

## COVER STORY

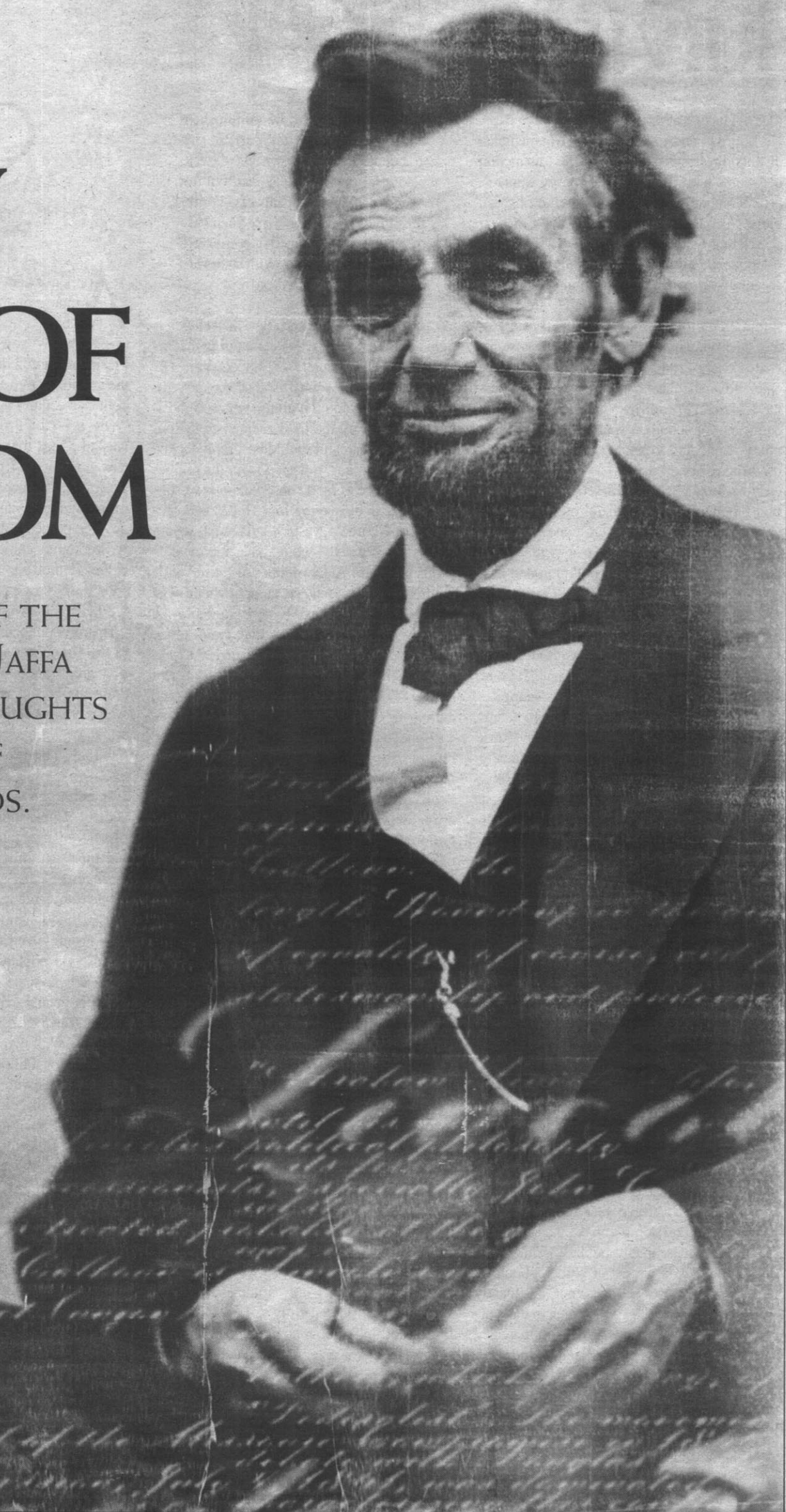
# A NEW BIRTH OF FREEDOM

FORTY YEARS AFTER CRISIS OF THE  
HOUSE DIVIDED, HARRY V. JAFFA  
RETURNS WITH SECOND THOUGHTS  
AND A NEW APPRECIATION OF  
LINCOLN'S WORDS AND DEEDS.

BY CHARLES R. KESLER

*A New Birth of Freedom: Abraham Lincoln and the  
Coming of the Civil War*, by Harry V. Jaffa, (Lanham, Md.:  
Rowman & Littlefield), 549 pages, \$35 (cloth).

**T**he losing side doesn't always graciously accept the results of an election, as this year's presidential contest gently reminds us. After the presidential election of 1860, a four-way donnybrook in which the winner received a majority of the Electoral College vote but barely 40 percent of the popular vote, eleven states eventually withdrew from the Union rather than accept as President the Republican candidate, Abraham Lincoln. In truth, Lincoln's popular vote total was unfairly lowered because many southern states refused to print his name on the ballot. Nowadays, Democrats at least let Republicans appear on the ballot, though in Florida if they get too many votes it's considered election fraud.



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What Southern Democrats resented in 1860, however, was not that Lincoln had been elected with a mere plurality of the popular vote but that he, and his party, were pledged to resist the further spread of slavery in the United States and its territories. Adding insult to injury, so far as the Southerners were concerned, the Republicans resisted slavery's spread because they rejected slavery itself as a moral and political evil. From this moral condemnation and its practical consequences, Lincoln refused to budge. He insisted time and again that he had neither the intention nor the power to interfere with slavery in the states where it already existed. But he would not recognize slavery's right to subdue the western territories, much less to bestride the Union itself; and the South would, in the end, accept nothing less.

"And the war came." With this somber sentence from Lincoln's Second Inaugural Address, Harry V. Jaffa begins his magisterial new book on Lincoln's presidency. More than 40 years ago, Jaffa published *Crisis of the House Divided*, his interpretation of the Lincoln-Douglas debates, which quickly became recognized as a classic study not only of Lincoln's statesmanship but also of American politics in general. In the preface to *Crisis*, Jaffa promised a sequel — a promise he now fulfills.

In the intervening decades, he composed studies of Shakespeare and Churchill and issued brilliant and increasingly polemical collections of essays: *Equality and Liberty*, *The Conditions of Freedom* (both now reprinted by the Claremont Institute), *How to Think About the American Revolution*, *American Conservatism and the American Founding*, *Original Intent and the Framers of the Constitution: A Disputed Question*, and most recently *Storm Over the Constitution*. Though occasionally splenetic and vainglorious, these essays marked a steadily advancing interpretation of the American founding, as Jaffa fought and thought his way through to a fresh understanding of the political principles on which Lincoln had taken his stand.

*A New Birth of Freedom* is the culmination of these reflections on America, and the dis-

tillation of Jaffa's complex second thoughts about Lincoln. It seems to have taken him this long to get clear on what, after *Crisis*, he had left to say about Lincoln's genius. He has plenty to say, it turns out, though his new appreciation consists largely in the discovery that Lincoln was a more profound but less original thinker than Jaffa had argued in *Crisis*.

Jaffa doesn't draw attention to his revised view of Lincoln or of the American founding. In fact, he is strangely silent about the whole subject, leaving it to the reader to figure out the relation between the two remarkably different accounts in *Crisis* and *New Birth*. Here and there, to be sure, he has publicly admitted that in the first book he underestimated the founding and so somewhat misunderstood Lincoln. Of this "misunderestimation," to use George W. Bush's marvelous term, Jaffa breathes not a word now. Instead, he playfully compares the long interval between his Lincoln books to the similar period said to separate Plato's *Republic* and *Laws*. Is Jaffa trying to tell us something?

If we were to take the comparison seriously, Jaffa would seem to be saying that, like Plato's *Republic*, *Crisis* showed the nature of the political or the limits of politics, whereas *A New Birth of Freedom*, like Plato's *Laws*, displays a more diluted form of natural right, a second-best regime that is more tolerable to human nature. There is, in fact, something to the comparison.

In *Crisis*, Jaffa emphasized Lincoln's magnanimity, his nature as a great-souled man. At the same time, Jaffa highlighted the paradox that a nation dedicated to the principle of human equality depended for its survival on human inequality, on political founders (like George Washington) and saviors (above all, Lincoln) defined by heroic qualities of virtue and soul. The willingness of great men to enlist in the cause of the common man, however, showed that truly magnanimous human beings were conscious of the limits of political life — the impossibility of perfect justice — and yet accepted those limits with dignity, knowing that perfect happiness lay in higher things. In *New Birth*, by contrast, Jaffa offers no thematic discussion of human

greatness and, if memory serves, mentions magnanimity only in a footnote.

As a work of art, *A New Birth of Freedom* falls short of the virtuoso standards Jaffa achieved in *Crisis of the House Divided*. The new book has many beautiful and moving passages, but lacks the overall control of the earlier volume.

Nevertheless, *New Birth* is the more ambitious and, in some respects, the more original book. Jaffa sets out to explain why Lincoln thought that his struggles against slavery and for the Union and free elections were really one-and-the-same. The idea uniting them was the self-evident truth of human equality and its corollary, social compact theory. Jaffa devotes some of his best pages to proving that equality and the social compact (he seldom uses the term "social contract" in this book) were regarded by Lincoln and the founders as essentially the same idea. One concept implied the other, and the notion of majority rule presupposed both.

Republican government was thus impossible without equal rights; majority rule illegitimate without respect for minority rights; and both the majority and the minority were bound by the limited purposes of the social compact, originally authorized by the unanimous consent of everyone. This American idea of the social compact is inherently high-minded.

In *Crisis*, however, Jaffa had attributed its loftiness not to America but to Lincoln, who had deliberately reconstructed the founders' and John Locke's rather less noble account, dominated by self-preservation and the "egotistic" view of rights. Lincoln "transforms and transcends" the original American understanding of natural rights and the social contract, Jaffa argued in 1959. But now Jaffa quietly affirms, to paraphrase his mentor Leo Strauss, that he had read Lincoln too literally by not reading him literally enough. That is, Lincoln was truly disclaiming originality when he traced "the father of all moral principle in us" back to the Declaration of Independence. Lincoln did not overcome the purposes of the Founding Fathers; he served and fulfilled them.

Lincoln was right about the founders all along, Jaffa in effect argues in *A New Birth of Freedom*. In the book's first two chapters, he demonstrates in bravura fashion what the

high-minded view of equality and the social compact implied for America as a way of life; indeed, what they implied for America as the model regime and exemplary empire of the modern world. Moving back and forth between the election of 1860, when the losers appealed from ballots to bullets, and the election of 1800, when for the first time in human history power "passed from one set of hands to those of their most uncompromisingly hostile political rivals and opponents because of a free vote," Jaffa shows how novel was the idea of a political order governed by free elections. Nothing seems more American, and yet the peaceful transition of power was a somewhat shocking surprise when it happened in 1800, and by 1860 a rather shocking surprise when it did not happen.

This quadrennial miracle is possible, Jaffa writes, only when political parties agree more than they disagree; in particular, they must have a consensus on the meaning of equality and the social compact. Such a consensus is possible only if questions of revealed religious truth are excluded from politics and from determination by political majorities, and Jaffa is at his most eloquent and original when he takes up this issue. Through a brilliant account of Reformation politics in England, using Shakespeare's history plays as his guide, Jaffa explains how the separation of church and state came to be a necessary condition of the rule of law in modern constitutionalism, for the sake both of Christianity and of republican politics. It is a highlight of the book and one of Jaffa's most impressive contributions to political science.

Jaffa praises Jefferson and Madison for their role in fostering the American political consensus in the 1800 election campaign and its aftermath, though surely John Adams deserves some credit, too. At any rate, this consensus had failed by the election of 1860, thanks largely to the increasing influence of John C. Calhoun's political principles, as Jaffa shows convincingly.

This consensus is tattered today also, thanks not merely to electoral shenanigans, in Florida but also, and much more importantly, to the deepening influence on the



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American mind of relativism, progressivism, and historicism. Jaffa confronts these destructive currents of thought in two ways in *New Birth*. First, he takes Carl Becker's famous book, *The Declaration of Independence: A Study in the History of Political Ideas*, published in 1922, as an epitome of these 20th century schools of thought, and subjects it to a devastating critique. Becker proclaimed that "to ask whether the natural rights philosophy of the Declaration of Independence is true or false is essentially a meaningless question." Jaffa proves that it is not only not a meaningless question but that it's a question to which Becker himself knew the answer — to which any reasonable human being knows the answer. It took, in other words, all of Becker's academic sophistication to enable

him to deny the obvious, the self-evident.

At the roots of Becker's irrationalism, Jaffa discerns the fashionable doctrines of German historicism and American progressivism. He thus illuminates the fateful steps by which more and more Americans in this century disarmed themselves of what Jefferson called their natural weapons, free argument and debate. Jaffa's reasoning against Becker goes far deeper than his strictures in *Crisis* against James G. Randall and the revisionist historians.

The second way that Jaffa opposes modern irrationalism comes to light in his treatment of Calhoun. Casting Calhoun as a radical thinker with doctrines shaped by Rousseau and Hegel and anticipating those of Marx and Darwin, Jaffa depicts the confrontation between Lincoln and Calhoun's disciples as an epic clash. On the one side, the

Calhounites stood for radical modernity, for various kinds of irrationalism, collectivism, and servitude. On the other, Lincoln appears as the defender of reason, human freedom, and self-government; as the embodiment of the prudent common sense of Aristotle, Locke, and the American founders.

For Jaffa in *A New Birth of Freedom*, Lincoln is the profoundest defender of American republicanism, and American republicanism is a kind of counterpart to the ancient city and to the holy city of the medieval world. It is the political form that the love of the common good and the love of God must reasonably take in the modern world, shaped as it is by Christianity and science.

What becomes of Lincoln the statesman in Jaffa's book? In successive chapters, Jaffa

provides a kind of Churchillian history of the secession winter of 1860-61, told via flashbacks and astute commentaries on Lincoln's major speeches and messages. Always Jaffa follows the Churchillian rule of describing the scene primarily as it appeared to the statesman, knowing what he did, when he did it. All in all, Jaffa shows the inner unity of Lincoln's words and deeds with an intelligence and loving care never before equaled.

The late Edward C. Banfield once explained pungently Jaffa's delay in writing this sequel: "*Crisis of the House Divided* is a helluva hard act to follow." So is *A New Birth of Freedom*, though Jaffa promises us another installment in his wonderful study of Abraham Lincoln.

Charles R. Kesler is Editor of the *Claremont Review of Books*.

States' Rights and the Union: Imperium in Imperio 1776-1876, by Forrest McDonald, (Lawrence, Kan.: University Press of Kansas), 272 pages, \$29.95 (cloth).

When in the Course of Human Events: Arguing the Case for Southern Secession, by Charles Adams, (Lanham, Md.: Rowman & Littlefield), 277 pages, \$24.95 (cloth).

Nothing would seem more opposed than the libertarian spirit and the spirit of slavery. But a growing body of libertarian writing has emerged in recent years that takes its political inspiration from the slaveholders' rebellion that started the Civil War. Two new books on states' rights provide occasion for examining major themes in this libertarian project.

*States' Rights and the Union* is a scholarly work by Forrest McDonald, himself no libertarian but a distinguished academic historian known for his hard-headed, somewhat irreverent, more or less traditional analysis of American political history. Charles Adams, the author of *When in the Course of Human Events*, is a tax expert here making his debut as a scholar of the American Civil War, with the endorsement of a chorus of leading neo-secessionist academicians. Obvious differences in literary style and historical method distinguish the two books. McDonald, a master of traditional narrative, gives us a cool, concise survey of political controversies over federal-state relations. Adams, deploying an eclectic and polemical historicism, roams widely across time and space in search of evidence to contradict the "force-fed Lincoln adoration" that he

believes has kept historians from telling the truth about the Civil War. What both writers share, however, is a conviction that secession was a constitutional right.

McDonald's thesis is that, against the assumption of received political theory that sovereignty was a whole thing that could not be divided, American constitution makers divided sovereignty between the states and the federal government. McDonald's challenge is to show that secession was consistent with the nature of the Union based on this principle, without being too obvious about it. Subtlety of argument is needed because the logic of divided sovereignty would seem to require that in a constitutional system based on this principle, neither government can reduce the other to itself or otherwise destroy it. From an historical point of view, moreover, if secession was obviously constitutional, it is difficult to understand why it was so controversial.

McDonald's rhetorical strategy is to

announce at the outset his intention deliberately to shun the technical questions that specialists love, focusing his survey on the larger contours of the subject. Like all previous writers on the constitutional controversy leading to the Civil War, however, McDonald employs key theoretical propositions. Those on which his account rests place him on the secessionist side of the debate.

With the economy of a scholar who has never been much for theory, McDonald reduces the problem of the nature of the Union to two essential concepts. They are state popular sovereignty and federal government agency. McDonald states that the Declaration of Independence transferred sovereignty — in the English sense of indivisible supreme power — to the people of the several states as independent political communities. Congress "inherited responsibility, as agent of the states," for the conduct of war and foreign affairs. This rela-

tionship between sovereign state peoples and Congress as their agent persisted under the Constitution of 1787, which was ratified separately by the people of each state in popular conventions. According to McDonald, states' rights theory was modified by the Kentucky and Virginia Resolutions of 1798, which viewed the states rather than the people of each state as bearers of sovereignty and the constituent power in the Union. This shift in the locus of state sovereignty did not alter the agency status of the federal government.

Readers may not grasp the significance of this point, but to regard Congress as the agent of the states, or the peoples of the states, is to deny it authority as a sovereign government. Of course there was much talk about dividing the powers of government between the states and the federal government. One can call this government sovereignty, as McDonald does in describing the notion that governments at different levels have certain responsibilities, inherent in which is the power to carry them out. However, sovereignty in the deepest sense — the ultimate power to command, judge and dispose — resided in the people of the states as independent political societies.

McDonald says each people entrusted sovereignty in some matters to Congress, in other matters to their state governments, and in still other matters they reserved sovereignty to themselves. This reserved sovereignty in "still other matters" — including their self-preservation as a society, as southern secessionists tirelessly reiterated — comprehended the power to make and unmake constitutions. It rendered the authority of the U.S. Constitution dependent on the personal consent of each separate state people, or

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