possibility of their reconciliation with the North, and ultimately the fate of the Union itself. Few papers could have been more valuable to the president-elect in preparing that message than the Proclamation.

It should not shock us that Lincoln reviewed the Nullification Proclamation at least one more time, just a few weeks before taking office—that is, when he started drafting his inaugural address. In late January 1861, shortly before he was set to depart from Springfield en route to Washington, Lincoln announced to his law partner William Herndon that he was "ready to begin the preparation of his inaugural address." While they may have done some socializing that day, Lincoln's primary aim was help with research: Herndon owned a large private library that Lincoln wanted to consult before he put pen to paper. In Herndon's telling, Lincoln borrowed four texts, one of which was Jackson's Proclamation, and began composing the First Inaugural immediately thereafter, with those and only those four texts by his side:

He asked me to furnish him with Henry Clay's great speech delivered in 1850; Andrew Jackson's proclamation, against Nullification; and a copy of the Constitution. He afterwards called

42. Abraham Lincoln to Cassius M. Clay, August 10, 1860, *Collected Works*, 4: 92.

43. John G. Nicolay and John Hay, *Abraham Lincoln: A History*, 10 vols. (1890; repr., New York: Century, 1914), 3:248.

for Webster's reply to Hayne . . . With these few "volumes," and no further sources of reference, he locked himself up in a room upstairs over a store across the street from the State House, and there, cut off from all communication and intrusion, he prepared the address.<sup>44</sup>

Consider that, according to Herndon, Lincoln requested the Proclamation *before* even Webster's "Second Reply to Hayne"!

Herndon tells us that Lincoln *read* the Proclamation, but he does not (nor does any other primary or secondary source) fully explain how Lincoln *used* the Proclamation in his inaugural address. To understand Jackson's influence on Lincoln, we must turn to the texts themselves. Only an analysis of the logical and rhetorical parallels between the two canonical state papers can bring to light the deep connections between them.

### Perpetuity

The two texts share three arguments, each of which was first developed by Jackson in 1832 and then reproduced, with alteration, by Lincoln in 1861. The first of these is an argument for *perpetuity*, that is, a conception of the Union as perpetually binding and therefore disallowing of secession. In the Proclamation, Jackson parried South Carolina's Ordinance of Nullification and the compact theory from which it drew its legitimacy by advancing a theory of his own, a theory of perpetual Union.<sup>45</sup> Far from permitting secession, Jackson asserted, the Constitution "perpetuated" the Union, tying the American people (and their states) together in a "perpetual bond."<sup>46</sup> In the First Inaugural, Lincoln likewise concludes that "in contemplation of universal

44. William H. Herndon and Jesse William Weik, *Herndon's Lincoln: The True Story of a Great Life*, 3 vols. (Springfield: Herndon's Lincoln Publishing Company, 1888; many reprints), 3: 478. See also Herndon to Weik, January 1, 1886, in Wilson and Davis, eds., *Herndon on Lincoln*, 182.

45. On the subject of the Union's perpetuity, the Proclamation must be credited for not just originality (Jackson was "the first American statesman to offer the doctrine of the Union as a perpetual entity," according to Robert Remini), but also enduring force: "Among the numerous formulations of the concept of a perpetual union that appeared during the nullification crisis," Kenneth Stampf has written, "one stands above the rest for its incisiveness, coherence, and comprehensiveness: President Andrew Jackson's Proclamation on Nullification . . . This document . . . comes close to being the definitive statement of the case for perpetuity. It is so complete that even the Supreme Court, in *Texas v. White*, could find no additional argument of any significance." Remini, *The Course of American Democracy*, 22; Stampf, "The Concept of a Perpetual Union," 31.

46. Jackson, "Proclamation," 774, 777.

law, and of the Constitution, the Union of these states is perpetual."<sup>47</sup> His reasoning for this view follows Jackson's to a T.

Jackson began his argument with a general proposition about human government, derived via *reductio ad absurdum* argumentation: Both the nullification and secession doctrines violate the fundamental law of nations, because both imply that a government would grant its component parts the many benefits of political union while at the same time permitting them unilaterally to relieve themselves of union's obligations, whether by nullifying laws or exiting the union altogether. No government would make such a one-sided deal, he contended; none would "ratify, such an anomaly in the history of fundamental legislation." Further, a state with power both to decide federal laws' constitutionality and to nullify unconstitutional federal laws has in essence "the power of resisting all laws" and is thus in no meaningful way yoked to the federal government. And secession gave rise to even further dilemmas. "To say that any State may at pleasure secede from the Union, is to say that the United States are not a nation," Jackson wrote, "because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offense."<sup>48</sup> In other words, a nation that allowed its parts to secede would be no nation at all, for in the absence of constitutional compulsion, entropy would predominate. Such an entity's integrity would be so constantly threatened that it would tend toward rupture.<sup>49</sup> The compact theory, if put into operation, would make the governance of a nation impossible.

In the First Inaugural, Lincoln makes the exact same argument, though with much more pith: "Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination."<sup>50</sup> His ability to get to the nub of the argument, honed by years of storytelling and lawyering, helped Lincoln condense

47. Lincoln, "First Inaugural," *Collected Works*, 4:264. In his treatise on constitutional law, Laurence H. Tribe called Lincoln's First Inaugural the "definitive articulation" of this "principle of national indissolubility." Tribe, *American Constitutional Law*, 3rd ed. (New York: Foundation Press, 2000), 1:32.

48. Jackson, "Proclamation," 774, 777.

49. In a private letter to Van Buren, Jackson made the same point using memorable analogy: "A state cannot come into the Union without the consent of Congress, but it can go out when it pleases. Such a Union as this would be like a bag of sand with both ends open—the least pressure and it runs out at both ends. It is an insult to the understanding of the sages who form it, to believe that such a Union was ever intended—it could not last a month." Quoted in Ellis, *Union at Risk*, 87.

50. Lincoln, "First Inaugural," *Collected Works*, 4:264.

Jackson's entire argument about the "fundamental legislation" of nations into just two sentences.<sup>51</sup> Secession by definition aims at the Union's "termination," and since "no government proper" would ever provide for its own termination, it follows that no government would ever allow secession. Like his predecessor, Lincoln determines that the "fundamental law" that universally governs all nations and is incorporated into every national charter—in essence, the very principle of nationhood—forbids secession.<sup>52</sup> Simply by virtue of being a nation, the Union is perpetual.

After dealing with fundamental law, Jackson turned to American history. According to the compact theory (in fact, this was the core premise from which nullification and secession emerged), the states formed the Union via constitutional compact. In what would become a recurring theme of the Proclamation, Jackson cleverly flipped the script on the compact theorists. Actually, they had it backwards, he claimed—it was the Union that formed the states, not the other way around. How could this be? Here Jackson played the historian, devising a novel "constitutional history" to buttress his theory of perpetual Union.<sup>53</sup> In Jackson's narration, the Union originated not via compact in 1787, but "in our colonial state," even before American independence, when the American people through the colonies formed "[I] eagues . . . for common defence." These "*United Colonies*" then jointly declared their independence from Great Britain through the Declaration of Independence and became "*United States*" through the Articles of Confederation. Finally, Americans—as "*one people*," not as separate states—replaced the Articles with the Constitution, which by forging a powerful federal government "perfected" and "perpetuated" the Union. Far from creating a "mere league," the Constitution created

51. Herndon's account of Lincoln's story-telling is instructive: "In the role of a storyteller I am prone to regard Mr. Lincoln as without an equal. As he neared the pith or point of the joke or story every vestige of seriousness disappeared from his face . . . and when the point—or 'nub' of the story, as he called it—came, no one's laugh was heartier than his." Herndon and Weik, *Herndon's Lincoln*, 310.

52. David Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural Address," *Philosophy & Rhetoric* 45, no. 2 (2012): 172, <https://www.jstor.org/stable/10.5325/philrhet.45.2.0165>; Herman Belz, *Abraham Lincoln, Constitutionalism, and Equal Rights in the Civil War Era* (New York: Fordham University Press, 1998), 76.

53. Although Jackson himself was influenced by prior conceptions of the Union, notably Daniel Webster's 1829 "Second Reply to Hayne," much of Jackson's account—in particular his uses of "history and a dynamic new reading of constitutional law"—was original. Remini, *The Course of American Democracy*, 21–22. See also Ellis, *The Union at Risk*, 84, and Albert Somit, "Andrew Jackson as Political Theorist," *Tennessee Historical Quarterly* 8, no. 2 (June 1949): 109–10, <https://www.jstor.org/stable/42621007>.

a "perpetual bond" among the American people, one which no state could alter or breach.<sup>54</sup> Jackson's constitutional history thus forbade secession. Neither did the states form the Union, nor could they leave it.

Lincoln, too, finds the Union's perpetuity to be "confirmed by the history of the Union itself."<sup>55</sup> And Lincoln, as Jackson had, puts forward a concrete historical account of the Union's origination and evolution (though characteristically, his prose is tighter, more linear):

The Union is much older than the Constitution. It was formed in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution, was "to form a more perfect union."<sup>56</sup>

Note that the First Inaugural's historical sequence is the same as the Proclamation's. Both begin with the colonial state and then sweep from the Revolution to the Confederation to the Constitution. Lincoln's sole modification is giving the Union a birthdate, 1774. Otherwise, the major elements of Jackson's and Lincoln's respective cases for perpetuity are identical.<sup>57</sup>

Having claimed fundamental and constitutional law for his side, Jackson proceeded to target the compact theory's logical inconsistencies. Grant the compact theorists their core premise that the Constitution represents a compact—and what, he wondered, follows? A compact is a "binding obligation." If two parties take on mutual obligations toward each other, binding themselves to the fulfillment of those obligations, the attempt by one of the parties unilaterally to cancel the agreement without the other's consent would constitute a "breach" of the agreement. Moreover, what applies to compacts in

54. Emphasis in original. Jackson, "Proclamation," 772–74, 776–78.

55. On how Lincoln's constitutional history strengthened both his anti-secession and antislavery rhetoric, see Daniel A. Farber, "Much Older than the Constitution: Lincoln's Theory of Nationhood," *Magazine of History* 21, no. 1 (January 2007): 15–16, <https://www.jstor.org/stable/25162094>.

56. Lincoln, "First Inaugural," *Collected Works*, 4:265. Lincoln would offer a shortened version of this account of the Union's origin on July 4th before Congress, where he repeated that "[t]he original [states] passed into the Union even *before* they cast off their British colonial dependence." Lincoln, "Message to Congress in Special Session," *Collected Works*, 4:433–34.

57. Brogdon, "Defending the Union," 269.



general must apply to constitutional compacts in particular. Ergo, “even if . . . the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from the obligation.” Just as with his constitutional history, Jackson turned his opponents’ argument on its head. According to the compact theorists, the Constitution allows secession because it is a compact; according to Jackson, the Constitution *forbids* secession “precisely because it is a compact.”<sup>58</sup>

Here again, Lincoln’s First Inaugural echoes the Proclamation, in both reasoning and conclusion. Besieging the compact theory’s logic head-on, Lincoln argues as follows:

Again, if the United States be not a government proper, but an association of States in the nature of contract merely, can it, as a contract, be peaceably unmade, by less than all the parties who made it? One party to a contract may violate it—break it, so to speak; but does it not require all to lawfully rescind it?<sup>59</sup>

The Proclamation uses “compact” while the Inaugural uses “contract,” but the wording modification does not modify the argument itself. For both Jackson and Lincoln, the compact theory’s description of the Constitution as a compact is self-defeating, a premise which makes impossible the very conclusion it is designed to support. Through argumentation *ex concessis*, each bests his opponents using their own rules.<sup>60</sup>

The Proclamation and the First Inaugural have another argument in common. Both ingeniously invoke the Constitution’s Preamble to make another *reductio ad absurdum* argument against secession. In the Proclamation, Jackson emphasized the Constitution’s stated aim “to form a more perfect Union” as further proof of its irrevocability.<sup>61</sup> If the Constitution made the Union “more perfect” than it had been under the Articles—whose full name was the “Articles of Confederation and perpetual Union” and which had decreed that “the Union shall be perpetual”—then how could the Union under the Constitution be

58. Jackson, “Proclamation,” 777–78. See also Major L. Wilson, “‘Liberty and Union’: An Analysis of Three Concepts Involved in the Nullification Controversy,” *The Journal of Southern History* 33, no. 3 (August 1967): 351, <https://www.jstor.org/stable/2204863>.

59. Lincoln, “First Inaugural,” *Collected Works*, 4:265.

60. Brogdon, “Defending the Union,” 269; Zarefsky, “Philosophy and Rhetoric in Lincoln’s First Inaugural,” 173.

61. U.S. Constitution, Preamble.

anything less than perpetual?<sup>62</sup> Certainly, Jackson argued, a "more perfect Union" could not be a "mere league that may be dissolved at pleasure," one whose "existence" could be terminated by "the party spirit of a State, or of a prevailing faction in a State."<sup>63</sup> In the First Inaugural, Lincoln duplicates Jackson's interpretation of the celebrated constitutional expression:

And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution, was "to form a more perfect union." But if destruction of the Union, by one, or by a part only, of the States, be lawfully possible, the Union is *less* perfect than before the Constitution, having lost the vital element of perpetuity.<sup>64</sup>

For both, the phrase "more perfect" is definitive evidence of the Union's perpetuity. The alternative to perpetuity, namely a Union from which a state could secede, implies the diminishment of the Union's perfection and thus the Preamble's falsity. But the Constitution cannot be wrong, so the compact theory cannot be right. Through a second *reductio ad absurdum*, secession is shown to be unconstitutional by yet another route.<sup>65</sup>

On the whole, it would not be an exaggeration to state that Lincoln copied the Proclamation wholesale on the subject of perpetuity. The First Inaugural constructs the perpetuity thesis in precisely the same way that the Proclamation did, with not only the same major foundations (fundamental law and constitutional history), but also the same subsidiary buttresses (the argument *ex concessis* and the *reductio ad absurdum*). Lincoln certainly refined these arguments and sharpened

62. "Articles of Confederation," 1781, in *Documents Illustrative of the Formation of the Union of the American States*, ed. Charles C. Tansill (Washington: Government Printing Office, 1927), accessed April 15, 2019, [http://avalon.law.yale.edu/18th\\_century/artconf.asp](http://avalon.law.yale.edu/18th_century/artconf.asp).

63. Jackson, "Proclamation," 778, 773.

64. Lincoln, "First Inaugural," *Collected Works*, 4:265. In the first draft, the *reductio ad absurdum* argumentation was explicit: "But if destruction of the Union, by one, or by a part only, of the States, be lawfully possible, the Union is *less* perfect than before, which contradicts the Constitution, and therefore is absurd." Lincoln, "First Inaugural Address—First Edition and Revisions," in Basler, ed., 4:253. Consistent with several recommendations to make the address less antagonistic, Secretary of State William H. Seward urged Lincoln to remove the word "absurd," and so it did not make the final draft. Douglas L. Wilson, *Lincoln's Sword: The Presidency and the Power of Words* (New York: Alfred A. Knopf, 2007), 61; Hochmuth, "Lincoln's First Inaugural," in *American Speeches*, 62.

65. Brogdon, "Defending the Union," 269; Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural," 172–73.

their articulation, but the record should reflect the intellectual debt he owed to his predecessor in the White House.

### Coercion

In addition to Jackson's argument for the Union's perpetuity, Lincoln also appropriated his argument for *coercion*, that is, his threat to use force against a part of the Union and compel it into compliance if necessary. As Jackson did in the Proclamation, Lincoln in the First Inaugural determines secession to be not only "revolutionary,"<sup>66</sup> but also to require the president to act such that the Union can "constitutionally defend and maintain itself." In keeping with his predecessor's example, Lincoln neither calls for fighting nor rules it out. Just as Jackson hoped to avoid "the necessity of a recourse to force," Lincoln insists that "there needs to be no bloodshed or violence." And yet, he also pledges to "hold, occupy, and possess" federal forts and "collect the duties and imposts," actions that he knows could trigger armed conflict. "[B]eyond what may be necessary for these objects," he continues, "there will be no invasion."<sup>67</sup> In the very attempt to reassure Southerners that he will not invade the South, Lincoln indicates that it "may be necessary" to invade the South! Of course, just as in the Proclamation, Lincoln deliberately equivocates on the matter of coercion, so as implicitly to convey to the South that force is an option on the table.

Besides the substance, the style of the two implicit threats is the same. Somewhat paradoxically, each president rhetorically downplays his degree of agency by using terms of obligation rather than decision, in order to claim the moral high ground and preemptively cast his opponents as the belligerents. Jackson, for instance, didn't say he would *choose* a "recourse to force"; instead, he said "the *necessity*" might arise. He would never *decide* to coerce South Carolina; instead, he would simply follow "the *duty* imposed on me by the Constitution, 'to take care that the laws be faithfully executed.'" His "*duty* . . . emphatically pronounced in the Constitution," he had "no

66. Lincoln, "First Inaugural," *Collected Works*, 4:265. Lincoln's full phrase was "insurrectionary or revolutionary, according to circumstances." By "circumstances," he was likely referring to the future outcome of secession. If secession succeeded, those in the future would call it a revolution; if it failed, it would be known (as it is today) as an insurrection. Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural Address," 171–72.

67. Lincoln, "First Inaugural," *Collected Works*, 4:265.

discretionary power," no choice to make at all.<sup>68</sup> Rhetorically, Jackson was putting the ball in South Carolina's court, thereby claiming the moral high ground. In his telling, he fully hoped that he would be able to maintain the Union peacefully—but if the South Carolinians persisted on the course they had set for themselves, they would trigger his constitutional duty to coerce them and invite their own destruction, and they would have only themselves to blame.

Compare this to Lincoln. "There needs to be no bloodshed or violence; and there shall be none," he promises, before divulging the critical exception—"unless it be forced upon the national authority." Lincoln, like Jackson 30 years earlier, would not *opt* to make war upon the South. Rather, he would be "*forced*" to do so, not through his choice but out of a "*simple duty*" imposed upon the president by the Constitution to "take care . . . that the laws of the Union be faithfully executed in all the States" (the same constitutional provision Jackson invoked).<sup>69</sup> As Jackson did, Lincoln frames coercion as a matter of not policy but presidential duty, the fulfillment of which only the rebels could avert by backing down and yielding to federal supremacy.<sup>70</sup> If war breaks out, Lincoln is avowing, it will be because the South fired the first shot, leaving the executive with no choice but to uphold the Constitution and defend the Union.<sup>71</sup>

The First Inaugural's ending bears Jackson's imprint most conspicuously. In the penultimate paragraph of the Proclamation, Jackson spoke directly to the people of South Carolina: "*Fellow-citizens, the momentous case is before you. On your undivided support of your Government depends the decision of the great question it involves—whether your sacred Union will be preserved and the blessing it secures to us as one people shall be perpetuated.*"<sup>72</sup> Lincoln also speaks directly to the people of the South in the First Inaugural, also in the penultimate paragraph: "In *your* hands, my dissatisfied *fellow-countrymen*, and

68. Emphasis mine. Jackson, "Proclamation," 778, 780–81.

69. Emphasis mine. Lincoln, "First Inaugural," *Collected Works*, 4:265–66.

70. Brogdon, "Defending the Union," 269–70; Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural Address," 177–79; Hochmuth, "Lincoln's First Inaugural," in *American Speeches*, 58.

71. Analyses of the First Inaugural often explore who its primary intended audience was: Southern rebels, Northern loyalists, or those on the fence in the border states? See, for example, the discussions in Wilson, *Lincoln's Sword*, 54–55, and Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural Address," 169–70. Insofar as he was trying to blame the South for potential war, Lincoln was actually seeking to influence future interpretations of the crisis. In a real sense, his intended audience was not only Americans in the present, but also historians in the future.

72. Emphasis mine. Jackson, "Proclamation," 781.

not in mine, is the *momentous* issue of civil war. The Government will not assail *you*. *You* can have no conflict without being *yourselves* the aggressors."<sup>73</sup> Note the nearly equivalent word choice of the two paragraphs, and the identical emphasis on the second person over the first.<sup>74</sup> It is hard to imagine that these parallels emerged merely by coincidence.

More philosophically, both texts tactically (and speciously) impute control of the future to their opponents. Each presents history as unfolding according to the will of the rebels, who are the title characters of their own Shakespearean tragedies, their fates not preordained, their futures shaped by their decisions in the present. The presidents themselves, meanwhile, live in the world of Greek tragedy, devoid of historical agency, governed by constitutional duty and ultimately by factors outside their control.<sup>75</sup> As a matter of objective description, their account of presidential power is highly misleading, since both presidents can choose not to coerce, just as their opponents can choose not to rebel.<sup>76</sup> But as a matter of political morality, their account is highly persuasive, even moving. Committed to preserving the Union and upholding the Constitution, they are prepared, if they are compelled, to use raw physical power to see their commitments through to the end.

73. Emphasis mine. Lincoln, "First Inaugural," *Collected Works*, 4:271. Consistent with this rhetorical motif, Lincoln ended the first draft of the First Inaugural by asking: "With *you*, and not with *me*, is the solemn question of 'Shall it be peace, or a sword?'" Emphasis in original, see Basler, ed., 4:261. Upon Seward's suggestion, Lincoln replaced that bombastic ending with a more harmonious one, famously beginning: "I am loth to close. We are not enemies, but friends." *Collected Works*, 4:271. See Wilson, *Lincoln's Sword*, 64–68; White, *The Eloquent President*, 89–91; White, *Lincoln's Greatest Speech*, 77.

74. On the de-emphasis of the first person throughout the First Inaugural and the balancing of the first and second persons in the penultimate paragraph, see White, *The Eloquent President*, 78, 88.

75. Indeed, Lincoln understood his own life in fatalist terms. The events surrounding him, he believed, were foreordained by providence; what happened was always going to happen. Allen C. Guelzo, "Abraham Lincoln and the Doctrine of Necessity," *Journal of the Abraham Lincoln Association* 18, no. 1 (Winter 1997): 57–60.

76. Hindsight bias may make it seem that coercion was the only legitimate option available to Lincoln, but we should remember that, as will be discussed below, Lincoln's immediate predecessor James Buchanan made no attempt to stop secession and in fact believed federal coercion of a state to be unconstitutional. For an in-depth exploration of the constitutional implications of Lincoln's decision to coerce, see Noah Feldman, *The Broken Constitution* (New York: Farrar, Straus and Giroux, 2021), 135–36, 141–45.

### Constitutional Democracy

But why are Jackson and Lincoln so committed to the Union and the Constitution? Put differently, why is the Union worth saving? The answer is more than mere nationalism. The two presidents' commitment to the Union arises out of a shared understanding of constitutional democracy as a fragile enterprise that requires political minorities to accept and submit to majority rule. Although Jackson did not fully spell it out, the Proclamation's defense of the Tariffs of 1828 and 1832 contained this conception of constitutional democracy in embryo. In the First Inaugural, Lincoln, here at his most original and innovative, develops Jackson's conception and brings it to powerful expression.

Recall that the federal tariffs aggrieved South Carolina on account of their inequality. The tariffs asymmetrically helped the North and hurt the South. Jackson could have defended the tariffs by insisting on their neutrality. *The tariffs are not unequal*, he could have retorted, *for they apply uniformly throughout the Union, uniformly in every state and section, uniformly in North and South.* In fact, however, Jackson forwent this obvious route in the Proclamation. Incredibly, he never denied, and therefore implicitly conceded, that "the laws in question operate unequally." Instead, he cast the objection to the laws' inequality as itself illegitimate. "This objection may be made with truth to every law that has been or can be passed," he wrote dismissively. "The wisdom of man never yet contrived a system of taxation that would operate with perfect equality."<sup>77</sup> This particular defense of the tariffs' inequality played a small role in the grand scheme of the Proclamation, but it is significant for our purposes because it sets up a basic question that Lincoln would take on in his First Inaugural three decades later (and, we might add, that still resonates today): Is inequality acceptable in democracy?

Jackson's answer was a resounding 'yes.' In his understanding, democracy does not require the laws to affect all people equally. In fact, laws are incapable of equality according to Jackson, because "every law" inescapably generates some winners and some losers. Moreover, he argued, the theory that a state could nullify unequal laws, or secede from a government that promulgated such laws, was "self-destroying"—in the literal sense. Had the Constitution allowed the states to nullify laws "operating injuriously upon any local interest," then every law would have been nullified by at least one state,

77. Jackson, "Proclamation," 774.

and “the Union would have been dissolved in its infancy.” He also applied the same logic to secession:

If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home?—are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring republics, every day suffering some new revolution or contending with some new insurrection—do they excite your envy?<sup>78</sup>

Jackson was warning the people of South Carolina about the second- and third-order effects of secession. Leaving the Union would not magically correct the inadequacies of law, nor would it kill off “civil discord,” “revolution,” and “insurrection.” Even in a seceded political community, laws would operate unequally, and interests would contend against each other. Besides, that which seceded could also be seceded from.

But then what was democracy to Jackson, if not equality of the laws? What was he implying about government when he asserted that all laws operate unequally, and that governments nevertheless cannot permit nullification or secession on the basis of that inequality? Jackson did not take his argument to its ultimate conclusion in the Proclamation, whereas Lincoln, in the First Inaugural, does. The result is an extraordinary meditation on conflict, compromise, and justice in human government.

Lincoln begins his discourse by observing that constitutions are necessarily abstract. Although they may provide for certain procedures and guarantee certain rights and privileges in theory, “no organic law can ever be framed with a provision specifically applicable to every question which may occur in practical administration.”<sup>79</sup> Therefore, two kinds of political questions arise: those that are expressly answered by the Constitution, and those that are not. The former are easily settled and therefore uncontroversial. (What is the age of eligibility for the office of the presidency? Article II, Section 1, Clause 5: “thirty five.”)<sup>80</sup> The latter kind—which includes questions like “May Congress prohibit slavery in the Territories?”—produces “constitutional controversies,” which in turn cause the body politic to divide into “majorities and minorities.”<sup>81</sup> In essence, Lincoln has moved from

78. *Ibid.*, 772, 780.

79. Lincoln, “First Inaugural,” *Collected Works*, 4:267.

80. U.S. Constitution, Article. II § 1, cl. 6.

81. Lincoln, “First Inaugural,” *Collected Works*, 4:267.

the observation that constitutions leave questions unanswered to the proposition that constitutions stimulate political conflict between majorities and minorities—a kind of corollary to Jackson's assertion that all laws operate unequally.

What emerges from this political conflict between the majority and the minority? Lincoln answers thus: "If the minority will not acquiesce, the majority must, or the government must cease. There is no other alternative; for continuing the government, is acquiescence on one side or the other."<sup>82</sup> The language is worth parsing, as it packs so much into so little that it is easy to miss the remarkable political theory it advances. According to Lincoln, once the body politic divides into majority and minority, exactly one of three possible outcomes can materialize. In the first case, the minority acquiesces to the majority. It accepts that it lost the constitutional controversy and surrenders to majority rule, even if it is harmed and even if it believes the majority to be wrong. In the second case, the reverse happens: the majority acquiesces to the minority. Even though the majority is greater than the minority in number, the minority may have enough power or audacity or influence to hold out successfully against the majority and secure its submission. In the third case, government ceases. Neither the majority nor the minority give in, and they are unable to reconcile. The body politic therefore breaks, and government dissolves. In the terminology of political scientists, the first case is democratic government, the second minoritarian government, and the third anarchy.

How does secession fit into all this? Here is where Jackson's warning about the second-order effects of secession comes in. Recall the ominous questions Jackson posed to the people of South Carolina in the Proclamation: "Are you united at home? Are you free from the apprehension of civil discord, with all its fearful consequences?" Between the lines, Jackson was asking, If your state secedes from the Union, then what will stop one of your cities from seceding from your state, or one of your townships from seceding from its city? In the First Inaugural, Lincoln presents an expanded version of this very warning:

If a minority in such case will secede rather than acquiesce, they make a precedent which in turn will divide and ruin them, for a minority of their own will secede from them whenever a majority refuses to be controlled by such minority. For instance, why may not any portion of a new confederacy a year or two hence arbitrarily secede again, precisely as portions of the present Union

82. *Ibid.*



now claim to secede from it? . . . Is there such perfect identity of interests among the States to compose a new union as to produce harmony only and prevent renewed secession?<sup>83</sup>

Lincoln was making explicit what Jackson had said implicitly: If you secede, more secessions will follow, and your government will collapse.<sup>84</sup> The division of the body politic into majorities and minorities will carry on at smaller and smaller scales, the first secession paving the way to successive secessions and igniting a loop of political disintegrations *ad infinitum*.<sup>85</sup> Remarkably, Jackson's and Lincoln's warning was borne out to some degree. After the South seceded, some portions of the Confederacy with strong Unionist sentiment themselves seceded in order to rejoin the Union, most famously what is now West Virginia, which seceded from Virginia in June of 1861 after Virginia seceded from the Union.<sup>86</sup>

Lincoln has been building up to a crescendo, and now he drops the hammer. With second-order effects accounted for, secession's place in the three-pronged classification of political systems becomes manifest. "Plainly, the central idea of secession, is the essence of anarchy."<sup>87</sup> Secession means the majority and minority refused to reconcile, and as Lincoln has already told us, if neither side acquiesces, "government must cease." Thus, extending Jackson's argument to its government requires not perfectly equal laws or a right for any aggrieved group of citizens to secede, but rather the reconciliation of different interests to partially unequal laws that will help some people and hurt others.<sup>88</sup> For government to work, citizens must be prepared to lose.

But this formulation raises a further question. Which group of citizens, the majority or the minority, should be the one to acquiesce? Put differently, in the endeavor to achieve reconciliation and avoid the anarchy of secession, which side should win, and which should lose? It

83. *Ibid.*, 267–68.

84. Foner, *The Fiery Trial*, 159.

85. Lincoln considered the theoretical illogic of secession central to its illegitimacy, and he continued to chew over these ideas well after delivering the First Inaugural. "The principle [of secession] itself is one of disintegration, and upon which no government can possibly endure," he told Congress in July 1861. See Lincoln, "Message to Congress in Special Session," 1861, *Collected Works*, 4:436.

86. William W. Freehling, *The South vs. the South: How Anti-Confederate Southerners Shaped the Course of the Civil War* (Oxford: Oxford University Press, 2001), 56.

87. Lincoln, "First Inaugural," *Collected Works*, 4:268.

88. Implicitly, this is another *reductio ad absurdum* argument. Zarefsky, "Philosophy and Rhetoric in Lincoln's First Inaugural Address," 172. On why notions of self-government, majority rule, and minority protection cannot justify secession, see Farber, *Lincoln's Constitution*, 107–9.

cannot be that the majority should yield to the minority. Minority rule over a majority is "wholly inadmissible," Lincoln asserts, because in whatever form it takes, whether aristocracy or monarchy, it amounts to nothing less than "despotism." That leaves just one option: The minority must be the one to acquiesce to the majority. "A majority, held in restraint by constitutional checks, and limitations, and always changing easily, with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people," he tells us. "Whoever rejects it, does, of necessity, fly to anarchy or to despotism."<sup>89</sup> Lincoln's logic is unremitting, and his conclusion sublime: Constitutional democracy is the only legitimate form of human government.<sup>90</sup> Here we find Lincoln near the height of his powers as a politician, logician, rhetorician, and political philosopher. He has gone beyond even Jackson, by transforming a defense of inequality into an assault on secession into a defense of constitutional democracy itself. Soaring into the realm of political philosophy, he has offered an account of justice in human government. It was this conception of constitutional democracy that he so famously encapsulated at the end of his Gettysburg Address: Union victory would mean that "government of the people, by the people, for the people shall not perish from the earth."<sup>91</sup>

### Conclusion

To be sure, Jackson's Proclamation and Lincoln's First Inaugural have their differences. While the Proclamation is blunt, the First Inaugural verges on lawyerly prose ("more of Euclid than of Demosthenes," as one historian has described Lincoln's style).<sup>92</sup> The Proclamation blusters and threatens, while the First Inaugural frequently conciliates. Lincoln opens, for instance, by clarifying that he does not intend to interfere with slavery where it exists and later endorses a constitutional amendment irrevocably protecting Southern slavery.<sup>93</sup> Perhaps

89. Lincoln, "First Inaugural," *Collected Works*, 4:268.

90. Akhil Reed Amar, "The Central Meaning of a Republican Government: Popular Sovereignty, Majority Rule, and the Denominator Problem," *University of Colorado Law Review* 65, no. 4 (1994): 767–68, <https://heinonline.org/HOL/P?h=hein.journals/ucollr65&i=773>; Foner, *The Fiery Trial*, 159.

91. Lincoln, "Address Delivered at the Dedication of the Cemetery at Gettysburg," 1863, *Collected Works*, 7:23.

92. J.G. Randall, *Springfield to Gettysburg*, vol. 1, *Lincoln, the President* (New York: Dodd, Mead, & Co., 1945), 49.

93. Lincoln, "First Inaugural," *Collected Works*, 4:262–63, 270. On the consistency of these conciliations with Lincoln's antislavery (as opposed to abolitionist) positions, see White, *Lincoln's Greatest Speech*, 95.

the best demonstration of variance comes from their respective treatments of the divine. Their diction and placement are nearly equivalent. Jackson invoked “the great Ruler of Nations” in the final paragraph,<sup>94</sup> and Lincoln invokes “the Almighty Ruler of nations” near the end of his address,<sup>95</sup> but their orientations diverge completely. Jackson, on the one hand, confidently and self-assuredly asked God to bless the Union and help the people of South Carolina “see the folly, before they feel the misery of civil strife.”<sup>96</sup> Lincoln, on the other hand, asks nothing of God, because he is not sure which side God supports. “In our present differences, is either party without faith of being in the right?” he asks, genuinely and non-rhetorically.<sup>97</sup> Jackson in his Proclamation was already prepared to attribute the breaking out of war between the Union and one or a number of its states to God, to “the will of Heaven, that the recurrence of its primeval curse on man for the shedding of a brother’s blood should fall upon our land.”<sup>98</sup> It would take four more years and one more inaugural address for Lincoln to reach that conclusion.<sup>99</sup>

One wonders whether these rhetorical differences account for the wide disparity between the two crises’ outcomes. Ironically, Jackson’s incendiary proclamation was followed by peaceful compromise, while Lincoln’s placatory address was followed by civil war. Does this mean the First Inaugural was a failure in comparison with its historical predecessor?

Not quite. One might wish that Lincoln had matched Jackson’s more aggressive tone, that he had more explicitly threatened the use of force, on the theory that the South could have been intimidated into abandoning its project of disunion.<sup>100</sup> In truth, however, such aggression on Lincoln’s part would have been untimely, for the simple reason that—unlike Jackson, who could make his intimidations just two weeks after South Carolina issued its Ordinance of Nullification—Lincoln did not take the oath of office until several months *after* seven Southern

94. Jackson, “Proclamation,” 781.

95. Lincoln, “First Inaugural,” *Collected Works*, 4:270.

96. Jackson, “Proclamation,” 781.

97. Lincoln, “First Inaugural,” *Collected Works*, 4:270.

98. Jackson, “Nullification Proclamation.”

99. Lincoln, “Second Inaugural Address,” 1865, *Collected Works*, 8:332–33.

100. In fact, Lincoln in his first draft did notify the South that “[a]ll the power at my disposal will be used to reclaim the public property and places which have fallen,” but he deleted this clause at the urging of Illinois politician and friend Orville H. Browning, who thought it too aggressive. Lincoln, “First Inaugural—First Edition and Revisions,” *Collected Works*, 4:254. See White, *The Eloquent President*, 67–68; Wilson, *Lincoln’s Sword*, 58; Hochmuth, “Lincoln’s First Inaugural,” 49, 62–63.

states had not just seceded but actually *seized* federal customhouses, arsenals, mints, and forts within their borders.<sup>101</sup> In other words, by the time Lincoln actually took the reins of federal power, the South had already crossed the Rubicon. To the extent that not intimidating the South earlier was a mistake, the blame lies not with Lincoln but with his predecessor James Buchanan, who believed that the federal government lacked the constitutional power to prevent secession and made no attempt to stop Southern seizures of federal property.<sup>102</sup> This unfortunate lame duck situation—to paraphrase James McPherson, Buchanan had power but felt no responsibility, whereas Lincoln had responsibility but no power—surely hampered Lincoln's capacity to play political, military, and rhetorical hardball.<sup>103</sup>

One could also take the opposite stance and fault Lincoln for not being more conciliatory. As Jackson had compromised with South Carolina on the tariffs, why could Lincoln not have averted war by compromising with the South on slavery? Here, too, we would do well to consider the stark contextual differences between the two crises. In fact, Lincoln was open to compromise. As noted above, he disavowed any intention to interfere with slavery where it existed and even endorsed a constitutional amendment to that effect. Rather, it was Confederate leaders who ruled out the possibility of compromise, a symptom of the polarization of the 1850s and 1860s that was an order of magnitude higher than that of the 1820s and 1830s.<sup>104</sup> More importantly, unlike a compromise on tariffs, any compromise on slavery would have been horribly laden with moral ramifications. It is hard to consider any war, much less one so bloody as the Civil War, as welcome or necessary, but how could we prefer a counterfactual history in which Lincoln compromised with the South at the expense of the continued enslavement of four million African Americans (a number that would only have multiplied as slavery expanded to the West) to the history that actually occurred, resulting in emancipation? In light of the political and moral constraints he was facing—constraints, it is

101. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), 262.

102. James Buchanan, "Fourth Annual Message," address, December 3, 1860, in *A Compilation of the Messages and Papers of the Presidents, 1789–1907*, ed. James D. Richardson (Washington, D.C.: Bureau of National Literature and Art, 1908), 5:635–36. "[T]he President has conclusively proved two things," William H. Seward joked about Buchanan's message: first "[t]hat no State has the right to secede unless it wishes to" and second "that it is the President's duty to enforce the laws unless somebody opposes him." John G. Nicolay and John Hay, *Abraham Lincoln: A History* (New York: Century, 1890), 2:371.

103. McPherson, *Battle Cry of Freedom*, 248.

104. McPherson, *Battle Cry of Freedom*, 254.

worth adding, that did not plague Jackson—Lincoln’s rhetorical decisions to alarm but not provoke the South and to offer but not insist on compromise seem sensible and appropriate.

Nevertheless, in downplaying the complexity of Jackson’s situation relative to Lincoln’s, we should not undervalue the former’s contribution to the latter’s rhetoric. It was Jackson who provided the constitutional history of the Union, as well as the other major and minor arguments, that Lincoln needed to defend the Union’s perpetuity and controvert the doctrine of secession. It was Jackson who showed Lincoln how to threaten the South and make it look as if the Constitution required him to do so, thereby inviting the Confederacy to fire the first shot of the war and allowing the Union to claim *jus ad bellum*. And it was Jackson who, by pointing out the basic inequality of laws and raising the possibility of successive secessions, furnished the two essential premises for Lincoln’s ultimate argument that secession equals anarchy and that constitutional democracy depends on majority rule. On the whole, it was Jackson who gave Lincoln the essential logic and rhetoric to take on Southern secession, which Lincoln then refashioned into a masterful work of constitutional exegesis and political philosophy, built on the foundations of his predecessor’s ideas but adapted to the problems and concerns of his own time.

The kinship between the two state papers was not lost upon some from that era. As the *Chicago Tribune* wrote the day after the inauguration, the “expressed determination” of the First Inaugural “to maintain the Union and enforce the laws, is as square and resolute as Jackson’s proclamation of 1832!”<sup>105</sup> If we did not have Herndon’s biography of Lincoln, we could not be sure of Jackson’s relation to Lincoln’s speech. Perhaps the two statesmen formed their beliefs about the Union, secession, and government independently, or derived their ideas from a common source, or were connected through some intermediate source. However, given Herndon’s account that Lincoln began writing the First Inaugural immediately after requesting Jackson’s Proclamation, we can be confident that Jackson’s Proclamation influenced the thought and rhetoric of Lincoln’s First Inaugural Address.

105. “President Lincoln’s Inaugural,” *Chicago Tribune*, March 5, 1861, <https://search.proquest.com/docview/175114526>