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"Sublime in Its Magnitude": The Emancipation Proclamation

Abstract
Book Summary: Lincoln's reelection in 1864 was a pivotal moment in the history of the United States. The Emancipation Proclamation had officially gone into effect on January 1, 1863, and the proposed Thirteenth Amendment had become a campaign issue. *Lincoln and Freedom: Slavery, Emancipation, and the Thirteenth Amendment* captures these historic times, profiling the individuals, events, and enactments that led to slavery's abolition. Fifteen leading Lincoln scholars contribute to this collection, covering slavery from its roots in 1619 Jamestown, through the adoption of the Constitution, to Abraham Lincoln's presidency. [*From the Publisher*]

Keywords
Abraham Lincoln, Civil War, Gettysburg Address, Emancipation Proclamation, Great Emancipator, Freedom, Emancipation, Slavery, Abolition, 13th Amendment, Thirteenth Amendment

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5 "Sublime in Its Magnitude": The Emancipation Proclamation

Allen C. Guelzo

Which would you rather memorize? This sentence: "Four score and seven years ago our fathers brought forth upon this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal." Or this:

> 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 proclaimed 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 thereof respectively, are this day in rebellion against the United States, the following, to wit . . .

Both passages are by the same author—Abraham Lincoln—and were written in the same year—1863. But no explaining is needed to conclude that they couldn't be more different. The first sentence, from the Gettysburg Address, is arresting and eloquent, and it begins an appeal that soars to the very top of American political rhetoric; the other, the opening of the Emancipation Proclamation, is so pedestrian as almost to make the word *boring* fail on the lips. And thereby hangs a tale of contradictions: the Gettysburg Address was, after all, only a few simple words uttered at the dedication of a national cemetery, while the proclamation was a long-awaited, headline-bursting emancipation of more than three million slaves, based on a highly contentious, thin-ice reading of the presidential war powers. Lincoln's own estimate (if we can believe Ward Hill Lamon) of the Gettysburg Address was that it "fell on the audience like a wet blanket" and was a "flat failure" that "wouldn't scour."[1] But he thought the Emancipation Proclamation was "the central act of my administration, and the great event of the nineteenth century."[2] So, shouldn't the proclamation be more dramatic, its language more powerful, and its effect more electric than a mere cemetery dedication? And what should people conclude when instead the proclamation sounds, as Karl Marx unfeelingly put it, like "ordinary summonses sent by one lawyer to another on the opposing side."[3]

The puzzlement that results from the contrast between Lincoln the Eloquent and Lincoln the Emancipator has, over the years, generated three suspicions:

1. The blandness of the proclamation's language is so thoroughly out-of-character that it must be revelatory of Lincoln's personal intentions, and that in turn must mean that he was not in earnest when he wrote it. If he had been, he could have been as eloquent an emancipator as he was a cemetery dedicator. That he wasn't demonstrates a clear lack of interest and enthusiasm in emancipation and therefore in the liberation of black people. "Cold, forbidding, with all the passion and eloquence of a real estate deed, the Proclamation doesn't contain

a single quotable sentence and doesn't enumerate a single principle hostile to slavery," complains Lerone Bennett, Lincoln's most searing (and reckless) modern critic.[4]

2. Looked at closely, the proclamation is filled with legal loopholes, the most glaring being the exemption of the slaves in the border states and the Union-occupied portions of the Confederacy, where Lincoln left them in bondage "precisely as if this proclamation were not issued." This created an incongruity which the *Times* of London was swift to mock: "Where he has no power Mr. Lincoln will set the negroes free; where he regains power he will consider them as slaves."[5] And once again, it suggests that Lincoln was more interested in legalistic niceties than he was in the oppression suffered by slaves whom it was perfectly within his power to liberate.
3. Lincoln took elaborate care to explain the proclamation, not as a cry for deliverance or the triumph of liberty, but as a military strategy. He was, in other words, more interested in undermining the Southern rebellion than in freeing black people from bondage, and his principal aim was not to bestow freedom but to convert the slaves into yet another Northern war asset, or to rally Northern public opinion, or to bluff the European powers into standing down from intervention in what Lincoln was cynically portraying as a crusade against slavery. The proclamation was, to use Walter D. Kennedy's phrase in his recent anti-Lincoln essay, "Lincoln: The Un-Emancipator," merely "a propaganda ploy to influence abolitionist England and France not to recognize the Confederacy."[6]

As a result, it has now become commonplace to say that Lincoln had no great intentions in view when he issued the Emancipation Proclamation, that his real aim was to restore the Union and use emancipation as a tool to whip up public fervor for a military cause that was flagging, and that he never really wanted to emancipate any slaves but was forced into it by the exigencies of the war.

Yet, there is no solid reason to doubt Lincoln's claim in 1864 that "I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I can not remember when I did not so think, and feel."[7] Slavery "was a great & crying injustice an enormous national crime," Lincoln argued to his Illinois political ally, Joseph Gillespie, in the 1850s.[8] It violated natural law, by robbing the worker of the fruits of his labor: "The ant, who has toiled and dragged a crumb to his nest, will furiously defend the fruit of his labor, against whatever robber assails him." In exactly the same way, even "the most dumb and stupid slave that ever toiled for a master, does constantly know that he is wronged."[9] Almost as bad, black slavery was a blot on the confidence of the American republic as

the champion of the principle of liberal democracy. "Our republican robe is soiled, and trailed in the dust," Lincoln warned. "Let us repurify it. . . . Let us turn slavery from its claims of 'moral right' [and] return it to the position our fathers gave it; and there let it rest in peace."[10] Slavery, in fact, grated personally on Lincoln's self-made passion for work and social mobility, since it condemned one category of men to a lifetime of labor without the hope of improvement while turning another into a shiftless aristocracy that scorned honest labor as "slave work." "When one starts poor," Lincoln said in 1860, "free society is such that he knows he can better his condition; he knows that there is no fixed condition of labor, for his whole life." And Lincoln was his own best example. "I am not ashamed to confess that twenty-five years ago I was a hired laborer, mauling rails, at work on a flat-boat—just what might happen to any poor man's son."[11] (Years later, Frederick Douglass would attribute his own surprisingly nondiscriminatory and evenhanded welcome by Lincoln to "the similarity with which I had fought my way up, we both starting at the lowest round of the ladder").[12] But slavery, by its very nature, "fixed" the slave permanently to his shackles. "The condition of the negro slave in America," Lincoln wrote, "is now as fixed, and hopeless of change for the better, as that of the lost souls of the finally impenitent."[13] Slavery deprived the slave not only of the natural fruit of his labor but of all hope "that in due time the weights should be lifted from the shoulders of all men, and that all should have an equal chance."[14] By contrast, slave owners would only come to associate labor with enslavement and to prize informality, relaxation, and scorn for work. Slavery, Lincoln told Gillespie, is "the most glittering ostentatious & displaying property in the world. . . . Its ownership betokened not only the possession of wealth but indicated the gentleman of leisure who was above and scorned labour." On all of those counts, wrote Lincoln's congressional ally and biographer, Isaac Arnold, emancipation became Lincoln's "deepest, strongest desire of the soul," and from the time of his election, Lincoln "hoped and expected to be the *Liberator* of the slaves."[15]

What is true, however, is that Lincoln made no effort until 1854 to act with very much force on these convictions. Slavery had been legalized in the Southern states of the Union as part of the "federal consensus" that created the Union and the Constitution, and lawyer that he was, Lincoln shrank from making the sort of frontal challenge that might destroy slavery, the Union, and the Constitution together.[16] Even if he wanted to take direct action before the 1850s, there was the simple problem of knowing *what* direct action to take: slavery was the product of state, not federal, enactments, and a constitutional firewall prevented the federal government from intervening in what belonged exclusively to slave-state jurisdictions. But Lincoln did not believe that direct action was really needed anyway, simply because he was persuaded that slavery, pent-up as it was in the

Southern states by the Missouri Compromise of 1820, would gradually die out on its own. Nor, given the prevailing white supremacist thinking of his era, did Lincoln have much idea of what would happen if the slaves *could* be liberated. "If all earthly power were given me," Lincoln admitted, "I should not know what to do, as to the existing institution. . . . I think I would not hold one in slavery, at any rate; yet the point is not clear enough for me to denounce people upon." Not being entirely free of the racial shadow of white supremacist thinking himself, it was a question Lincoln preferred not to face: "Free them, and make them politically and socially, our equals?" he asked aloud. "My own feelings will not admit of this; and if mine would, we well know that those of the great mass of white people will not." He knew well enough to wonder "whether this feeling accords with justice and sound judgment," but in Illinois, which not only banned black slaves but free black immigration as well, justice was "not the sole question, if indeed, it is any part of it."[17]

Then came Stephen A. Douglas's Kansas-Nebraska Act in 1854, which opened the old Louisiana Purchase territories, from which slavery had once been excluded by the Missouri Compromise, to the introduction of slavery. At once, Lincoln realized that slavery was being given a new lease on life, and so he embarked on a campaign to reimpose limitations on its expansion—a campaign that eventually led him to his famous Senate race against Douglas in 1858 and to the presidency in 1860. At no point, significantly, did Lincoln campaign to *abolish* slavery; he was perfectly willing to work for its containment, but abolition posed all the old questions of who had the authority to do the abolishing, what would happen to the newly freed slaves, and what would they do once freed. (In fact, in 1857, the Supreme Court even made the anti-slavery campaign more difficult in the infamous *Dred Scott* decision, declaring not only that blacks could not be considered citizens but that neither Congress nor the executive branch had the authority to prevent the expansion of slavery into the territories.) Besides, Lincoln was never convinced that sudden, immediate abolition was a workable strategy for emancipation: it reeked too much of self-righteous moralism and was too reckless of unintended consequences. The best path Lincoln could imagine was a movement that involved "three main features—gradual—compensation—and [the] vote of the people"[18]—in other words, a timetable for emancipating slaves as they reached certain ages (this being the mechanism by which all the Northern states had freed their slaves decades before), a buyout to the owners to induce their cooperation and to provide sufficient liquidity for them to hire their newly freed slaves as free workers, and some form of action by the state legislatures to circumvent challenges to emancipation in the federal courts.

This, then, was the situation Lincoln confronted in 1861 as he took up the reins of office as president; and understanding that situation goes a long way

toward explaining why Lincoln did not reach at once for slave emancipation when the Civil War broke out. In the larger sense, he did not have the power to do so—that power rested with the states, and that meant wooing the state legislatures through "soft," gradual emancipation and funded buyouts. But almost as dark a reason why Lincoln made no move toward emancipation, always hovering in the background, was the Supreme Court, which had handed down *Dred Scott*—and which might do something similar to any emancipation order Lincoln wrote. At the end of the day, emancipation would always end up as "a judicial question. How the courts would decide it, he did not know and could give no answer."[19]

But that does not mean Lincoln was content merely to do nothing about emancipation. If wooing the state legislatures was what it took, he would do the wooing. The outbreak of the Civil War might have put the slave-state legislatures of the Confederacy beyond his reach, but the four border slave states of Delaware, Missouri, Kentucky, and Maryland remained within the Union and within the orbit of presidential influence, while the District of Columbia was governed directly by Congress and required nothing beyond an act of Congress to make emancipation happen. As early as November 1861, Lincoln had drafted an emancipation plan for Delaware that offered to swap $719,200 "in the six per cent bonds of said United States" in return for the Delaware legislature's agreement that there "shall be neither slavery nor involuntary servitude" within the state.[20] He made the same offer more broadly to the congressional delegations of the other border states in March 1862, offering "to cooperate with any state which may adopt gradual abolishment of slavery, giving to such state pecuniary aid, to be used by such state in it's [*sic*] discretion, to compensate for the inconveniences, public and private, produced by such change of system."[21] And the following month, he signed into law a congressional measure ending slavery in the District of Columbia.

All of these plans had something in them to irritate the abolitionists: they did not immediately free the slaves, which looked to the abolitionists like a violation of justice in deference to the dictates of prudence; they gave money to slaveholders, which reminded the abolitionists of nothing so much as a reward for having robbed others; and they were content to wait until slaveholders (or at least their legislatures) were ready. "You will not inspire Old Abe," grumbled one abolitionist, Senator Zachariah Chandler, "with courage, decision, or enterprise, with a galvanic battery."[22] But from Lincoln's point of view, his "soft" emancipation schemes had a number of inarguable practical advantages.

Compensation might look like blood money, but if it persuaded slave owners to relinquish slavery, then the price would be far cheaper than paying for a civil war, which required literal blood money in far greater amounts. "In the mere financial, or pecuniary view, any member of Congress, with the census-tables

and Treasury-reports before him, can readily see for himself how very soon the current expenditures of this war would purchase, at fair valuation, all the slaves in any named State," Lincoln argued. If the border slave states bit on "soft" emancipation, it would deflate Confederate enthusiasm and thus hasten an end to the war. "The leaders of the existing insurrection entertain the hope that . . . all the slave states North of such part will then say the 'Union, for which we have struggled, being already gone, we now choose to go with the Southern section,'" Lincoln explained. "To deprive them of this hope, substantially ends the rebellion; and the initiation of emancipation completely deprives them of it, as to all the states initiating it." Above all, "soft" emancipation, as a state enactment, avoided review by the Supreme Court. "Such a proposition, on the part of the general government, sets up no claim of a right, by federal authority, to interfere with slavery within state limits" and therefore leaves "the absolute control of the subject, in each case, to the state and it's [*sic*] people, immediately interested."[23]

Unhappily, these advantages had one fatal flaw, and that was Lincoln's assumption that the slaveholders' desire for a buyout would trump the racism that bound white slave owners emotionally, ideologically, and culturally to the slave system. Lincoln had always believed, wrote William H. Herndon to a friend, that self-interest "moved the man to every voluntary act of his life."[24] But racism in the border states proved much more powerful than self-interest. Congress had no difficulty passing a compensated emancipation scheme for the District of Columbia, where Congress was the legislature; but in Delaware and the other border states, truculent state legislators and slaveholders threw Lincoln's "soft" emancipation schemes right back in his face. After a "stormy debate" among the border-state congressmen, twenty of them replied that they would never cooperate with compensated emancipation and that Lincoln should "confine yourself to your constitutional authority."[25]

These ill tidings came crowding in on Lincoln in the spring of 1862, followed by even worse tidings from the battlefield. The year 1862 had started off optimistically for the Union armies, with Ulysses S. Grant seizing the key Confederate western outposts of Fort Henry and Fort Donelson, New Orleans falling to the U.S. Navy, and General George B. McClellan poised to launch his enormous Army of the Potomac in a grand land-and-sea combined operation against the Confederate capital at Richmond. The optimism was quickly obliterated, however: Grant suffered a catastrophic near-defeat at Shiloh in April, and thereafter Union momentum in the West evaporated; McClellan's great offensive crawled up the James River peninsula toward Richmond, then stalled, and finally fell back to Harrison's Landing. And to top off defeat with insult, when Lincoln came down to visit McClellan's army, McClellan treated the president to an ultimatum that warned him that any efforts on his part

to "interfere with the relations of servitude" would "rapidly disintegrate our present Armies."[26]

This posed two immediate problems for Lincoln: First, entirely apart from whatever warning McClellan was trying to send Lincoln in his "Harrison's Landing Letter," the multiple failures of the Union armies that spring and summer might mean that the war could not be won by the Union government, and a negotiated peace might soon have to be contemplated. And if the Union government could not win, then it could never reestablish authority over the slave states, and that would kill all hope of ending slavery by state legislative action. Second, McClellan himself, who had quarreled frequently with Lincoln over military policy and who had no hesitation, as a Democrat, about criticizing Lincoln's political initiatives, might turn on Lincoln and attempt a political intervention. This was not as far-fetched as it sounds: McClellan and his officer corps had made a number of threatening noises about plans "to march upon the capital and disperse Congress as Cromwell did the Long Parliament" if Lincoln ever tried to emancipate the slaves.[27] The longer Lincoln sat and dallied, the more likely it was that an intervention might occur. Now was the time, if ever there was one, for a preemptive emancipation move by Lincoln.

Lincoln did have one last arrow in his quiver that might sanction such a move: the so-called war powers of the president. The Constitution provides that the president serve as commander-in-chief of the armed forces in time of war or insurrection, and certainly the Civil War counted as an insurrection as much as anything could. What was unclear, however, was just what functions might be attached to a civilian "commander-in-chief." George Washington had literally understood this provision to mean, at the time of the Whiskey Rebellion in 1795, that he would take the field as the military chief of the army. But Washington was a soldier by profession. Only two of his successors had been (Andrew Jackson and Zachary Taylor), and only a few others (Franklin Pierce, James Monroe, William Henry Harrison) had spent serious amateur time in the military; the rest, including Lincoln (who had never been more than a captain in the militia), were civilians whose worst decision would have been to take over active control of the armies. Nor did anyone have much understanding of what the legal niceties of being a "commander-in-chief" might involve. There had been only one significant federal court decision about the operation of martial law, and one attorney general, Caleb Cushing, helplessly admitted that "we are without law on the subject."[28] If no one was sure what martial law was, who could have any real inkling about the president's "war powers"?

Nevertheless, Lincoln's allies had been pressing him since the beginning of the war to use those "war powers" to "emancipate all persons held as slaves in any military district in a state of insurrection" with a war powers procla-

mation.[29] Lincoln, who anticipated more than enough legal complications around "soft" emancipation, did not need to add to them by creeping further out on the legal limb with a "hard" emancipation proclamation. He had already pulled back the bit on two Union generals—John Charles Frémont and David Hunter—who had tried to use martial law proclamations in their districts to emancipate slaves—and it made little sense to duplicate their recklessness. But by the summer of 1862, Lincoln's "soft" emancipation plans had gone onto the shelf (at least until new state legislative elections returned legislatures in Delaware, Missouri, Kentucky, and Maryland that were more willing to listen to the siren song of Lincoln's buyouts); and if the war ended in some form of negotiated peace, or if McClellan finally gathered the boldness to lead the Army of the Potomac in some form of military intervention, Lincoln might never get a chance to take those plans off the shelf again. "Our common country is in great peril," Lincoln warned the border state congressmen on July 12, "demanding the loftiest views, and boldest actions to bring it speedy relief."[30]

Ten days later, Lincoln took the "boldest actions" himself. He read to his cabinet a draft of a war powers proclamation threatening to free the Confederacy's slaves "as a fit and necessary military measure" on the strength of his standing as "Commander-in-Chief of the Army and Navy of the United States" by January 1 if the Confederates did not end their resistance. The cabinet was almost struck dumb, since Lincoln had kept this measure concealed from their attention for more than a month, perhaps as long as three months. The time, however, had been well spent, because the proclamation was as carefully crafted to operate within the bounds of the presidential war powers as Lincoln knew how. There were no lofty flights of Lincolnian rhetoric, and no eloquent appeals to liberty or justice, since eloquence alone would have accomplished little if the proclamation were brought under federal court scrutiny. His one hope for making emancipation pass judicial muster was a sober invocation of military necessity: that what he was doing was legally justified by the military contribution a slave emancipation would make toward winning the war and preserving the Constitution. Hence, the proclamation would have an escape clause (the Confederates could submit and cancel the rebellion—although, in that case, they would once again subject themselves to the smiling blandishments of Lincoln's compensated emancipation plans), and it would be limited only to those parts of the Confederacy that were actually in rebellion at the time of the proclamation's release (which meant, *not the border states* and not even the occupied districts of the South, since the first had never been at war with the government, and the second were no longer).

But even that was enough to make the hearts of his cabinet skip a beat. Secretary of State William Seward (who was himself no slouch on the subject

of emancipation) warned that, from the perspective of foreign policy, issuing the proclamation while the Union armies were staggering in defeated circles would look like an act of desperation, maybe even an incitement to the slaves to rise up in a racial bloodbath against the masters. "It may be viewed as the last measure of an exhausted government, a cry for help," Seward objected, "the government stretching forth its hands to Ethiopia, instead of Ethiopia stretching forth her hands to the government."[31] Lincoln took the point and agreed to wait until the Union had won some significant military victory, so that the proclamation could look like it was adding strength to strength.

This was not a delaying tactic. Although Lincoln had only the most meager religious profile of his own, he had been struggling ever since the summer's cheerless defeats to discern the direction in which God was taking this war, and he was now seeking out a sign that would signal to him that God indeed favored an act of emancipation. When the Confederate army under Robert E. Lee crossed the Potomac to invade Maryland in September 1862, Lincoln upped the ante of his promise to Seward by "promising God that he would issue the paper if God would give us the victory over Lee's army."[32] The victory came, in large measure because a copy of Lee's campaign orders mysteriously fell into the hands of Union soldiers—a sign within the sign, so to speak—and allowed McClellan and the Army of the Potomac to pin Lee into a disastrous back-to-the-wall position at Antietam on September 17. McClellan, being George McClellan, allowed Lee to slip back across the Potomac into Virginia afterwards. But Antietam was still a victory, and Lincoln now proposed to keep his vow. Once the news was certain, on September 20, that Lee had withdrawn and the battle was over, Lincoln rewrote the proclamation, and on Monday, September 22, read and presented it to the cabinet as a preliminary to releasing it as a military order. As of January 1, all slaves held in "the States, and parts of states" that "shall then be in rebellion against the United States . . . shall be then, thenceforward, and forever free . . . of their servitude and not again held as slaves." And with a cool eye on the cooperation of generals like McClellan, Lincoln added that the Union military would "recognize and maintain . . . any efforts" the slaves "may make for their actual freedom"—which sounded ominously like a pledge to encourage slave insurrection—and would now begin recruiting black soldiers to fight in the Union armies.

Not surprisingly, the Confederates made no move toward surrendering. So, on January 1, 1863, after an exhausting morning presiding over the annual White House New Year's reception, Lincoln walked upstairs to his second-floor office, where he met Seward with the formal copy of the Emancipation Proclamation and signed it into law. "If my name ever goes into history it will be for this act, and my whole soul is in it," Lincoln said, and to emphasize that what the proclamation had decreed was indeed right, and not just legal,

Lincoln allowed himself one bow to the angels: "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."[33]

Lincoln believed that "the name which is connected with this act will never be forgotten."[34] True, the Emancipation Proclamation might not render slaves in the Confederacy automatically free to wander off the plantation unhindered; but it did guarantee that once Union forces swarmed over those plantations, the slaves would cease to be slaves and would never be slaves again. By 1865, William Seward estimated that two hundred thousand runaways, fugitives, and "contrabands" had placed themselves under the umbrella of the proclamation on the broad upland road to freedom.[35] On those terms alone, the prince of the abolitionists, William Lloyd Garrison, lauded the proclamation as "a great historic event, sublime in its magnitude, momentous and beneficent in its far-reaching consequences," and Garrison congratulated Lincoln for "a mighty work for the freedom of millions."[36] Still, Lincoln never got over his anxiety that the courts might shred the proclamation and the whole idea of presidential "war powers" that underlay it. It was unlikely they would do so during the war; but once Lincoln proclaimed the wartime emergency over, all bets were off. "I think it is valid in law, and will be so held by the courts," Lincoln told a Union general in July 1863. But even if they didn't, "I think I shall not retract or repudiate it. Those who shall have tasted actual freedom I believe can never be slaves, or quasi slaves again."[37]

All the same, Lincoln was a man for whom prudence was the polestar of his conscious life, and it was prudence that dictated, in 1864, that he backstop the proclamation by urging Congress to adopt the Thirteenth Amendment to the Constitution, which would not just free slaves but would obliterate slavery as a legalized institution everywhere in the United States. As an amendment to the Constitution, emancipation would thus be placed forever beyond the reach of the courts; and as a legislative act, it would conform to the pattern of emancipation with which Lincoln had always felt most comfortable.[38] In the strictest *legal* sense, it was the Thirteenth Amendment that eliminated slavery, especially since the Emancipation Proclamation was superseded by the Thirteenth Amendment before the wartime emergency had ended and was never tried on constitutional grounds in the federal courts. But, in fact, the Thirteenth Amendment is really only a coda to the Emancipation Proclamation. Nor is it likely that Lincoln would have ever backed down from the proclamation, even in the face of the courts. (He warned Congress that he would resign first.) He was not going to break faith with the slaves he had freed—"I should be damned in time & in eternity for so doing"—and he was not going to lay aside a weapon that had caused so much fear and disruption

within the Confederacy. "No human power can subdue this rebellion without using the Emancipation lever as I have done."[39]

Of course, the oddity we all deal with concerning the Emancipation Proclamation is that Lincoln *has* been damned, not for backing down from it, but for issuing it the way he did. All that this really demonstrates, however, is a lack of understanding of the real dilemma Lincoln faced. He could not have acted directly, except as a commander-in-chief promulgating a war powers proclamation, and even then he could not have acted universally. Likewise, he could not have written ethereal, lofty prose into the proclamation because it was a legal document whose every phrase would be scrutinized. The critics who score Lincoln for not having done "more" in the Emancipation Proclamation overlook how easy it would have been for him not to have issued it at all. The war could, conceivably, have been won without it; and he was under no obligation (at least, no earthly one) to have kept his "vow" to follow the Antietam battle with emancipation. What is extraordinary is that, with so many disincentives staring him in the face—the risks in law, in politics, and with his generals—he kept the vow and kept emancipation at the forefront of his policies. That is the standard by which Lincoln and his proclamation should be measured; and it is a standard that points to greatness, for the Emancipation Proclamation and for its author.

Notes

1. Ward Hill Lamon, quoted in Don E. Fehrenbacher and Virginia Fehrenbacher, eds., *Recollected Words of Abraham Lincoln* (Stanford, Calif.: Stanford University Press, 1996), 289. See also Frank B. Klement, "Lincoln, the Gettysburg Address, and Two Myths," in *The Gettysburg Soldiers' Cemetery and Lincoln's Address* (Shippensburg, Pa.: White Mane, 1993), 86.

2. Francis B. Carpenter, *Six Months at the White House with Abraham Lincoln: The Story of a Picture* (New York: Hurd & Houghton, 1866), 90.

3. Karl Marx in *Die Presse*, October 12, 1862, in *Europe Looks at the Civil War*, ed. B. B. Sideman and L. Friedman (New York: Collier, 1962), 160; Marx to Engels, October 20, 1862, in *The Civil War in the United States*, ed. Richard Enmale (New York: International Publishers, 1961), 258.

4. Lerone Bennett Jr., *Forced into Glory: Abraham Lincoln's White Dream* (Chicago: Johnson Publishing, 1999), 536.

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31. Carpenter, *Six Months at the White House*, 22.

32. William O. Stoddard, *Inside the White House in War Times: Memoirs and Reports of Lincoln's Secretary*, ed. Michael Burlingame (Lincoln: University of Nebraska Press, 2000), 95.

33. Quoted by John W. Forney, in *Conversations with Lincoln*, ed. Charles M. Segal (New York: G. P. Putnam's Sons, 1961), 235.

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37. Abraham Lincoln to Stephen A. Hurlbut, July 31, 1863, in *Collected Works*, 6:358.

38. In fact, if Lincoln had had sufficient support in Congress in 1862 for such an amendment, he might have skipped the proclamation altogether; as it was, even in 1864, the proposed amendment died in Congress, and it was not until after the November 1864 elections reelected Lincoln and gave him an undeniable mandate that the Thirteenth Amendment was finally revived and passed. The Emancipation Proclamation was, in the summer of 1862 at least, the only way forward to emancipation.

39. Abraham Lincoln, interview with Alexander W. Randall and Joseph T. Mills, August 19, 1864, in *Collected Works*, 7:506.