

### Liberty And Union: The Civil War Era And American Constitutionalism

Bernard Bothmer

Follow this and additional works at: <https://digitalcommons.lsu.edu/cwbr>

---

#### Recommended Citation

Bothmer, Bernard (2017) "Liberty And Union: The Civil War Era And American Constitutionalism," *Civil War Book Review*: Vol. 19 : Iss. 3 .

DOI: 10.31390/cwbr.19.3.28

Available at: <https://digitalcommons.lsu.edu/cwbr/vol19/iss3/23>

## Review

Bothmer, Bernard

Summer 2017

**Huebner, Timothy S.** *Liberty and Union: The Civil War Era and American Constitutionalism*. University Press of Kansas, \$26.95 ISBN 9780700622696

### The Battle for Meaning and Civil War Era Constitutionalism

*Liberty and Union: The Civil War Era and American Constitutionalism* is a remarkably fluidly written and comprehensive account, covering the years 1845 to 1877. It is a terrific study that deserves the widest possible audience.

Timothy S. Huebner, the Sternberg Professor of History at Rhodes College, is the author of several books on 19th century legal history.

Writing about the most analyzed period of American history provides many challenges to any historian. How does one look at familiar tales with fresh eyes?

What makes Huebner's book different from the numerous other accounts of the era is the author's focus on the Declaration of Independence and the Constitution. "This book is about the relationship between the Civil War generation and the founding generation, " Huebner writes. "That is, it examines how Americans of the mid-nineteenth century understood the founders' handiwork, the Declaration of Independence of 1776, and the Constitution of 1787" (ix).

This is an effective strategy, as the entire Civil War era was in many ways a battle over the exact meaning of the Declaration of Independence and the Constitution. "Soldiers on both sides emphasized the protection and preservation of liberty, " he writes, "but they held different interpretations of the concept" (290).

The text made this reviewer look at the Civil War as essentially an argument over what the founders thought about slavery when they wrote those two documents, and how the conflict was basically a disagreement over how the two

documents applied to slavery. Nearly every point of disagreement between North and South was grounded in different interpretations of the Declaration of Independence and the Constitution.

\*\*

Both sides in the struggle referred often to the Constitution. Lincoln mentioned the Constitution thirty-eight times in his first inaugural (126). Stonewall Jackson wrote of "permitting us to enjoy the rights guaranteed to us by the Constitution of our country" (159).

The author discusses how the Constitution (which never mentioned the word "slave" or "slavery" (9)) was viewed differently by both Northerners and Southerners regarding the many issues related to slavery: its expansion west; how it pertained to the return of escaped slaves; and how it impacted the fight for black political representation.

References to the Constitution were used often throughout the Civil War era. During the secession crisis, future president Andrew Johnson said in a speech, "Let us stand by the Constitution; and in preserving the Constitution, we shall save the Union" (341). When Lee surrendered, Grant praised U.S. soldiers for the way they had "maintained the supremacy of the Union and the Constitution" (338).

Huebner weaves in the Constitution throughout his book. He shows how the Constitution influenced overall war strategy. And he even gives a lengthy analysis of the Confederates' Constitution.

\*\*

Equally crucial as the Constitution were conflicting interpretations of the meaning of the Declaration of Independence. These were central to the ideas behind the period's key dividing issues: abolitionism; black constitutionalism; the *Dred Scott* case (where Chief Justice Taney argued that the language of the Declaration of Independence was not meant to apply to slaves); and to the very rise of Abraham Lincoln.

Huebner refers to the Declaration of Independence in all sorts of creative ways. For example, it was even used in secession, as the "Mississippi

Resolutions on Succession, " Huebner notes, "outlined a litany of outrages, in the style of the American Declaration of Independence, that had been committed by the North against the South" (118). The Declaration of Independence was mentioned in Davis's inaugural, and, of course, referred to in the Gettysburg Address. (Huebner's entire Gettysburg section, I might add, is especially first-rate.) It was also alluded to by the framers of Reconstruction, and the author even analyzes how the document influenced the 1868 Republican platform (381, 383, 385) and also examines how the country commemorated the document's centennial in 1876.

And it was the key document used in the struggle against slavery. African American leaders in 1864 "drafted the 'Declaration of Wrongs and Rights, "' Huebner writes, "a formal statement modeled on the American Declaration of Independence, that listed the historical grievances of African Americans while also lauding black military service" (323).

Though at times the author wanders away from the theme of the differing uses of the Declaration of Independence and the Constitution, such as during his discussion of the early part of Reconstruction, his focus on the two documents ties the book together. And his discussion of how Lincoln analyzed both documents is a real highlight, especially with regards to the Emancipation Proclamation.

\*\*

*Liberty and Union* is also very strong on black history, specifically concerning the cruelties African Americans faced from Southern racism, and the role they played in both winning the Civil War and in forging their own emancipation.

It remains shocking to this day to read of the way that Southern religious leaders defended slavery, and how the clergy prayed for slavery's continuation (296). Huebner's text is filled with such unsettling accounts. As one Southern general wrote, "The only mode of making the black race work, was to hold them in a condition of involuntary servitude" (189).

In the book's third and final section, focusing on Reconstruction, President Andrew Johnson comes off even worse than perhaps his detractors can imagine. And an especially strong feature of the book is the author's analysis of the

ratification process of the three Civil War Amendments.

His section on Reconstruction reminds us how enormously revolutionary that period was. Since the Bill of Rights, Americans had only added two amendments to the Constitution, he notes, but would add three during Reconstruction.

In Huebner's telling, Grant comes across as bold at first but then timid, worried about how harsh treatment of the South would affect his party.

Above all, the book is topical. One of the many moving passages is Huebner's account of the vicious response to black voting, an issue still very much with us today.

The story of the implementation of black suffrage during Reconstruction still amazes. Yet the lost promise of Reconstruction will anger most readers. While "most Northerners believed that abolition itself constituted an historic triumph," Huebner writes, "... most Republicans had not accepted the black constitutionalist vision, which combined the belief in a vigorous national government with a commitment to the idea that 'all men were created equal'" (433).

\*\*

The text sometimes has the feel of a standard survey of the era, with the insights about the Declaration of Independence and the Constitution cut and pasted in; other times, this theme disappears entirely for pages upon pages.

Huebner recounts incredibly detailed and vivid battle scenes, but occasionally gets bogged down in excessive detail that might distract the non-specialist, such as his recounting of the precise maneuvering of specific flanks, the time of day of the generals' discussions, etc. (178). Also, Huebner can at times get long-winded when speaking of Supreme Court cases (376).

And the book's length could have been cut; the biographies of many of the era's leading figures and the basic common knowledge of the era could have been slightly shortened. At the same time, there is also not much on gender or Native Americans or the home front. But it is foolish to ask an author to include everything.

And this reviewer wished publishers used footnotes instead of endnotes, as many readers would enjoy referring to them in an easier fashion as they read along.

\*\*

Yet this is a remarkable study. The book is enhanced by helpful subheadings within each chapter, and the narrative has a clear flow to it. The text has terrific chapter organizations, especially introductions and conclusions.

One aspect that stood out to this reviewer was the manuscript's sense of balance. For example, he describes how both sides spoke of having God on their side.

It is tempting, in any overview of the era, to focus on the North, but Huebner describes in equal measure both North and South. There is also evenly matched attention given to political, economic, military, and social and cultural history (though the first 100 pages are dominated by political history).

Huebner's study is steeped in primary sources, especially personal letters. "Southern soldiers fought for slavery, " he writes, "but mentioned it far fewer times in their writings than they did 'liberty'" (293).

There is also an outstanding 11-page bibliographical essay (but I was surprised to only see one David Donald reference on the list).

The book is filled with wonderful nuggets, moving the story along briskly.

I imagine few know that Lincoln only met his vice president, Hannibal Hamlin, until shortly after they were elected. Or that the Gettysburg Address was Lincoln's "first prepared speech since his inauguration" (241). Or that one senator, in 1861, proposed abolishing the Supreme Court and replacing it with only Republican appointees. Or that "An estimated 40,000 soldiers perished in accidents" (317). Or that Virginia and Tennessee had the most amount of military engagements and destruction. Or that "The 14th Amendment proved disappointing to black activists, who wondered publicly how the Constitution could affirm black citizenship without directly conferring the right to vote" (361). Or that in 1866 "Johnson implied that Providence had brought about the death of Lincoln in order to make Johnson president" (363). Or that "Because

they had not yet ratified the Fourteenth Amendment, Mississippi, Texas, and Virginia did not participate in" the 1868 election (383)—which makes this reader wonder if Grant would have lost the popular vote had those states voted; after all, he "failed to win a majority of the white vote" (384).

Huebner's writing is wonderfully lively. He describes one Southerner as having "long hair and short temper" (130). Sherman believed, in Huebner's words, that "there would be no peace without victory, and no victory without abolition" (247). And he writes that "Violent white supremacists, as well as the majority of Southerners who opposed them, moreover, linked the ballot box to the bedroom" (428).

Huebner's majestic narrative skills surface in other areas as well. He subtly writes that Lee surrendered to Grant "at a private home in the village of Appomattox Court House" (337), a fine distinction to make, as many people mistakenly believe that the surrender took place in a court house in the town of Appomattox. It is details such as this that show a master craftsman at work.

And there are numerous lessons for and links to modern day America to be found here.

For one, his study reveals that people then were perhaps more engaged with politics and current affairs than today. They were even knowledgeable about the Supreme Court: one anti-slavery activist gave a speech that mocked the language of Justice Roger Taney; it is hard to imagine someone today doing that with an opinion by Justice John Roberts.

Above all, *Liberty and Union* reminds us that discussion and debate about racial disparities is central to the American story, and that while the passion for racial justice among some today echoes that of the Civil War era, it appears as if there is less overall interest in racial justice today than there was 160 years ago.

The book is a culmination of a life-long devotion to the topic. *Liberty and Union* should be of special interest to instructors of survey courses on the Civil War and Reconstruction. (Instead of why the North won, Heubner's book seems to ask, the question that should be asked is why the South lost. Huebner's answer is that they could not fund the war.)

I find it hard to believe that the book has not been more widely reviewed and publicized. It is simply a masterpiece.

*Dr. Bernard von Bothmer is an adjunct professor of history at the University of San Francisco and Dominican University of California. He is the author of Framing the Sixties: The Use and Abuse of a Decade from Ronald Reagan to George W. Bush (University of Massachusetts Press, 2010).*