

ABRAHAM LINCOLN: A HISTORY.¹

THE EDICT OF FREEDOM.

BY JOHN G. NICOLAY AND JOHN HAY, PRIVATE SECRETARIES TO THE PRESIDENT.



In his preliminary proclamation of September 22 President Lincoln had announced his intention to urge once more upon Congress his policy of compensated abolishment. Accordingly his annual message of December 1, 1862, was in great part devoted to a discussion of this question. "Without slavery," he premised, "the rebellion could never have existed; without slavery it could not continue." His argument presented anew, with broad prophetic forecast, the folly of disunion, the brilliant destiny of the Republic as a single nation, the safety of building with wise statesmanship upon its coming population and wealth. He stated that by the law of increase shown in the census tables the country might expect to number over two hundred millions of people in less than a century.

And we will reach this too [he continued] if we do not ourselves relinquish the chance, by the folly and evils of disunion, or by long and exhausting war springing from the only great element of national discord among us. While it cannot be foreseen exactly how much one huge example of secession, breeding lesser ones indefinitely, would retard population, civilization, and prosperity, no one can doubt that the extent of it would be very great and injurious. The proposed emancipation would shorten the war, perpetuate peace, insure this increase of population, and proportionately the wealth of the country. With these we should pay all the emancipation would cost, together with our other debt, easier than we should pay our other debt without it.

He therefore recommended that Congress should propose to the legislatures of the several States a constitutional amendment, consisting of three articles, namely: one providing compensation in bonds for every State which should abolish slavery before the year 1900; another securing freedom to all slaves who during the rebellion had enjoyed actual freedom by the chances of war—also providing compensation to loyal owners; the third authorizing Congress to provide for colonization.

The plan [continued the message] consisting of these articles is recommended, not but that a restoration of the national authority would be accepted without its adoption. Nor will the war, nor proceedings under the proclamation of September 22,

1862, be stayed because of the recommendation of this plan. Its timely adoption, I doubt not, would bring restoration, and thereby stay both. And, notwithstanding this plan, the recommendation that Congress provide by law for compensating any State which may adopt emancipation before this plan shall have been acted upon is hereby earnestly renewed. Such would be only an advance part of the plan, and the same arguments apply to both. This plan is recommended as a means, not in exclusion of, but additional to, all others for restoring and preserving the national authority throughout the Union. . . . The plan is proposed as permanent constitutional law. It cannot become such without the concurrence of, first, two-thirds of Congress, and, afterwards, three-fourths of the States. The requisite three-fourths of the States will necessarily include seven of the slave States. Their concurrence, if obtained, will give assurance of their severally adopting emancipation at no very distant day upon the new constitutional terms. This assurance would end the struggle now and save the Union forever. . . . We can succeed only by concert. It is not, "Can any of us imagine better?" but, "Can we all do better?" Object whatsoever is possible, still the question recurs, "Can we do better?" The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.

Fellow-citizens, we cannot escape history. We, of this Congress and this Administration, will be remembered in spite of ourselves. No personal significance, or insignificance, can spare one or another of us. The fiery trial through which we pass will light us down, in honor or dishonor, to the latest generation. We say we are for the Union. The world will not forget that we say this. We know how to save the Union. The world knows we do know how to save it. We—even we here—hold the power, and bear the responsibility. In giving freedom to the slave, we assure freedom to the free—honorable alike in what we give and what we preserve. We shall nobly save, or meanly lose, the last, best hope of earth. Other means may succeed, this could not fail. The way is plain, peaceful, generous, just—a way which, if followed, the world will forever applaud, and God must forever bless.²

No immediate action followed this patriotic appeal. No indications of reviving unionism were manifested in the distinctively rebel States. No popular expression of a willingness to abandon slavery and accept compensation came from the loyal border-slave States, ex-

² Annual Message, December 1, 1862.

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In pursuance of the sixth section of the act of Congress entitled "An act to suppress insurrection and to punish treason and rebellion, to seize and confiscate property of rebels, and for other purposes" Approved July 17, 1862, and which act, and the Joint Resolution explanatory thereof, are herewith published, I, Abraham Lincoln, President of the United States, do hereby proclaim to, and warn all persons within the contemplation of said sixth section to cease participating in, aiding, countenancing, or abetting the existing rebellion, or any rebellion against the government of the United States, and to return to their proper allegiance to the United States, on pain of the forfeiture and seizure, as within and by said sixth section provided.

And I hereby make known that it is my purpose, upon the next meeting of Congress, to again recommend the adoption of a practical measure for tendering pecuniary aid to the free choice or rejection, of any and all States which may then be recognizing and practically sustaining the authority of the United States, and which may then have voluntarily adopted, or thereafter may voluntarily adopt, gradual ^{abolishment} ~~abolition~~ of slavery within such States or States — that the object is to practically restore, thenceforward to ^{be} maintain, the constitutional relation between the general government, and each, and all the States, wherein that relation

is now suspended, or disturbed; and that, for this object, the war, as it has been, will be prosecuted. And, as a fit and necessary military measure for effecting this object, I, as Commander-in-Chief of the Army and Navy of the United States, do order and declare that on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or States, wherein the Constitution of the United States shall not then be practically recognized, submitted to, and maintained, shall then, thenceforward, and forever, be free.

*Emancipation Proclamation
as first sketched and
shown to the Cabinet on
July 1862.*

INDORSEMENT ON THE DOCUMENT GIVEN ABOVE.

cept, perhaps, in a qualified way from Missouri, where the emancipation sentiment was steadily progressing, though with somewhat convulsive action owing to the quarrel which divided the unionists of that State. Thus the month of December wore away and the day approached when it became necessary for the President to execute the announcement of emancipation made in his preliminary proclamation of September 22. That he was ready at the appointed time is shown by an entry in the diary of Secretary Welles:

At the meeting to-day [December 30, 1862], the President read the draft of his Emancipation Proclamation, invited criticism, and finally directed that copies should be furnished to each. It is a good and well prepared paper, but I suggested that a part of the sentence marked in pencil be omitted. Chase advised that fractional parts of States ought not to be exempted. In this I think he is right, and so stated. Practically there would be difficulty in freeing parts of States and not freeing others—a clash between central and local authorities.¹

¹ Unpublished MS.

It will be remembered that when the President proposed emancipation on the 22d of July and again when he announced emancipation on the 22d of September he informed his Cabinet that he had decided the main matter for himself and that he asked their advice only upon subordinate points. In now taking up the subject for the third and final review there was neither doubt nor hesitation in regard to the central policy and act about to be consummated. But there were several important minor questions upon which, as before, he wished the advice of his Cabinet, and it was to present these in concise form for discussion that he wrote his draft and furnished each of them a copy on the 30th of December, as Mr. Welles relates. This draft, omitting its mere routine phraseology and quotations from the former proclamation, continued as follows:

Now therefore I, Abraham Lincoln, President of the United States, by virtue of the power in me vested, as Commander-in-Chief of the Army and Navy of the United States in time of actual armed rebellion against the authority and Government of the United States, and as a proper and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my intention so to do, publicly proclaimed for one hundred days as aforesaid, order and designate as the States and parts of States in which the people thereof respectively are this day in rebellion against the United States the follow-

By the President of the
United States of America
his Proclamation

I Abraham Lincoln, President of the United States of America, and Commander-in-Chief of the Army and Navy thereof, do hereby proclaim and declare that hereafter, as heretofore, the war will be prosecuted for the object of practically restoring the constitutional relations between the United States, and each of the states, and the people thereof, in which states that relation is, or may be suspended, or disturbed.

That it is my purpose, upon the next meeting of Congress to again recommence the adoption of a practical measure tending pecuniary aid to the free acceptance or rejection of all slave-states, so called, the people whereof may not then be in rebellion against the United States, and which states, ^{with} may then have voluntarily accepted, or thereafter may voluntarily accept, immediate, or gradual abolishment of slavery within their respective limits; and that the effort to colonize persons of African descent upon this ^{with their consent} continent, or elsewhere, will be continued, the
Gentry

That on the first day of January in the year of our Lord, one thousand eight hundred and sixty-three, all persons held as slaves within any state, or designated part of a state, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the executive government ^{including the military and naval authority thereof} of the United States, will, ~~during the continuance in office of the present administration~~, recognize, such persons, ~~as free~~, and will do no act or acts to oppress such persons, or any of them, in any effort they may make for their actual freedom.

That the executive will, on the first day of January, aforesaid, by proclamation, designate the states, and parts of states, if any, in which the people thereof respectively, shall then be in rebellion against the United States; and the fact that any state, or the people thereof shall, on that day be, in good faith represented in the Congress of the United States, by members chosen thereto at elections wherein a majority of the

qualified voters of such state shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such state and the people thereof, are not then in rebellion against the United States.

That attention is hereby called to an Act of Congress entitled "An Act to Make an Additional Article of War" approved March 13, 1862, and which Act is in the words and figures following.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the following shall be promulgated as an additional article of war for the government of the army of the United States and shall be obeyed and observed as such:

Article —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due, and any officer who shall be found guilty by a court-martial of violating this article shall be dismissed from the service.

Sec. 2. And be it further enacted, That this act shall take effect from and after its passage.

Also to the ninth and tenth sections of an Act entitled "An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate property of rebels, and for other purposes," approved July 17, 1862, and which sections are in the words and figures following.

Sec. 9. And be it further enacted, That all slaves of persons who shall hereafter be engaged in rebellion against the government of the United States or who shall in any way give aid or comfort thereto escaping from such persons and taking refuge within the lines of the army; and all slaves captured from such persons or deserted by them and coming under the control of the government of the United States; and all slaves of such persons found on [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States shall be deemed captives of war, and shall be forever free of their servitude and not again held as slaves.

Sec. 10. And be it further enacted, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offence against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion nor in any way given aid and comfort therein; and no person engaged in the military or naval service of the United States shall, under any pretence whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

And I do hereby enjoin upon and order all persons engaged in the military and naval service of the United States to observe, obey, and enforce, within their respective spheres of service, the act, and sections above recited.

And the executive will, ^{in due time} ~~at the next session of Congress,~~ recommend that all citizens of the United States, who shall have remained loyal thereto throughout the rebellion, shall (upon the restoration of the Constitutional relation between the United States, and their respective states, and people, if that relation shall have been suspended or disturbed) be compensated for all losses by acts of the United States, including the loss of slaves.

In witness whereof, I have
S. I. hereunto set my hand, and caused
the seal of the United States to be
affixed.

Gone at the City of Washington,
this twenty second day of September,
in the year of our Lord, one thousand, eight
hundred and sixty two, and sixty two,
and of the Independence of the United
States, the eighth month.

Abraham Lincoln.

By the President
William H. Seward,
Secretary of State

INDORSEMENT.

WASHINGTON, JANUARY 4, 1864. MY DEAR MRS. BARNES: I have the pleasure of sending you, with the President's permission, the original draft of his September proclamation. The body of it is in his own handwriting, the pencilled additions in the hand of the Secretary of State, and the final beginning and ending in the hand of the chief clerk. Yours very sincerely, F. W. SEWARD.
MRS. EMILY W. BARNES, ALBANY, N. Y.

By the President of the United States of America:
A Proclamation.

Whereas, on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a proclamation was issued by the President of the United States, containing, among other things, the following, to-wit:

That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

That the Executive will, on the first day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be, in good faith, represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such State shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

Now, therefore I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief, of the Army and Navy of the United States, in time of actual armed rebellion against authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, ^{publicly} proclaim for the full period of one hundred days, from the day first above mentioned, order and designate

as the States and parts of States wherein the people therein of respectively, are this day in rebellion against the United States, the following, to-wit:

Arkansas, Texas, Louisiana, (except the Parishes of St. Bernard, Plaquemine, Jefferson, St. John, St. Charles, St. James, Arcensio, Assumption, Terrebonne, Lafourche, St. Mary, St. Martin, and Orleans, including the City of New Orleans,) Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the fortyeight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Anne, and Norfolk, including the Cities of Norfolk & Portsmouth; and which excepted parts are, for the present, left precisely as if this proclamation were not issued.

And by virtue of the power, and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States, and parts of 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.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known, that such persons of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution, upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this first day of January, in the year of our Lord one thousand eight hundred and sixty three, and of the



Independence of the United States
of America the eighty-seventh.

Abraham Lincoln

By the President;
William H. Seward,
Secretary of State

ing, to wit: Arkansas, Texas, Louisiana, except the Parishes of

Mississippi, Alabama, Florida, South Carolina, North Carolina, and Virginia, except the forty-eight counties designated as West Virginia, and also the counties of

And by virtue of the power, and for the purpose aforesaid, I do order, and declare, that all persons held as slaves within said designated States, and parts of States, are, and henceforward forever 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, and will do no act, or acts, to repress said persons, or any of them, in any suitable efforts they may make for their actual freedom. And I hereby appeal to the people so declared to be free to abstain from all disorder, tumult, and violence, unless in necessary self-defense; and in all cases, when allowed, to labor faithfully for wages.

And I further declare, and make known, that such persons of suitable condition will be received into the armed service of the United States to garrison and defend forts, positions, stations, and other places, and to man vessels of all sorts in said service.¹

It will be seen that this draft presented for discussion, in addition to mere verbal criticism, the question of defining the fractional portions of Virginia and Louisiana under Federal control and the yet more important policy, now for the first time announced by the President, of his intention to incorporate a portion of the newly liberated slaves into the armies of the Union.

Mr. Welles's diary for Wednesday, December 31, 1862, thus continues:

We had an early and special Cabinet meeting—convened at 10 A. M. The subject was the proclamation of to-morrow to emancipate the slaves in the rebel States. Seward proposed two amendments. One included mine, and one enjoining upon, instead of appealing to, those emancipated to forbear from tumult. Blair had, like Seward and myself,

proposed the omission of a part of a sentence and made other suggestions which I thought improvements. Chase made some good criticisms and proposed a felicitous closing sentence. The President took the suggestions, written in order, and said he would complete the document.¹

From the manuscript letters and memoranda we glean more fully the modifications of the amendments proposed by the several members of the Cabinet. The changes suggested in Mr. Seward's note were all verbal, and were three in number. *First*: Following the declaration that "the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons," he proposed to omit the further words which had been used in the September proclamation, "and will do no act, or acts, to repress said persons, or any of them, in any suitable efforts they may make for their actual freedom." Mr. Welles had suggested the same change. *Secondly*: The next sentence, which read, "And I hereby appeal to the people so declared to be free to abstain from all disorder," etc., Mr. Seward proposed should read, "And I hereby command and require the people so declared to be free to abstain from all disorder," etc. *Thirdly*: The phrase, "and in all cases, when allowed, to labor faithfully for wages," he proposed should read, "and I do recommend to them in all cases, when allowed, to labor faithfully for just and reasonable wages."¹

The criticisms submitted by Mr. Chase were quite long and full, and since they suggested the most distinctive divergence from the President's plan, namely, that of making no exceptions of fractional portions of States, except the forty-eight counties of West Virginia, his letter needs to be quoted in full:

¹ Unpublished MS.

In accordance with your verbal direction of yesterday I most respectfully submit the following observations in respect to the draft of a proclamation designating the States and parts of States within which the proclamation of September 22, 1862, is to take effect according to the terms thereof.

I. It seems to me wisest to make no exceptions of parts of States from the operation of the proclamation other than the forty-eight counties of West Virginia. My reasons are these:

1. Such exceptions will impair, in the public estimation, the moral effect of the proclamation, and invite censure which it would be well, if possible, to avoid.

2. Such exceptions must necessarily be confined to some few parishes and counties in Louisiana and Virginia, and can have no practically useful effect. Through the operation of various acts of Congress the slaves of disloyal masters in those parts are already enfranchised, and the slaves of loyal masters are practically so. Some of the latter have already commenced paying wages to their laborers, formerly slaves; and it is to be feared that if, by exceptions, slavery is practically reestablished in favor of some masters, while abolished by law and by the necessary effect of military occupation as to others, very serious inconveniences may arise.

3. No intimation of exceptions of this kind is given in the September proclamation, nor does it appear that any intimations otherwise given have been taken into account by those who have participated in recent elections, or that any exceptions of their particular localities are desired by them.

II. I think it would be expedient to omit from the proposed proclamation the declaration that the Executive Government of the United States will do no act to repress the enfranchised in any efforts they may make for their actual freedom. This clause in the September proclamation has been widely quoted as an incitement to servile insurrection. In lieu of it, and for the purpose of shaming these misrepresentations, I think it would be well to insert some such clause as this: "not encouraging or countenancing, however, any disorderly or licentious conduct." If this alteration is made, the appeal to the enslaved may, properly enough, be omitted. It does not appear to be necessary, and may furnish a topic to the evil-disposed for censure and ridicule.

III. I think it absolutely certain that the rebellion can in no way be so certainly, speedily, and economically suppressed as by the organized military force of the loyal population of the insurgent regions, of whatever complexion. In no way can irregular violence and servile insurrection be so surely prevented as by the regular organization and regular military employment of those who might otherwise probably resort to such courses. Such organization is now in successful progress, and the concurrent testimony of all connected with the colored regiments in Louisiana and South Carolina is that they are brave, orderly, and efficient. General Butler declares that without his colored regiments he could not have attempted his recent important movements in the Lafourche region; and General Saxton bears equally explicit testimony to the good credit and efficiency of the colored troops recently sent on an expedition along the coast of Georgia. Considering these facts, it seems to me that it would be best to omit from the proclamation all reference to

military employment of the enfranchised population, leaving it to the natural course of things already well begun; or to state distinctly that, in order to secure the suppression of the rebellion without servile insurrection or licentious marauding, such numbers of the population declared free as may be found convenient will be employed in the military and naval service of the United States.

Finally, I respectfully suggest, on an occasion of such interest, there can be no imputation of affectation against a solemn recognition of responsibility before men and before God; and that some such close as follows will be proper:

"And upon this act, sincerely believed to be an act of justice warranted by the Constitution, and of duty demanded by the circumstances of the country, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."¹

It is not remembered whether Mr. Stanton, Secretary of War, was present at the Cabinet meeting, but he appears to have left no written memorandum of his suggestions, if he offered any. Stanton was preëminently a man of action, and the probability is that he agreed to the President's draft without amendment. The Cabinet also lacked one member of being complete. Mr. Caleb B. Smith, Secretary of the Interior, had lately been transferred to the vacant bench of the United States District Court of Indiana, and his successor, Mr. Usher, was not appointed until about a week after the date of which we write.

The unpublished memorandum of Mr. Blair, Postmaster-General, proposed a condensation of several of the paragraphs in the President's draft as follows:

I do order and declare that all persons held as slaves within said designated States and parts of States shall be free; and that the Executive Government of the United States, including the military and naval authorities, will recognize and maintain the freedom of said persons. And, in order that they may render all the aid they are willing to give to this object and to the support of the Government, authority will be given to receive them into the service whenever they can be usefully employed, and they may be armed to garrison forts, to defend positions and stations, and to man vessels. And I appeal to them to show themselves worthy of freedom by fidelity and diligence in the employments which may be given to them, by the observance of order, and by abstaining from all violence not required by duty or for self-defense. It is due to them to say that the conduct of large numbers of these people since the war began justifies confidence in their fidelity and humanity generally.¹

The unpublished memorandum of Attorney-General Bates is also quite full, and combats the recommendation of Secretary Chase concerning fractions of States.

I respectfully suggest [he wrote] that: 1. The President issue the proclamation "by virtue of the power in him vested as Commander-in-Chief of

¹ MS.

the army and navy of the United States in time of actual armed rebellion," etc., "and as a proper and necessary war measure for suppressing said rebellion."—Date, January, 1863. 2. It is done in accordance with the first proclamation of September 22, 1862. 3. It distinguishes between States and parts of States, and designates those States and parts of States "in which the people thereof, respectively, are this day (January 1, 1863) in rebellion against the United States."

These three propositions being true, I think they ought to be followed out, without excess or diminution, by action, not by the declaration of a principle nor the establishment of a law for the future guidance of others. It is a war measure by the President,—a matter of fact,—not a law by the legislature. And as to what is proposed to be done in the future the least said the better. Better leave yourself free to act in the emergencies as they arise, with as few embarrassing committals as possible. Whether a particular State or part of a State is or is not in actual rebellion on the 1st of January, 1863, is a simple matter of fact which the President in the first proclamation has promised to declare in the record. Of course it must be truly declared. It is no longer open to be determined as a matter of policy or prudence independently of the fact. And this applies with particular force to Virginia. The eastern shore of Virginia and the region round about Norfolk are now (December 31, 1862) more free from actual rebellion than are several of the forty-eight counties spoken of as West Virginia. If the latter be exempt from the proclamation, so also ought the former. And so in all the States that are considered in parts. The last paragraph of the draft I consider wholly useless, and probably injurious—being a needless pledge of future action, which may be quite as well done without as with the pledge.

In rewriting the proclamation for signature Mr. Lincoln in substance followed the suggestions made by the several members of the Cabinet as to mere verbal improvements; but in regard to the two important changes which had been proposed he adhered rigidly to his own draft. He could not consent to the view urged by Secretary Chase, that to omit the exemption of fractional parts of States would have no practical bearing. In his view this would touch the whole underlying theory and legal validity of his act and change its essential character. The second proposition favored by several members of the Cabinet, to omit any declaration of intention to enlist the freedmen in military service, while it was not so vital, yet partook of the same general effect as tending to weaken and discredit his main central act of authority.

Mr. Lincoln took the various manuscript notes and memoranda which his Cabinet advisers brought him on the 31st of December,

and during that afternoon and the following morning with his own hand carefully rewrote the entire body of the draft of the proclamation. The blanks left to designate fractional parts of States he filled according to latest official advices of military limits;¹ and in the closing paragraph suggested by Chase he added, after the words "warranted by the Constitution," his own important qualifying correction, "upon military necessity."

It is a custom in the Executive Mansion to hold on New Year's Day an official and public reception, beginning at 11 o'clock in the morning, which keeps the President at his post in the Blue Room until 2 in the afternoon. The hour for this reception came before Mr. Lincoln had entirely finished revising the engrossed copy of the proclamation, and he was compelled to hurry away from his office to friendly handshaking and festal greeting with the rapidly arriving official and diplomatic guests. The rigid laws of etiquette held him to this duty for the space of three hours. Had actual necessity required it he could of course have left such mere social occupation at any moment; but the President saw no occasion for precipitancy. On the other hand, he probably deemed it wise that the completion of this momentous executive act should be attended by every circumstance of deliberation. Vast as were its consequences, the act itself was only the simplest and briefest formality. It could in no wise be made sensational or dramatic. Those characteristics attached, if at all, only to the long past decisions and announcements of July 22 and September 22 of the previous year. Those dates had witnessed the mental conflict and the moral victory. No ceremony was attempted or made of this final official signing. The afternoon was well advanced when Mr. Lincoln went back from his New Year's greetings, with his right hand so fatigued that it was an effort to hold the pen. There was no special convocation of the Cabinet or of prominent officials. Those who were in the house came to the executive office merely from the personal impulse of curiosity joined to momentary convenience. His signature was attached to one of the greatest and most beneficent military decrees of history in the presence of less than a dozen persons; after which it was carried to the Department of State to be attested by the great seal and deposited among the official archives.

Since several eminent lawyers have publicly questioned the legal validity of Mr. Lincoln's

¹ The fractional parts of States excepted in the proclamation were as follows: In Louisiana, the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary, St. Martin, and Orleans,

including the city of New Orleans; in Virginia, the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Anne, and Norfolk, including the cities of Norfolk and Portsmouth.

Edict of Freedom,—as his final Emancipation Proclamation may be properly styled,—it is worth while to gather, if possible, Mr. Lincoln's own conception and explanation of the constitutional and legal bearings of his act. There is little difficulty in arriving at this. His language, embodied in a number of letters and documents, contains such a distinct and logical exposition of the whole process of his thought and action, from the somewhat extreme conservatism of his first inaugural to his great edict of January 1, 1863, and the subsequent policy of its practical enforcement, that we need but arrange them in their obvious sequence.

The proper beginning is to be found in his letter of April 4, 1864, to A. G. Hodges, Esq., of Frankfort, Kentucky. In this he says:

I am naturally antislavery. 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. It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States. I could not take the office without taking the oath. Nor was it my view that I might take an oath to get power, and break the oath in using the power. I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery. I had publicly declared this many times, and in many ways. And I aver that, to this day, I have done no official act in mere deference to my abstract judgment and feeling on slavery. I did understand, however, that my oath to preserve the Constitution to the best of my ability imposed upon me the duty of preserving, by every indispensable means, that government—that nation, of which that Constitution was the organic law. Was it possible to lose the nation and yet preserve the Constitution? By general law, life and limb must be protected, yet often a limb must be amputated to save a life; but a life is never wisely given to save a limb. I felt that measures otherwise unconstitutional might become lawful by becoming indispensable to the preservation of the Constitution through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it. I could not feel that, to the best of my ability, I had even tried to preserve the Constitution, if, to save slavery or any minor matter, I should permit the wreck of government, country, and Constitution together. When, early in the war, General Frémont attempted military emancipation, I forbade it, because I did not then think it an indispensable necessity. When, a little later, General Cameron, then Secretary of War, suggested the arming of the blacks, I objected, because I did not yet think it an indispensable necessity. When, still later, General Hunter attempted military emancipation, I again forbade it, because I did not yet think the indispensable necessity had come. When in March and May and July, 1862, I made earnest and successive appeals to the border States to favor compensated emancipation, I believed the indispensa-

ble necessity for military emancipation and arming the blacks would come unless averted by that measure. They declined the proposition, and I was, in my best judgment, driven to the alternative of either surrendering the Union, and with it the Constitution, or of laying strong hand upon the colored element. I chose the latter.

The question of legal and constitutional validity he discusses briefly, but conclusively, in his letter of August 26, 1863, to James C. Conkling, of Springfield, Illinois. In this, addressing himself to his critics, he says:

You say it is unconstitutional. I think differently. I think the Constitution invests its Commander-in-Chief with the law of war in time of war. The most that can be said, if so much, is, that slaves are property. Is there, has there ever been, any question that, by the law of war, property, both of enemies and friends, may be taken when needed? And is it not needed whenever taking it helps us or hurts the enemy? Armies the world over destroy enemies' property when they cannot use it; and even destroy their own to keep it from the enemy. Civilized belligerents do all in their power to help themselves or hurt the enemy.

Admitting the general principle of international law, of the right of a belligerent to appropriate or destroy enemies' property, there came next the question of how his military decree of enfranchisement was practically to be applied.

This point, though not fully discussed, is sufficiently indicated in several extracts. In the draft of a letter to Charles D. Robinson he wrote, August 17, 1864:

The way these measures were to help the cause was not by magic or miracles, but by inducing the colored people to come bodily over from the rebel side to ours.¹

And in his letter to James C. Conkling of August 26, 1863, he says:

But negroes, like other people, act upon motives. Why should they do anything for us if we will do nothing for them? If they stake their lives for us, they must be prompted by the strongest motive, even the promise of freedom. And the promise, being made, must be kept.

The actual tangible military result which he declares was his constitutional and legal warrant for his edict of military emancipation is set forth in the following extracts. Whether we judge it by the narrow technical rules of applied jurisprudence, or by the broader principles of the legal philosophy of Christian nations, it forms equally his complete vindication. In the draft of a letter to Isaac M. Schermerhorn he wrote, September 12, 1864:

Any different policy in regard to the colored man deprives us of his help, and this is more than we can bear. We cannot spare the hundred and forty

¹ Unpublished MS.

or fifty thousand now serving us as soldiers, seamen, and laborers. This is not a question of sentiment or taste, but one of physical force, which may be measured and estimated as horse-power and steam-power are measured and estimated. Keep it, and you can save the Union. Throw it away, and the Union goes with it.¹

And in the one already quoted, to Robinson, August 17, 1864:

Drive back to the support of the rebellion the physical force which the colored people now give and promise us, and neither the present nor any coming Administration can save the Union. Take from us and give to the enemy the hundred and thirty, forty, or fifty thousand colored persons now serving as soldiers, seamen, and laborers and we cannot longer maintain the contest.

So also in an interview with John T. Mills he said:

But no human power can subdue this rebellion without the use of the emancipation policy and every other policy calculated to weaken the moral and physical forces of the rebellion. Freedom has given 200,000 men, raised on Southern soil. It will give us more yet. Just so much it has subtracted from the enemy. . . . Let my enemies prove to the contrary that the destruction of slavery is not necessary to a restoration of the Union. I will abide the issue.

We might stop here and assume that President Lincoln's argument is complete. But he was by nature so singularly frank and conscientious, and by mental constitution so unavoidably logical, that he could not, if he had desired, do things or even seem to do them by indirection or subterfuge. This, the most weighty of his responsibilities and the most difficult of his trials, he could not permit to rest upon doubt or misconception. In addition to what we have already quoted he has left us a naked and final restatement of the main question, with the unequivocal answer of his motive and conviction. It has been shown above how Mr. Chase, in the discussions of the final phraseology of the January proclamation, urged him to omit his former exemptions of certain fractional parts of insurrectionary States. Despite the President's adverse decision, Mr. Chase continued from time to time to urge this measure during the year 1863. To these requests the President finally replied as follows on the 2d of September:

Knowing your great anxiety that the Emancipation Proclamation shall now be applied to certain parts of Virginia and Louisiana which were exempted from it last January, I state briefly what appear to me to be difficulties in the way of such a step. The original proclamation has no constitutional or legal justification, except as a military measure. The exemptions were made because the military necessity did not apply to the exempted localities. Nor does that ne-

cessity apply to them now any more than it did then. If I take the step must I not do so without the argument of military necessity, and so without any argument except the one that I think the measure politically expedient and morally right? Would I not thus give up all footing upon Constitution or law? Would I not thus be in the boundless field of absolutism? Could this pass unnoticed or unresisted? Could it fail to be perceived, that without any further stretch I might do the same in Delaware, Maryland, Kentucky, Tennessee, and Missouri, and even change any law in any State?¹

In these extracts we have the President's outline explanation of the legal validity of the proclamation. Like all his reasoning, it is simple and strong, resting its authority on the powers of war and its justification upon military necessity. As to the minor subtleties of interpretation or comment which it might provoke from lawyers or judges after the war should be ended, we may infer that he had his opinions, but that they did not enter into his motives of action. On subsequent occasions, while continuing to declare his belief that the proclamation was valid in law, he nevertheless frankly admitted that what the courts might ultimately decide was beyond his knowledge as well as beyond his control.

For the moment he was dealing with two mighty forces of national destiny, civil war and public opinion; forces which paid little heed to theories of public, constitutional, or international law where they contravened their will and power. In fact it was the impotence of legislative machinery, and the insufficiency of legal dicta to govern or terminate the conflicts of public opinion on this identical question of slavery, which brought on civil strife. In the South slavery had taken up arms to assert its nationality and perpetuity; in the North freedom had risen first in mere defensive resistance, then the varying fortunes of war had rendered the combat implacable and mortal. It was not from the moldering volumes of ancient precedents, but from the issues of the present wager of battle, that future judges of courts would draw their doctrines to interpret to posterity whether the Edict of Freedom was void or valid.

When in the preceding July the crisis of the McClellan campaign had come upon the President he had written his well-considered resolve: "I expect to maintain this contest until successful, or till I die, or am conquered, or my term expires, or Congress or the country forsake me." Grand as was the historical act of signing his decree of liberation, it was but an incident in the grander contest he was commissioned and resolved to maintain. That was an issue, not alone of the bondage of a race, but of the life of a nation, a principle of government, a question of primary human right.

Was this act, this step, this incident in the

¹ Unpublished MS.

contest, wise or unwise? Would it bring success or failure? Would it fill the army, weaken the enemy, inspirit the country, unite public opinion? These, we may assume, and not a lawyer's criticisms of phrase or text, dictum or precedent, were the queries which filled his mind when he wrote his name at the bottom of the famous document. If the rebellion should triumph, establishing a government founded on slavery as its corner-stone, manifestly his proclamation would be but waste paper, though every court in Christendom outside the Confederate States should assert its official authority. If, on the other hand, the Union arms were victorious, every step of that victory would become clothed with the mantle of law. But if, in addition, it should turn out that the Union arms had been rendered victorious through the help of the negro soldiers, called to the field by the promise of freedom contained in the proclamation, then the decree and its promise might rest secure in the certainty of legal execution and fulfillment. To restore the Union by the help of black soldiers under pledge of liberty, and then, for the Union, under whatever legal doctrine or construction, to attempt to reenslave them, would be a wrong at which morality would revolt. "You cannot," said Mr. Lincoln in one of his early speeches, "repeal human nature."

The problem of statesmanship therefore was not one of theory, but of practice. Fame is due Mr. Lincoln, not alone because he decreed emancipation, but because events so shaped themselves under his guidance as to render the conception practical and the decree successful. Among the agencies he employed none proved more admirable or more powerful than this two-edged sword of the final proclamation, blending sentiment with force, leaguely liberty with Union, filling the voting armies at home and the fighting armies in the field. In the light of history we can see that by this edict Mr. Lincoln gave slavery its vital thrust, its mortal wound. It was the word of decision, the judgment without appeal, the sentence of doom.

But for the execution of the sentence, for the accomplishment of this result, he had yet many weary months to hope and to wait. Of its slow and tantalizing fruition, of the gradual dawning of that full day of promise, we cannot get a better description than that in his own words in his annual message to Congress nearly a year after the proclamation was signed:

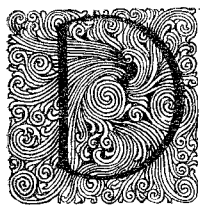
When Congress assembled a year ago the war had already lasted nearly twenty months, and there had been many conflicts on both land and sea, with varying results. The rebellion had been pressed back into reduced limits; yet the tone of public feeling and opinion, at home and abroad,

was not satisfactory. With other signs, the popular elections, then just past, indicated uneasiness among ourselves; while amid much that was cold and menacing the kindest words coming from Europe were uttered in accents of pity that we were too blind to surrender a hopeless cause. Our commerce was suffering greatly by a few armed vessels built upon and furnished from foreign shores, and we were threatened with such additions from the same quarter as would sweep our trade from the sea and raise our blockade. We had failed to elicit from European governments anything hopeful upon this subject. The preliminary emancipation proclamation, issued in September, was running its assigned period to the beginning of the new year. A month later the final proclamation came, including the announcement that colored men of suitable condition would be received into the war service. The policy of emancipation and of employing black soldiers gave to the future a new aspect, about which hope and fear and doubt contended in uncertain conflict. According to our political system, as a matter of civil administration the General Government had no lawful power to effect emancipation in any State, and for a long time it had been hoped that the rebellion could be suppressed without resorting to it as a military measure. It was all the while deemed possible that the necessity for it might come, and that if it should the crisis of the contest would then be presented. It came, and, as was anticipated, it was followed by dark and doubtful days. Eleven months having now passed we are permitted to take another review. The rebel borders are pressed still further back, and by the complete opening of the Mississippi the country dominated by the rebellion is divided into distinct parts, with no practical communication between them. Tennessee and Arkansas have been substantially cleared of insurgent control, and influential citizens in each, owners of slaves and advocates of slavery at the beginning of the rebellion, now declare openly for emancipation in their respective States. Of those States not included in the Emancipation Proclamation, Maryland and Missouri, neither of which three years ago would tolerate any restraint upon the extension of slavery into new Territories, only dispute now as to the best mode of removing it within their own limits.

Of those who were slaves at the beginning of the rebellion, full one hundred thousand are now in the United States military service, about one-half of which number actually bear arms in the ranks; thus giving the double advantage of taking so much labor from the insurgent cause and supplying the places which otherwise must be filled with so many white men. So far as tested it is difficult to say they are not as good soldiers as any. No servile insurrection or tendency to violence or cruelty has marked the measures of emancipation and arming the blacks. These measures have been much discussed in foreign countries, and contemporary with such discussion the tone of public sentiment there is much improved. At home the same measures have been fully discussed, supported, criticised, and denounced, and the annual elections following are highly encouraging to those whose official duty it is to bear the country through this great trial. Thus we have the new reckoning. The crisis which threatened to divide the friends of the Union is past.¹

¹ Annual Message, Dec. 8, 1863.

THE USE OF OIL TO STILL THE WAVES.



DURING the past six years the attention of mariners has been called to the value of oil for stilling waves by the publicity given to the experiments made by Mr. John Shields in Great Britain and by the published reports in the monthly "Pilot Charts" issued by Commander J. R. Bartlett, United States Navy, Chief of the United States Hydrographic Office, Navy Department.

Lack of faith in its efficiency has been the chief obstacle to its universal adoption. Many accounts of the use of oil, together with descriptions of appliances for facilitating its distribution on the stormy seas, have been published in different countries, and every effort to disseminate information will deserve the lasting gratitude of all mariners. Ocular demonstration seems to be necessary to convince unbelievers that the simple use of oil to lessen the dangerous effect of heavy seas is always advantageous, and often absolutely necessary for those in peril on the sea.

I purpose to consider the subject under two general heads, viz., "What is known of the use of oil to still the waves" and "What remains to be ascertained and done to make the use of oil universal."

In the first place this use of oil is clearly susceptible of scientific proof, and a brief notice of the nature of waves will assist in making it evident.

Lieutenant A. B. Wyckoff, United States Navy, in a paper before the Franklin Institute states:

Dr. Benjamin Franklin made many experiments and left his views on record regarding the great utility of oil for this purpose, and gave a scientific explanation of the manner in which the oil acted. The molecules of water move with freedom and the friction of air in motion produces undulations. These increase in size proportionately to the depth of water, the distance they can proceed to leeward, the strength of the wind and the time it acts. The limit of height is about forty feet. A heavy swell is often the precursor of a storm. It may be perfectly calm when this swell reaches a vessel; it is simply a long, high undulation, started by the storm and traversing the ocean in advance of it. Off the coast of California tremendous swells are experienced, made by westerly winds across the immense stretch of the Pacific Ocean. These swells are as high as most storm waves, but can be safely ridden in an open boat. If a sudden gale spring up, like the "northers" in the Gulf of Mexico, these harmless swells become raging seas.

The friction of the wind, rapidly moving upon the exposed slope of the swell, produces little irregularities on the surface. These wavelets are then driven up the rear slope of the swell to its summit, while the forward slope has more and more protection from the wind and becomes steeper and steeper by its inertia. A sand dune within the trade-wind regions is a storm wave in permanent form—a long windward slope and an abrupt leeward face.

As the wind continues to blow, the crest of the storm wave constantly sharpens, and finally the crest is thrown over down in front with a force proportionate to its height and speed. When this storm wave meets a ship, she cannot rise up its abrupt front, but checks the progress of the base of the wave, the crest of which is thrown up and falls on the ship with tremendous violence, filling her deck and sweeping away men, boats, and everything movable. The storm wave is perhaps no higher than the heavy swell and chiefly differs in shape.

Oil changes the storm wave into the heavy swell. Its specific gravity causes it to float on the surface; it spreads rapidly and forms a film like an extremely thin rubber blanket over the water. Its viscosity and lubricant nature are such that the friction of the wind is insufficient to tear the film and send individual wavelets to the crest, and while the force of the wind may increase the speed of the wave in mass, it is as a heavy swell and not in shape of a storm wave. The effect is purely a mechanical change in the shape of the wave, and there is no evidence of any chemical action by the oil on the water.

This explanation is generally accepted as the true theory and needs no argument to support it.

WHAT IS KNOWN OF THE USE OF OIL TO STILL THE WAVES.

THE use of oil in calming troubled waters was evidently known to the ancients, as Aristotle, Plutarch, and Pliny refer to it. The divers in the Mediterranean still use it as described by Pliny—"taking oil in their mouths and ejecting a little at a time to quiet the surface and permit rays of light to reach them." Fishermen who spear fish pour oil on the water to calm it and enable them clearly to see the fish. Scotch and Norwegian fishermen have known this use of oil for centuries, and in crossing a bar or in landing through surf they press the livens of the fish until the oil exudes and then throw them ahead of their boats. Lisbon fishermen carry oil to use in crossing the bar of the Tagus in rough weather.

Whalers have used oil and blubber in severe storms for the last two centuries; they usually hang large pieces of blubber on each quarter when running before a heavy sea, to prevent