



### **IKE AND DICK: PORTRAIT OF A STRANGE POLITICAL MARRIAGE**

BY JEFFREY FRANK

*Simon and Schuster, New York, NY, 2013. 434 pages, \$30.00.*

Reviewed by David Heysfeld

In *Ike and Dick*, Jeffrey Frank vividly recounts the tumultuous 16-year political relationship between Presidents Dwight D. Eisenhower and Richard Nixon, beginning with Nixon's nomination as Eisenhower's vice presidential running mate in 1952, and continuing until Nixon's election as President in 1968 and Eisenhower's death in 1969. Frank's account of these years is detailed and authoritative, and always compelling and readable.

The relationship of these two complex and formidable men is fascinating both in and of itself and as a reminder that, in history, personalities and relationships can make a difference.

Frank subtitles his book *Portrait of a Strange Political Marriage*. A more accurate subtitle might be *Portrait of a Dysfunctional Father-Son Relationship*. Eisenhower always had mixed feelings about Nixon, respecting his abilities to give strong political speeches and to analyze policy issues, but questioning whether he had the personal warmth and managerial skills needed to be elected and succeed as President. Eisenhower's doubts prevented him from giving Nixon's presidential aspirations unqualified support.

Nixon, very much the junior partner at the start, clearly wanted and needed Eisenhower's approval and support, and took it personally when they were not forthcoming. A Nixon confidante reported, "There were times when I would find Nixon literally close to tears after a session at the White House during which Eisenhower humiliated Nixon."

Apart from its psychological effects on Nixon, there were times when Eisenhower's lack of support threatened to end Nixon's political career. Nixon was able to overcome these threats, showing great personal strength and political cunning.

When the relationship began in 1952, Eisenhower was at the peak of his reputa-

tion as a national hero. He was the face of our victory over Nazi Germany, honored in 1945 by a New York City parade that 4 million people came to watch. With his dazzling smile, Ike was the embodiment of American decency and optimism. He was so politically attractive that both parties were interested in him as a presidential candidate, even though his views on domestic political issues were largely unknown and he didn't announce his party affiliation until 1952.

Nixon, a junior officer in the war, had a meteoric political rise, elected as a congressman in 1946 at age 33 and a senator from California in 1950 at age 37. He had made his reputation primarily as a partisan, strident anti-communist, whose most notable achievement was his exposure of Alger Hiss as a Soviet agent. Although well regarded by his Republican colleagues in Congress, Nixon was not considered presidential timber in 1952.

Eisenhower played little role in the selection of Nixon as the vice presidential nominee. As Eisenhower admitted years later, he was unaware that it was generally up to the presidential nominee to select his running mate. The selection of Nixon was made by a group of Eisenhower's top advisers, headed by Thomas E. Dewey, the former governor of New York and the Republican presidential candidate in 1944 and 1948.

It did not take long for the Eisenhower-Nixon relationship to be severely tested. During the early days of the campaign, news broke that Nixon's supporters had set up a fund that paid about \$18,000 for expenses in Nixon's senate office. The fund was not illegal, and the Democratic candidate, Adlai Stevenson, had a similar fund when he was governor of Illinois. But the Nixon fund was political dynamite because one of the main Republican issues in the 1952 campaign was corruption in the Truman administration.

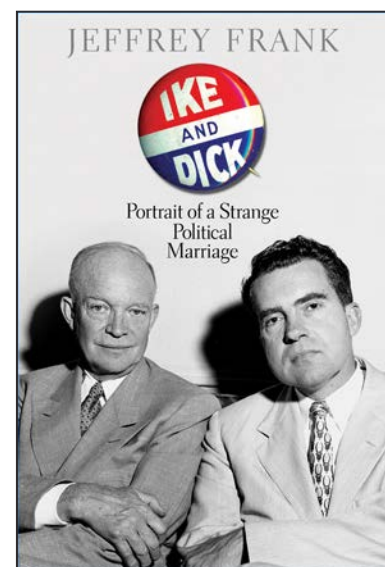
Eisenhower's initial reaction was non-committal and less than supportive. Ike told the press that, before making a decision, he would talk to Nixon "at the earliest time we can reach each other by telephone." Days passed without the call being placed, with Eisenhower telling reporters that Nixon would have to come "clean as a hound's tooth."

When the phone call finally took place, Eisenhower suggested that Nixon go on television to justify the fund. Nixon agreed but

asked for a commitment that Eisenhower would make a decision immediately after the speech. Eisenhower responded that they should wait a few days to get public reaction. Nixon angrily retorted "There comes a time in matters like this when you've either got to shit or get off the pot." As Jeffrey Frank notes, in Nixon's subsequent book the phrase was "genteelly rendered as 'fish or cut bait.'"

Shortly before the speech, Dewey called Nixon and told him that the consensus among Eisenhower's top advisers was that, at the end of the speech, Nixon should resign from the ticket. It was understood on both sides that this was what Eisenhower wanted. Eisenhower's management style was frequently to let it be known what he wanted and have it happen without a direct order.

Nixon refused to commit to resigning at the end of the speech unless there was a direct request from Eisenhower. Close to collapse from the stress, Nixon went on to deliver the famous "Checkers" speech in which he generally ignored the issues raised by the fund and tried to gain public sympathy by revealing in agonizing detail the modest circumstances of his upbringing and the financial difficulties he faced as a public servant. The latter included details on the rents he and his wife Pat had paid, the size of their mortgage, and Pat's coat, which was a "good Republican cloth coat," not a mink. Although these types of personal revelations are almost mandatory for a presiden-



tial candidate today, they were unheard of in the 1950s, when there was still a divide between public and private life.

As the *coup de grâce*, Nixon invoked the family dog, making the assertion that is still mocked today, that whatever happened, he was not going to give up his dog Checkers, which had been given to him as a gift. Nixon asserted that he could not bear to take Checkers away from his six-year-old daughter, who loved the dog and had given him his name. The impassioned defense of Checkers was completely gratuitous, because no one had ever suggested that he be taken from the Nixon family.

The speech appalled many in the media and was characterized as a soap opera by *Variety*. Leading pundit Walter Lippmann called it “the most demeaning experience my country has ever had to bear.” But either despite, or because of, the parts of the speech that were the most cringe-inducing, the speech was wildly successful and four million viewers followed Nixon’s suggestion that they telegraph the Republican National Committee urging that Nixon remain on the ticket. Nixon initially thought the speech would fail because his time ran out before he could give the RNC address. His supporters had no problem finding it on their own.

Despite the outpouring of support, Eisenhower was not ready to give Nixon his immediate support, but instead insisted that Nixon meet him in Wheeling, W.Va., to get his decision. Nixon was furious and through intermediaries let it be known that he was considering refusing to go to Wheeling and resigning from the ticket. After further negotiations through intermediaries, Nixon received assurances that, if he went to Wheeling, Eisenhower would announce that he was keeping him on the ticket, which he did.

The fund episode set the tone for future relations between Eisenhower and Nixon. Frank writes that the episode taught Nixon that, “when it came to Presidential politics ... his future was entirely in the hands of this forbidding figure with the amazing grin and chilly blue eyes to whom he owed everything and who owed him nothing in return. He had said he would not crawl, yet he had become a supplicant and had come close to being broken by the uncertainty and stress.” Nixon wrote in 1962 that the fund episode “left a deep scar which was never to heal completely.”

From the fund episode Nixon formed

a lasting impression that “[b]eneath that sunny, warm Eisenhower exterior was a cold and when necessary ruthless executive who often used others to carry out unpleasant assignments.” As he told his assistant Monica Crowley in the 1990s, Eisenhower was “a hard-ass ... a tough son of a bitch. ... [He] used me, but he used me well.”

At the same time, the Checkers episode taught Nixon that Eisenhower’s vulnerabilities included a reluctance to confront Nixon directly, and that Nixon could use this as a weapon in future confrontations. As Frank puts it, Nixon was “beginning to realize that when it came to raw political combat, the legendary soldier Dwight D. Eisenhower might not be in his league.”

In Eisenhower’s first administration, Nixon was given important assignments, including a 60-day goodwill tour of Asia, and the responsibility for creating distance between the administration and Sen. Joseph McCarthy. Eisenhower was impressed by Nixon’s performance on his assigned tasks and by his presentations at cabinet meetings. But when Ike prepared a list of persons qualified to succeed him, Nixon was on the list but not at the top.

Eisenhower’s doubts about Nixon led to a long struggle over whether Nixon would be re-nominated as the vice-presidential candidate in 1956. Eisenhower wanted to replace Nixon, but was not willing to tell him directly. Instead, Eisenhower repeatedly suggested to Nixon that it would improve Nixon’s public standing and long-term presidential prospects if he would take a cabinet position in the second Eisenhower administration. He offered Nixon any position he wanted, except Justice or State (the latter apparently because Eisenhower thought that Nixon lacked sufficient experience for it).

Ike sent the chairman of the Republican National Committee, whom Nixon respected, to try to persuade Nixon to drop out. After Nixon failed to take the bait, Ike announced that he would not express a preference for vice president before the convention, which was six months off.

Nixon’s bargaining position was enhanced when he made a strong showing as a write-in candidate for President in the New Hampshire primary. Ike then shifted to a public position that he was waiting for Nixon to tell him whether he wanted the nomination. Nixon seized this opening, met with Eisenhower to say he wanted the nomination, and then let the press know that

this had occurred. Eisenhower had little choice but to accept defeat. Again, Nixon had outmaneuvered Eisenhower by taking advantage of the President’s dislike of direct confrontation.

New problems arose at the end of the second Eisenhower administration. Even with Nixon all but inevitable as the Republican presidential nominee in 1960, Eisenhower was reluctant to give him all-out support. In January 1960, Eisenhower expressed his “admiration and respect” for the vice president but added, “there are a number of Republicans, eminent men, big men, that could fill the requirements of the position.” The subtext was that Eisenhower still regarded Nixon as primarily a political brawler, lacking the stature and gravitas needed in a President. Perhaps, although there is no documentation of this, Eisenhower also resented Nixon’s success in resisting Eisenhower’s efforts to keep him in his place.

Eisenhower’s most memorable contribution to the 1960 campaign came when, in response to a question asking for an example of a major idea of Nixon’s that had been adopted by the administration, he said, “If you give me a week I might think of one.” There were efforts to limit the effects of this damning remark, but they had only limited success. The remark may have made the difference in Nixon’s close loss to John F. Kennedy.

Unlike other presidential-vice presidential relationships, the Eisenhower-Nixon relationship continued after Eisenhower’s presidency until Eisenhower’s death in 1969. Of course, after 1960, Eisenhower’s willingness to endorse Nixon became much less critical to Nixon’s career. After 1960, the two had more social contact than they had had during Eisenhower’s White House years, when Nixon had resented his exclusion from Ike’s inner circle. At the end, the two families were drawn together by the marriage of Nixon’s daughter, Julie, to Ike’s grandson, David.

Assessing the 16-year relationship between Eisenhower and Nixon, it is clear that Nixon’s political career was significantly affected by Eisenhower’s reluctance to support him at critical points. More difficult to assess is whether the negative personal elements of the relationship had lasting effects. Could they have contributed to the insecurities and hostilities that played a role in Nixon’s self-destruction in Watergate?

At the end of the book's prologue, Frank gives a concise summary of its basic theme: "Nixon could never be sure what Eisenhower really thought of him, but it never ceased to matter, and his restive pursuit of Ike's good opinion remained one of the few constants in an extraordinary life." ©

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## LONG WARS AND THE CONSTITUTION

BY STEPHEN M. GRIFFIN

Harvard University Press, Cambridge, MA, 2013. 362 pages, \$39.95.

Reviewed by Louis Fisher

Stephen Griffin, professor of constitutional law at Tulane Law School, has prepared a closely reasoned and impressively researched study of the record of American military actions after 1945. He explains how presidential power expanded initially with the Cold War against the Soviet Union and world communism and continued to expand after the terrorist attacks of Sept. 11, 2001. Among his major conclusions is that the executive branch has a chronic inability to create coherent and effective foreign and military policy. Because of this incapacity to follow sound decision-making, the word Griffin repeatedly uses to describe executive branch policy is "deranged." *Long Wars and the Constitution* is a constructive and thoughtful analysis of what has gone wrong and what we might do about it.

Institutional weaknesses have done great damage, Griffin claims, to the constitutional order. He says that critics of post-1945 U.S. foreign policy have called for "a return to the original constitutional order," but that is not his position. He believes, for example, that "the historical meaning of the war-making provisions of the Constitution could not be implemented in the post-1945 context, at least not without a formal overhaul of the separation of powers, especially of the structure of Congress, to a degree that has never been contemplated." The issue of Congress restructuring itself will be pursued later, but what is Griffin's position on the Framers? Much has been made of the debate in 1793 between pro-executive

Alexander Hamilton as "Pacifius" and pro-Congress James Madison as "Helvidius," but Griffin correctly notes that Hamilton "never argued that the power to declare or initiate war belonged to the executive." Griffin "debunk[s] the widely held view that the founding generation disagreed on war-initiation." Hamilton, Madison, Jefferson, and many other Framers "agreed that Congress had sole power to initiate war." The "evident purpose" of the Declare War Clause "was to give Congress control over the decision to go to war." Although Griffin does not believe that the Framers' position can fully govern war powers decisions after 1945, he believes that "the eighteenth-century foundations remain."

Griffin's analysis is somewhat artificial because he divides scholars and public officials into two discrete camps: "Presidentialists" and "Congressionalists." He seems to leave no room for those who are "Constitutionalists," who do not rigidly promote either executive or legislative power. Into this third camp I place David Gray Adler, Michael Glennon, Louis Henkin, Jules Lobel, Charles Lofgren, William Michael Treanor, Stephen Vladeck, and myself. Our work is guided wholly by constitutional principles needed to inform and decide national security policy. At times Griffin seems to side with the congressional camp, as when he states: "A war undertaken solely by one branch would thus risk policy catastrophe. This is what has occurred all too frequently since 1945." A recent book by Mariah Zeisberg, *War Powers: The Politics of Constitutional Authority*, places Griffin in the congressional category. I regard him as a constitutionalist.

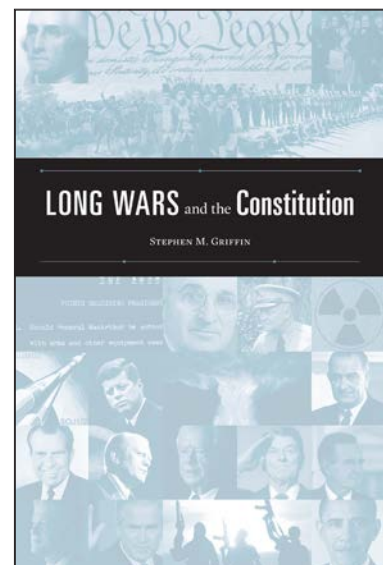
If that is Griffin's orientation, then he should be foursquare against President Truman for going to war against North Korea in 1950 without seeking from Congress either a declaration or authorization of war. As he states: "Beginning with Truman, nearly all post-1945 presidents have claimed the unilateral power under Article II to initiate war, 'real' war, full-scale war." He regards this "bold presidential claim" as "inconsistent with the historical meaning of the Constitution," and yet—curiously—says "it has an eminently defensible policy rationale." He does not explain why that position is eminently defensible. Why treat that claim as eminently defensible? Although this language from Griffin makes him sound like a presidentialist, he immedi-

ately adds that he is "not sympathetic to this unilateral presidential claim."

The effort to divide contending sides into presidentialists and congressionalists runs into difficulties early in the book. Griffin says that the congressionalist critique, "[b]y concentrating on whether every presidential action must be specifically authorized, ... has missed the real problem—the absence of interbranch deliberation over time on matters of foreign policy and national security strategy—that is, the lack of a cycle of accountability." That may be a valid objection to some congressionalists, but surely it applies equally, if not more so, to presidentialists, a point Griffin underscores throughout the book, beginning with his criticism of President Truman's decision in 1950 to go to war against North Korea without seeking or obtaining congressional authorization.

Griffin says that Truman and his advisers, at a conceptual level, "found it difficult to regard the Korean intervention as a 'war,' even after the military situation clarified in late July [1950]." It is true that Truman initially called the military intervention a U.N. "police action," rather than a war, but within a short time Secretary of State Dean Acheson admitted the obvious: It was a war. As Griffin notes, once the scale of the conflict became evident, "no one in the Truman administration denied the U.S. was fighting a war in Korea."

I am not sure of the meaning of this sentence by Griffin: "Congressionalist analyses go astray in condemning Truman's action as a pure usurpation of Congress's power without taking into consideration that he was not operating in the sphere of the legalized Constitution." Does Griffin mean that the



U.S. Constitution was changed by the U.N. Charter, allowing Truman to act unilaterally against North Korea in 1950 without obtaining authority from Congress? Griffin is clear that Truman's initiative was a political error, particularly after the decision to cross the 38th parallel and go north toward China—"a military disaster of the first order" and one that caused the Truman administration to lose "credibility." Was it also a legal and constitutional error?

Interestingly, Griffin states that the sequence of events after June 1950 "demonstrates the relevance of the original constitutional order." The political cost to Truman and the Democratic Party "showed the persistent and inimitable tidal influence of the original constitutional order." The Korean War demonstrated that "the founding generation was correct—there were dramatic differences between states of war and states of peace." The "constitutional damage was real. Truman set the precedent he wanted and it was a very bad one. He created a new constitutional power that future presidents would wield poorly." By removing Congress from the decision to go to war, Truman "created a negative spiral of irresponsibility rather than a cycle of accountability."

Griffin examines the argument by the Truman administration that the U.N. Charter "provided an independent legal basis for Truman's decision" and created "a new international legal order." Oddly, a State Department memo argued that Truman's unilateral action "was justified under the Charter in order to ensure the continued existence of the United Nations." Apparently of less interest to the administration was the continued existence of the U.S. Constitution. Griffin does not find the administration's legal argument credible. As recently as the late 1930s, President Franklin D. Roosevelt had "showed no sign that he believed he had authority based on prior practice to simply order U.S. armed forces to war." During the Vietnam-era debates, the State Department invoked its 1950 claim that "practice and precedent have confirmed the constitutional authority [of the President] to engage United States forces in hostilities without a declaration of war." To Griffin, this contention "makes little sense when placed within the context of U.S. diplomatic history during both world wars."

Griffin reviews Senate testimony by Under Secretary Nicholas Katzenbach in 1967, calling it "sophisticated." I found

Katzenbach's legal analysis strained and tortured. Katzenbach said that the 1950 State Department memo was correct that the U.N. Charter made a fundamental difference in how wars are fought. Prior to the adoption of the U.N. Charter, declarations of war were used to announce military adventures of aggression and conquest, but with the adoption of the Charter, according to Katzenbach, "came the abolition of war as a matter of international law and so declarations of war became obsolete," removing Congress from the picture. Obviously, however, Congress continued to provide statutory support for military actions, as it did with respect to Vietnam, both Iraq wars, and the intervention in Afghanistan, not by declarations of war, but by legislation authorizing military action.

It has been known ever since the Supreme Court decisions in *Bas v. Tingy* (1800) and *Talbot v. Seeman* (1801) that Congress has a constitutional choice of either declaring war or authorizing war. It did the latter with the Quasi-War against France in 1798. So that part of Katzenbach's legal analysis is hollow. Nevertheless, Griffin states that "Katzenbach's argument that the Charter had, as a matter of international law, abolished war and substituted the justified use of armed force did have merit." But Griffin does not identify the merit. Obviously the Charter has not abolished war. As to Katzenbach's argument that the Charter made the Declare War Clause a "nullity" and "an obsolete provision of the Constitution," Griffin states that this position "was properly rejected by Congress in the Vietnam-era debates and the executive branch never raised it again."

Griffin makes clear that Truman's belief that he was empowered to take the nation to war was "indeed something new." The "mistaken assumption" that the President could act alone in initiating war led Truman's successors to engage in "failures of deliberation." However, Griffin does not discuss two points that underscore the extent to which Truman violated the Constitution. The first is an operating principle of the U.N. Charter: each member state in providing assistance to a military operation must do so in accordance with its "constitutional processes." The second is legislation—the United Nations Participation Act—that Congress enacted in 1945 to implement the U.N. Charter.

Griffin provides a helpful discussion of the struggle between President Woodrow Wilson and the Senate over the Treaty of Versailles and the effort to create a new

international body, the League of Nations. The treaty required member states to take action by military force against countries that commit aggression. When Sen. Henry Cabot Lodge offered an amendment to insist that any U.S. action in a League of Nations military action must conform to the constitutional authority of Congress to initiate wars, Wilson out of pure stubbornness refused to accept the amendment, even though, as Griffin points out, he had no principled objection. Wilson's rejection of the Lodge amendment prompted the Senate to reject the treaty, a fact firmly in the minds of those who drafted the U.N. Charter. They understood that constitutional authority of members states had to be expressly recognized.

Griffin does not discuss the language in the Charter requiring each nation to determine its "constitutional processes" when it agrees to participate in military operations against aggression. He does not mention that Truman, while in Potsdam, sent a cable to a U.S. senator who placed it in the *Congressional Record*: "When any such agreement or agreements are negotiated it will be my purpose to ask the Congress for appropriate legislation to approve them." Truman therefore understood the constitutional processes of the United States and said so publicly.

Congress did not rely on a presidential pledge to decide U.S. constitutional processes. The House and the Senate debated legislation to define what is required under the U.S. Constitution. Without the slightest ambiguity, section 6 of the United Nations Participation Act requires that the agreements to use military force under the U.N. Charter "shall be subject to the approval of the Congress by appropriate Act or joint resolution." Statutory language could not be more clear and explicit. The President must seek and obtain congressional approval in advance. Truman signed the bill without raising any constitutional objections.

According to Griffin, "[c]arried to its logical conclusion, the U.N. theory means that a decision for the use of armed forces by the president is legitimate under international law and the Constitution if it is endorsed by the Security Council." That position, regularly advanced by the executive branch, is expressly rejected by the United Nations Participation Act, which remains U.S. law. It is also expressly rejected by section 8(a) of the War Powers Resolution, which Griffin

does not mention. This statute provides that authority to introduce U.S. armed forces into hostilities abroad shall not be inferred from any treaty “unless such treaty is implemented by legislation specifically authorizing” the introduction of U.S. troops into hostilities and stating that “it is intended to constitute specific statutory authorization.” That language remains part of U.S. law (50 U.S.C. § 1547). Any President—including George H. W. Bush in the Persian Gulf War; Bill Clinton in multiple military activities in Haiti, Iraq, Bosnia, and Kosovo; and Barack Obama in Libya—who relies on Security Council resolutions or the approval of NATO allies violates the Constitution, the United Nations Participation Act, and section 8(a) of the War Powers Resolution.

The constitutional issue can be crystallized by asking this question: May the President and the Senate through the treaty process transfer Article I authority from Congress to an outside organization, such as the U.N. or NATO countries? The answer should be clear: No. Griffin does cite an Office of Legal Counsel memo by William Rehnquist on May 22, 1970, that a treaty may not override the Constitution. Actually, Rehnquist said a treaty “may not override a specific limitation on the power of the President or of Congress.” His analysis was vague enough to keep the door open for independent and unilateral presidential military actions, such as President Nixon’s military actions in Cambodia, which Rehnquist described not as an invasion but as an “incursion.” Griffin cuts to the quick: “War powers issues should not be resolved by resort to semantic games.” He does not refer to other semantic games by the executive branch: Truman regarding his actions in Korea not as war but as a U.N. “police action,” and Obama’s Office of Legal Counsel’s deciding that military actions against Libya did not constitute “war” because there was little likelihood of significant U.S. casualties. Under that legal reasoning, a powerful country could pulverize a weak nation and, if the aggressor suffered no or minimal casualties, there would be no “war.” These legal semantics have zero credibility. If a country did to the United States what the United States did to Libya, we would consider it as war.

At various places in the book, Griffin refers to dicta by Justice Sutherland in his 1936 *Curtiss-Wright* opinion that the President is the “sole organ” of the United

State in foreign relations. This statement has been regularly cited by federal courts and the executive branch, so it would have been helpful for Griffin to have analyzed Sutherland’s statement to determine whether it was permissible dicta or plain judicial error. There should be no doubt that Sutherland attributed to John Marshall—then, in 1800, a member of the House of Representatives—a position that Marshall did not say or intend. At no time did Marshall in his 1800 speech or his lengthy career as chief justice ever accord to the President plenary, independent, or inherent authority over foreign affairs, as Sutherland falsely asserted.

At one point, Griffin says that “congressionalists have claimed that presidents should be impeached (!) when they fail to get congressional authorization for *any* military intervention, regardless of the circumstances.” Griffin’s citation for this statement is to an article I wrote for the *ABA Journal*. If anyone took that position, I would agree with Griffin that it is very extreme. However, that was not my position. What I said is this: “Any president who takes the country from a state of peace to a state of war without obtaining prior authority from Congress is creating an impeachable act. Were the president impeached by the House and removed by the Senate, the signal would be healthy and welcome for constitutional government.” I think my argument, which may seem extreme to some, is amply supported by the U.S. Constitution, the U.N. Charter, the United Nations Participation Act, mutual security treaties, and the War Powers Resolution. Given the pattern from Truman through Obama, Presidents need to be put on clear notice of constitutional principles and processes.

As for remedies, Griffin at different places suggests that, if Congress wants to remain relevant and effective, it must resort to substantial reorganization, such as designating “a relatively small permanent group of congressional leaders with whom the president could consult.” Later, he suggests that Congress be required “to so organize itself to be able to give the president the assurance of support such a strategy would require.” Why? His book convincingly shows that the executive branch after 1945 has had a chronic incapacity to create and implement coherent and effective national security policy. At times he admits that no process “can be devised to avoid all policy mistakes

or even policy disasters.” Accountability must reside “where it belongs—in both branches.” Then why should the power of Congress ever be placed in a mere handful of lawmakers designated to consult with the President and his fallible advisers?

*Long Wars and the Constitution* is a rich book of insightful analysis of what has happened constitutionally from 1945 to the present. The damage has been heavy for the U.S. Constitution, the presidency, Congress, self-government, and other countries. The task now is to move past the unfortunate post-1945 precedents and begin the political process of protecting constitutional government. Griffin does an excellent job in pointing the way. ☉

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## **LINCOLN AND RECONSTRUCTION**

BY JOHN C. RODRIGUE

*Southern Illinois University Press, Carbondale, IL, 2013. 163 pages, \$19.95.*

**Reviewed by Henry S. Cohn**

In *Lincoln and Reconstruction*, history professor John C. Rodrigue notes that, in considering the subject of Abraham Lincoln and reconstruction, historians have taken two approaches. “The first examines Lincoln’s reconstruction policies in an attempt to discern what he might have done after the war had he not been assassinated, and therefore to speculate on how postwar reconstruction might have been different.” The second approach views “Lincoln’s wartime reconstruction policies not as ends in themselves but rather as a means toward the end of winning the war.” Consequently, historians who have taken the second approach believe that Lincoln’s wartime policies can tell us little about what he would have done after the war.

Rodrigue “puts forward a different perspective.” He argues: “Instead of

wartime reconstruction initiatives being undertaken to win the war, the war was being undertaken to reconstruct ... the Union.” But Lincoln’s issuance of the Emancipation Proclamation on Jan. 1, 1863, caused him to redefine “reconstruction.” Before the Emancipation Proclamation, Lincoln’s approach to reconstruction, Rodrigue writes, “could more accurately be described as ‘restoration,’ since the war was intended to restore the antebellum status quo.” The Emancipation Proclamation, however, “transformed the Civil War, for the North, from a war to preserve the Union to one to both preserve the Union and abolish slavery.” This fact forced Lincoln “to expand his definition of reconstruction, from the mere restoration of the seceded states to the Union to the more fundamental social, economic, and political reordering of those states and of the Union itself.” Reconstruction now entailed “recasting race relations, defining black legal and political rights, reorganizing the South’s labor system, among other issues.”

One example of restoration before 1863 was the creation of West Virginia from Virginia. Almost immediately following Virginia’s secession on April 17, 1861, Unionists in western Virginia, with Lincoln’s approval, called a convention, which met in June and created the “Restored Government of Virginia” and elected Francis Harrison Pierpont as governor. Constitutionally, the Pierpont government had little formal standing, as it did not represent a majority of Virginians. In his July 1, 1861, message to Congress, however,

Lincoln approved of the new government, and two senators and three representatives from it were seated in Congress. It evolved into West Virginia, which was admitted to the Union in June 1863.

Another reconstruction issue that Lincoln faced starting before 1863 was the appointment of military governors in sections of the South that came under Union control. In Tennessee, he appointed his future vice president, Andrew Johnson, who, Rodrigue writes, “believed it inexpedient to hold statewide elections until eastern Tennessee had been secured and its large Unionist population could participate in electing a loyal government.” In Louisiana, with the fall of New Orleans, Maine-born George Shepley was Lincoln’s choice for military governor. In early 1863, faced with two groups of Unionists vying for control of reconstruction in Louisiana, Shepley endorsed the abolitionist group’s plan to register loyal citizens. Lincoln approved and expected the plan for a constitutional convention to move forward. When it did not, Lincoln, in the fall of 1863, wrote a series of letters to military commander Nathaniel P. Banks, complaining that “nothing has yet been done” about reconstruction, a fact that “disappoints me deeply.” Eventually, Rodrigue writes, “Banks oversaw creation of a free-state government” in Louisiana.

After he issued the Emancipation Proclamation on Jan. 1, 1863, Lincoln’s concept of reconstruction broadened to include not only a restoration of the Confederate states to the United States, but also the abolition of slavery and political rights for blacks. Lincoln, however, did not immediately abandon his view that Congress should explore voluntary colonization of freed slaves in Africa or Central America and compensation of former slave owners.

In 1864, however, Lincoln finally abandoned these positions, and he also let stand Attorney General Edward Bates’ 1862 ruling that free black people were American citizens, effectively nullifying the contrary holding in *Dred Scott*. On March 13, 1864, Lincoln wrote a private letter to the new free-state governor of Louisiana suggesting what he would advocate publicly in 1865, in his last speech before he was assassinated: that black suffrage be granted to “the very intelligent, and especially those who have fought gal-

lantly in our ranks.” Finally, as viewers of Steven Spielberg’s “Lincoln” know, he lobbied for passage of the 13th Amendment. In August 1864, after a conversation with Lincoln, Frederick Douglass said that Lincoln had “a deeper moral conviction against slavery than I had ever seen before in anything spoken or written by him.”

On the question of readmitting the seceded states to the Union, Lincoln clashed with Congress over his “Ten Percent Plan” and the Radical Republicans’ Wade-Davis bill. The dispute centered on the percentage of male citizens in a state that had seceded that would have to sign a loyalty oath before the state could rejoin the Union. Lincoln’s plan required only 10 percent, whereas the Wade-Davis bill would have required a majority of voters to take an oath and included other requirements that no Confederate state (except perhaps Tennessee) could have met. Lincoln pocket-vetoed the Wade-Davis bill.

At the end of the book, Rodrigue speculates as to how Lincoln would have handled reconstruction if he had lived. The traditional view, based in part on the famous phrase in Lincoln’s second inaugural address, “With malice toward none; with charity for all,” is that Lincoln would have been more moderate than the Radical Republicans. Rodrigue, however, questions whether, if Lincoln had lived, his policies would have been that different from those of the Radical Republicans. Rodrigue reads another phrase in the second inaugural address—“to do all which may achieve a just, and a lasting peace”—as referring to reconstruction and the end of slavery.

*Lincoln and Reconstruction* is an enjoyable book. Rodrigue jokes that he has now “joined the ranks of that small, select group of authors who have written on Abraham Lincoln.” More than 14,000 books have been written on the 16th President. ☉

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