



ABRAHAM LINCOLN (1809–1865)  
Sixteenth president of the United States.  
Photographed by Alexander Gardner at  
Washington, D.C., on November 8,  
1863, eleven days before delivering the  
Gettysburg Address. (Photograph with oil  
paint colorization.)



### WHAT WAS ABRAHAM LINCOLN'S LEGACY TO AMERICAN CONSTITUTIONALISM AND CITIZENSHIP?

#### NOTE TO TEACHERS

The two hundredth anniversary of Abraham Lincoln's birthday, February 12, 1809, provides an occasion for teaching and learning about this great man's contributions to American constitutionalism and citizenship. To this end, the Center for Civic Education has produced this lesson to supplement *We the People: The Citizen & the Constitution*, Level 3, a civic education text for high school students. This lesson should be used after students have completed Lessons 1–7 (Unit One) and 17 (Unit Three). The competitive hearings of the 2009 national finals will include a question on Abraham Lincoln and his legacy.

#### PURPOSE OF THE LESSON

This lesson traces the rise of Abraham Lincoln from his humble beginnings to the presidency of the United States. It also examines Lincoln's ideas and decisions regarding slavery and the use of presidential power to preserve the Federal Union during the Civil War.

When you have completed this lesson, you should be able to explain how Abraham Lincoln overcame daunting disadvantages to become a great president. You should be able to analyze and evaluate President Lincoln's decisions in response to critical constitutional issues of the Civil War. And you should understand and appreciate Lincoln's enduring legacy to American constitutionalism and citizenship.

#### WHO WAS ABRAHAM LINCOLN?

Abraham Lincoln (1809–1865), the sixteenth president of the United States, is a symbol of democracy. His stirring story of hard-won achievements occupies a primary place in America's heritage. Lincoln's story

began in Kentucky on February 12, 1809. Born in a crude, one-room log cabin, Abraham was the second child of Thomas and Nancy Hanks Lincoln. His parents were typical pioneers who had traveled west from Virginia to seek opportunity on the frontier.

In the fall of 1816, when Abraham was seven years old, his family moved north across the Ohio River to acquire 160 acres of land in the wilderness of southern Indiana. Abraham's mother died in 1817, and his father married Sarah Bush Johnston, a widow from Kentucky, who nurtured her stepson's ambition. Although his formal education was sporadic and limited, amounting to less than one year of school, Abraham acquired an abiding love of reading. Many years later, he wrote, "A capacity and taste for reading gives access to whatever has been discovered by others." Lincoln's lifelong commitment to learning was his key to self-improvement. In March of 1830, when Abraham was twenty-one years old, his family went west again in quest of a better life. The destination this time was the fertile farmland near Decatur



▲ *Why was young Abe Lincoln's habit of reading books a key to his achievements as an adult?*

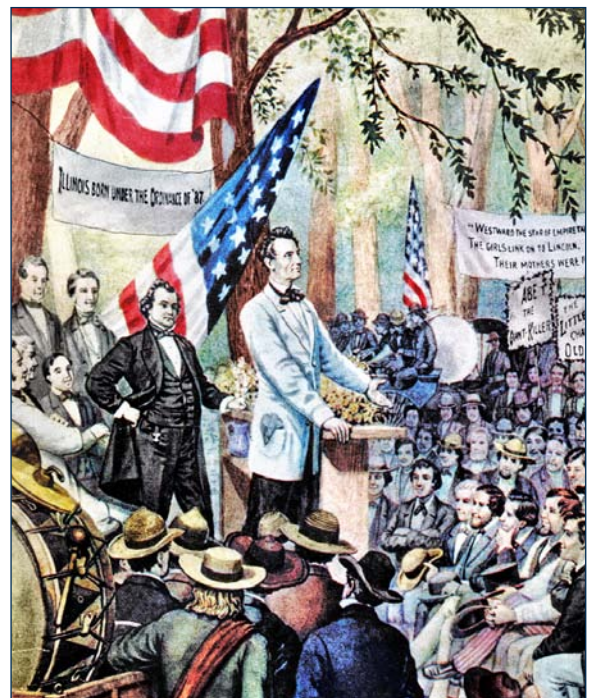
in Macon County, Illinois. Abraham, however, soon moved away from his family to New Salem, Illinois, where he studied law by reading legal texts on his own, pursued political interests, and won election to the Illinois state legislature in 1834. He served four two-year terms.

In 1836, Lincoln acquired a license to practice law and the following year moved to Springfield, the new state capital, where he prospered as a politician and lawyer. In 1842, Lincoln married the socially prominent Mary Todd, and from 1843 to 1853, they had four sons. In 1846, Lincoln won election to the U.S. House of Representatives. However, his outspoken criticism of President James Polk for leading the nation to war with Mexico turned public opinion against him. So, he left Congress at the end of his two-year term and temporarily withdrew from politics.

National controversy over the 1854 Kansas-Nebraska Act brought Lincoln back to intense political activity. This federal statute overturned the Missouri Compromise of 1820, which had permitted Missouri to enter the Federal Union as a slave state and banned slavery in territories north of a line extending westward from the southern boundary of Missouri. Thus, the Kansas-Nebraska Act gave the people within certain western territories the right to choose, by majority vote, whether or not slavery could lawfully exist among them. Senator Stephen A. Douglas of Illinois called it popular sovereignty. But to Abraham Lincoln, it seemed more like popular tyranny, providing the possibility that majority rule could be used to establish slavery within territories from which it had been legally and justly prohibited by the federal government. Lincoln adamantly opposed the westward extension of slavery.

Lincoln joined the new antislavery Republican Party, which nominated him to oppose Douglas, the Democratic Party's incumbent candidate, in the 1858 Illinois senatorial election. The seven Lincoln-Douglas debates, highlights of a fiercely contested campaign, catapulted Lincoln into the national spotlight. The issues were profound, pertaining to slavery, states' rights, individual rights, and popular sovereignty. So, the Illinois senatorial campaign attracted a national audience, including many who either passionately supported or derisively opposed Lincoln, mainly because of his position on slavery. Douglas won election to the Senate in 1858, but Lincoln won the presidential election in 1860. After gaining the Republican Party's presidential nomination, he defeated three rivals, including Douglas. Slaveholders in the southern states, greatly disturbed by Lincoln's election to the presidency, considered drastic options, including withdrawal from the Federal Union forged by the 1787 Constitution.

By the time Lincoln arrived in Washington, D.C., for his inauguration on March 4, 1861, seven slave states had seceded from the United States to form the Confederate States of America. Nearly six weeks later, from April 12 to 14, 1861, Confederate soldiers attacked



▲ *What was the relationship of the 1858 Lincoln-Douglas debates to Lincoln's victory in the 1860 presidential election?*

and forced the surrender of federal forces at Fort Sumter in the harbor of Charleston, South Carolina. President Lincoln responded forcefully to oppose insurrection and to fulfill his oath of office to “preserve, protect, and defend the Constitution of the United States.” Four more slave states joined the Confederacy. The Civil War was on!

At first, the war went badly for Lincoln and the Union. Events of 1863, however, turned the tide of victory toward the Union. On January 1, the president issued an Emancipation Proclamation to abolish slavery within the Confederate states. Abolitionists were disappointed by the limited scope of Lincoln’s order. They recognized, however, that it gave an inspirational moral purpose to the Union war effort. In the mid-year turning point battles of Vicksburg and Gettysburg, Union soldiers won decisive victories. By the end of 1863, the Confederacy’s chances for survival were seriously diminished.

Lincoln won a second term of office during the presidential election of 1864. This political contest, conducted constitutionally during the country’s greatest crisis, demonstrated the vitality of democracy in America. By the time of Lincoln’s Second Inaugural Address on March 4, 1865, the Civil War was winding down. Lincoln spoke movingly about the tragic conflict by which the Union would be saved and slavery ended. He concluded with these memorable and magnanimous words: “With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation’s wounds; to care for him who shall have borne the battle, and for his widow and his orphan—to do all which may achieve and cherish a just and a lasting peace among ourselves, and with all nations.” A short time later, on April 15, 1865, Lincoln was dead, the victim of an assassin’s bullet. “Now he belongs to the ages,” said Secretary of War Edwin Stanton.

#### **HOW DID PRESIDENT LINCOLN USE EXECUTIVE POWER TO PRESERVE THE FEDERAL UNION?**

President Lincoln’s First Inaugural Address offered reconciliation to states that had left the Union to form the Confederate States of America and warned of dire consequences if they persisted in secession. He claimed the Union was perpetual and “that no State, upon its own mere motion, can lawfully get out of the Union.” And he pledged to faithfully carry out “the declared purpose of the Union that it will constitutionally defend and maintain itself.” Thus, when fighting began between Confederate and Union forces, Lincoln acted quickly

and strongly. He called up 75,000 soldiers from the state militias, requested 42,000 volunteers to the United States military for a three-year term of duty, suspended the writ of habeas corpus to curb anti-Union activity by disloyal citizens, ordered a naval blockade of the Confederacy, and authorized the borrowing and spending of money by the federal government to pay for the war.



▲  
*Was President Lincoln’s order to blockade ports of the Confederacy unconstitutional?*

Lincoln acted without prior approval from Congress. His very broad and extraordinary interpretation of the president’s constitutional war powers was based on necessity, not precedent. Critics complained the president had acted unconstitutionally, that he had usurped power expressly granted to Congress by the Constitution. So, Lincoln called a special session of Congress on July 4, 1861, to justify his actions and to seek legislative endorsement of them. Lincoln’s “Message to Congress” emphatically expressed the president’s determination to defend the Union against insurgency. After reviewing the causes of armed conflict, he concluded that “no choice was left but to call out the war power of the Government; and so to resist force employed for its destruction by force for its preservation.” Lincoln claimed that his actions were necessary to save the Union and the Constitution, “trusting then, as now, that Congress would readily ratify them.” He “believed that nothing was done beyond the constitutional competency of Congress.” So, he asked Congress to support his policies. Congress quickly enacted laws, on July 13, to approve the president’s strong and expansive use of war powers, to greatly enlarge the Union’s military forces, and to appropriate funds in support of the war. A short time later, on August 5, a supermajority of Congress voted for a bill that said, “all the acts, proclamations, and orders of the president” since his inauguration “respecting the



▲  
How did President Lincoln respond in his First Inaugural Address to the secession of states from the Federal Union?

army and navy of the United States, and calling out or relating to the militia or volunteers from the States, are hereby approved and in all respects legalized and made valid...as if they had been issued and done under the previous express authority and direction of the Congress of the United States.”

The *Prize Cases*, which came before the Supreme Court in 1863 (67 U.S. 635), posed another constitutional test of Lincoln’s use of war powers during an emergency. On April 19, Lincoln had proclaimed a blockade of ports in the Confederate states. Four owners of ships seized by U.S. naval forces claimed the president had exceeded his executive authority under the Constitution by blockading seaports without a declaration of war by Congress. The Court decided (5 votes to 4) against the petitioners, and concluded that the president had constitutionally used his war powers in a moment of crisis to oppose an insurrection.

### DID PRESIDENT LINCOLN VIOLATE THE CONSTITUTIONAL RIGHTS OF INDIVIDUALS?

The Court’s slim majority and dissenting opinions in the *Prize Cases* mirrored the public controversy about Lincoln’s wartime decisions. In particular, critics claimed Lincoln’s strong use of executive power to maintain national security had produced unconstitutional violations of individual rights.

Lincoln perceived the paradox posed by his need to simultaneously exercise and limit his executive power in order to preserve the Union and its Constitution. He expressed this constitutional dilemma during his July 4,

1861, speech to Congress. “Is there, in all republics, this inherent and fatal weakness? Must a government, of necessity, be too strong for the liberties of its own people, or too weak to maintain its own existence?” Lincoln chose a course of action, based on necessity, which bordered on being “too strong.” If the government was “too weak” to achieve victory against insurgents, he believed the Constitution, and the liberties it guaranteed, might forever be lost.

At the outset of the war, Lincoln suspended the privilege of the writ of habeas corpus and approved military trials for civilians accused of aiding or abetting the Confederacy in certain areas of the country. More than 12,000 civilians were arrested and held by the military during the Civil War.

Chief Justice Roger B. Taney’s opinion, in a District of Maryland Circuit Court case (*Ex parte Merryman*, 1861), rebuked the president for unconstitutionally suspending the writ of habeas corpus. Lincoln’s decision enabled military commanders to indefinitely imprison persons suspected of disloyalty to the Union without producing evidence in a court of law to justify their detention. Article 1, Section 9 of the U.S. Constitution says, “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” Taney held that the president did not have authority to suspend the writ of habeas corpus without the consent of Congress. The habeas corpus clause, said Taney, appeared within Article 1 of the Constitution, pertaining to the powers and duties of Congress. Finally, Taney ordered the release of John Merryman from the military prison in Maryland, where he had been detained for alleged pro-Confederacy actions.

In his July 4, 1861, speech to Congress, Lincoln disputed Taney’s charge that the Constitution had been violated. He noted that the habeas corpus clause in Article 1, Section 9 of the Constitution “is silent as to which, or who, is to exercise the power [of suspension]; and as the provision was plainly made for a dangerous emergency, it cannot be believed that the framers of the instrument intended that in every case the danger should run its course until Congress could be called together, the very assembling of which might be prevented, as was intended in this case, by the rebellion.” The president in 1862 issued a new executive order to increase the areas of the country where the writ of habeas corpus could be suspended by military commanders. Lincoln’s proclamation also authorized trials by military tribunals or commissions of all “rebels and insurgents, their aiders and abettors within

the United States, and all persons discouraging voluntary enlistments, resisting military drafts, or guilty of any disloyal practice, affording aid or comfort to rebels against the authority of the United States.” Congress enacted a law on March 3, 1863, ratifying the president’s decisions to suspend the writ of habeas corpus. Military trials of civilians, however, were judged constitutional only if they occurred in areas of warfare or imminent threat of armed conflict in which the civil courts were not functioning. Nearly one year after the Civil War ended, on April 3, 1866, the Supreme Court unanimously decided that a civilian, Lambdin Milligan, should not have been tried and convicted by a military court in a state, Indiana, where the civil courts were open and operational (*Ex parte Milligan*, 71 U.S. 2).

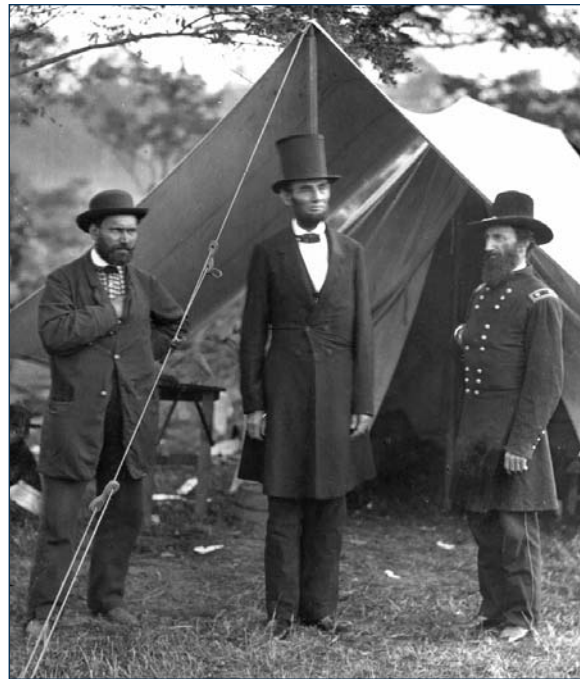
#### WHAT WAS PRESIDENT LINCOLN’S POSITION ON SLAVERY?

After winning the 1860 presidential election, Lincoln repeated his long-held opposition to the spread of slavery in the federal territories. He promised, however, that the federal government would not take action against slavery in the states where it existed. In a letter to Alexander Stephens of Georgia on December 22, 1860, Lincoln wrote, “You think slavery is right and should be extended; while we think slavery is wrong and ought to be restricted. That I suppose is the rub. It certainly is the only substantial difference between us.” After the Civil War started, Lincoln vowed to preserve the Union against secession and insurrection, but said nothing about the abolition of slavery. Lincoln explained his position in a letter on August 22, 1862, to Horace Greeley, editor of the *New York Tribune*: “My paramount objective in this struggle is to save the Union, and is not either to save or to destroy slavery. If I could save the Union without freeing any slave I would do it, and if I could save it by freeing all the slaves I would do it: and if I could save it by freeing some and leaving others alone, I would also do that.” Lincoln concluded: “I have here stated my purpose according to my view of official duty; and I intend no modification of my oft-expressed personal wish that all men everywhere could be free.”

One month later, on September 22, 1862, Lincoln publicly announced his “Preliminary Emancipation Proclamation.” It warned the rebels that unless they rejoined the Union by the first day of 1863, a final proclamation would be issued to free all slaves within the seceded states. Lincoln had been considering this decision for several weeks before choosing to announce it shortly after the Union army’s victory at Antietam, Maryland.

He waited for a military victory in order to act from strength on this sensitive matter, which the president believed would weaken the Confederacy and thereby help “to save the Union.”

The rebels ignored Lincoln’s threat, so on January 1, 1863, he issued the Emancipation Proclamation. The president proclaimed “that all persons held as slaves” in the rebellious states “are and henceforward shall be free, and that the executive government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.” Lincoln claimed his proclamation “to be an act of justice, warranted by the Constitution, upon military necessity.” The Emancipation Proclamation did not apply to slavery in the “border states” that remained loyal to the Union. It also exempted areas of the Confederacy already controlled by the Union. However, after January 1, slaves were freed in the wake of Union military advances into the rebel states. Many emancipated slaves joined the Union army and navy, as authorized by the president’s proclamation.



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*Why did President Lincoln issue his Preliminary Emancipation Proclamation after the battle of Antietam?*

More than fifteen months after his Emancipation Proclamation, on April 4, 1864, Lincoln explained his action in a letter to A.G. Hodges, editor of a Frankfort,



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*What were the consequences of President Lincoln's Emancipation Proclamation?*

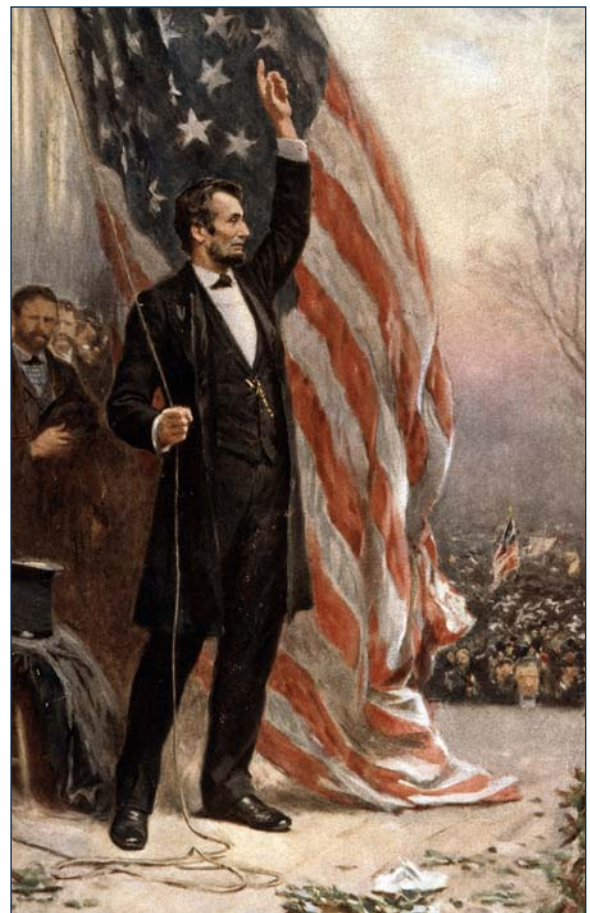
Kentucky, newspaper. "I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I cannot remember when I did not so think, and feel. And yet I have never understood that the Presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling." Thus, Lincoln justified his Emancipation Proclamation as an act of military necessity, based on power granted through the Constitution to the president in his capacity as commander in chief of the armed forces. He believed this was the best he could do within the limitations imposed by the Constitution. Lincoln understood that a constitutional amendment was required to abolish slavery immediately and everywhere in the United States. So, he advocated an anti-slavery amendment to the Constitution. Congress moved slowly to propose the amendment, but Lincoln continued to recommend it. The required two-thirds vote of members of both houses of Congress was achieved by January 31, 1865. Lincoln, however, did not live to see this work completed. The proposed Thirteenth Amendment was not ratified by the requisite three-fourths of the states until December 6, 1865.

### HOW DID LINCOLN MAINTAIN AND ADVANCE FUNDAMENTAL PRINCIPLES OF AMERICA'S FOUNDING ERA?

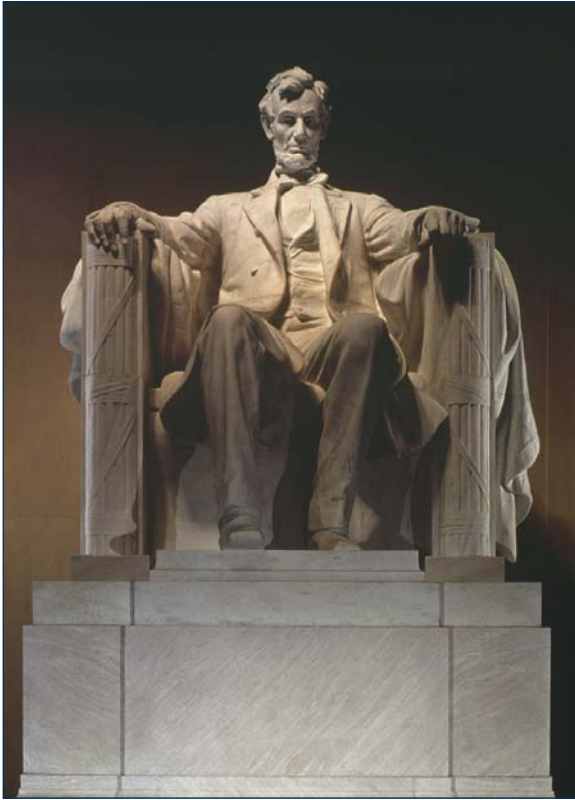
Lincoln tried to revive and renew political principles that defined America at its birth in 1776. "Let us re-adopt the Declaration of Independence, and with it, the practices,

and policy, which harmonize with it," said Lincoln in an October 16, 1854, speech at Peoria, Illinois, against the spread of slavery to the western territories. In a speech at Independence Hall in Philadelphia on February 22, 1861, he said, "I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence."

Lincoln's understanding of American constitutionalism was based on principles expressed in the Declaration of Independence. He believed the Constitution was meant to fulfill the ideas of equality, liberty, and government by consent of the people in the 1776 founding document. In his actions as president and citizen, Lincoln attempted to preserve the founding political principles and to bring them more fully and justly into the lives of Americans. Thus, he began the process through which slavery was abolished in the United States.



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*Lincoln at Independence Hall. What ideas in the 1776 Declaration of Independence influenced the political thought and action of Abraham Lincoln?*



▲  
*The Lincoln Memorial in Washington, D.C. What does this monument signify about the importance of Abraham Lincoln in the American heritage?*

Lincoln's Gettysburg Address, given on November 19, 1863, recognized the central importance of founding-era principles to the meaning and destiny of America. He noted that eighty-seven years had passed since the birth of "a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal." He praised the men who fought and died at the battle of Gettysburg for the ideas that have united and sustained the American people. And he urged his fellow citizens to "resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth." These elegant words signify the enduring legacy of Abraham Lincoln to the people of America.

## REVIEWING AND USING THE LESSON

- 1 What key events led to Abraham Lincoln's rise from humble origins and relative obscurity to national prominence and the summit of political power in the United States of America?
- 2 Did President Lincoln usurp the constitutional authority of Congress in his exercise of executive power to defend the Union after the start of military conflict between the Union and the Confederate States?
  - Evaluate Lincoln's comments in his July 4, 1861, "Message to Congress," about the use of executive powers in a time of national crisis.
  - Evaluate the response of Congress to the president's message.
- 3 Did President Lincoln's suspensions of the writ of habeas corpus violate the Constitution?
  - Evaluate Chief Justice Roger B. Taney's opinion in *Ex parte Merryman*.
  - Evaluate President Lincoln's response to Taney in his July 4, 1861, "Message to Congress."
- 4 Do you agree with Lincoln's position about the extension of slavery to the federal government's western territories and his opposition to the popular sovereignty provision of the Kansas-Nebraska Act?
- 5 What was President Lincoln's Emancipation Proclamation? Why did he issue it?
- 6 What were the immediate and long-term effects of the Emancipation Proclamation?
- 7 Do you agree with President Lincoln's claims that his decision to issue the Emancipation Proclamation was a constitutional exercise of his executive power?
- 8 Why did Lincoln think that an executive order to abolish slavery throughout the United States would have been unconstitutional? Do you agree with his position?
- 9 How did Lincoln connect his political ideas and actions to principles of the 1776 Declaration of Independence?
- 10 What is the legacy of Abraham Lincoln to constitutionalism and citizenship in America today?

### FOR ADDITIONAL READING

Belz, Herman. *Abraham Lincoln, Constitutionalism, and Equal Rights in the Civil War Era* (New York: Fordham University Press, 1998).

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### WEBSITES

#### [www.civiced.org](http://www.civiced.org)

The Center for Civic Education's homepage, with information about its programs and publications, such as *We the People: The Citizen & the Constitution*.

#### [wtpcompanion.civiced.org](http://wtpcompanion.civiced.org)

The We the People companion website is designed to be used alongside the new *We the People: The Citizen & the Constitution* Level 3 text for high school students. Features include an overview of the student edition; the preface and the introduction; the full text of all unit and lesson purposes; terms with definitions; the glossary; biographies; links to Supreme Court cases; links to the full text of primary sources; an annotated bibliography; links to specially selected websites that illuminate concepts mentioned in the student text; and multimedia.

#### [AbrahamLincolnOnline.org](http://AbrahamLincolnOnline.org)

Abraham Lincoln Online is a comprehensive guide to letters, speeches, and other primary documents by and about Lincoln, with links to websites that provide documents and other information pertaining to Lincoln, such as the Library of Congress and the National Archives.

#### [memory.loc.gov/ammem/alhtml/malhome.html](http://memory.loc.gov/ammem/alhtml/malhome.html)

Abraham Lincoln Papers at the Library of Congress includes approximately 10,000 documents and 61,000 images pertaining to Abraham Lincoln. Most of the documents are from 1850–1865.

#### [www.alplm.org/education/home.html](http://www.alplm.org/education/home.html)

The Education page of the Abraham Lincoln Presidential Library in Springfield, Illinois, includes information, educational resources, and programs about the life and time of Abraham Lincoln, with special emphasis on the bicentennial of Lincoln's birth.

#### [www.historyplace.com/lincoln/index.html](http://www.historyplace.com/lincoln/index.html)

The History Place has a section devoted to Abraham Lincoln, with a timeline, photos, quotations, and famous primary documents, such as the Emancipation Proclamation, the Gettysburg Address, and his first and second inaugural addresses.

#### [www.lincolnbicentennial.gov](http://www.lincolnbicentennial.gov)

The Lincoln Bicentennial homepage includes links to information and educational resources about Lincoln's life and legacy, learning activities, and lesson plans for students and teachers.

### ACKNOWLEDGMENTS

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#### Author

The author of this supplemental lesson on Abraham Lincoln is John J. Patrick, Professor Emeritus of Education at Indiana University.

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Page 1, The Granger Collection, New York; 2 (l), Lincoln in his boyhood, chromolithograph, ca. 1868, after a painting by Eastman Johnson, The Granger Collection, New York; 2 (r), An artist's reconstruction of one of the Lincoln-Douglas debates of 1858, The Granger Collection, New York; 3, *Confederate Blockade Runner and Union Man-o-War*, by F. Mullen, oil on canvas, 1861, The Granger Collection, New York; 4, Lincoln arriving at the U.S. Capitol for his first inauguration on March 4, 1861, color engraving, 1861, The Granger Collection, New York; 5, Allan Pinkerton, President Lincoln, and Major General John A. McClelland photographed at Antietam, Maryland, on October 3, 1862, by Alexander Gardner, The Granger Collection, New York; 6 (l), Lincoln reading the Emancipation Proclamation to cabinet officials (from left to right) Montgomery Blair, Edwin Stanton, Caleb Smith, Edward Bates, and Gideon Welles, oil on canvas by Alonzo Chappel, 1862, detail, The Granger Collection, New York; 6 (r), Lincoln speaking at Independence Hall, Philadelphia, on February 22, 1861, after the painting by Jean Leon Jerome Ferris, The Granger Collection, New York; 7, Lincoln Memorial, Washington, D.C., sculpture by D.C. French, The Granger Collection, New York.



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