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This thesis, directed and approved by the candidate's committee, has been accepted by the Graduate Committee of The University of New Mexico in partial fulfillment of the requirements for the degree of

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A HISTORICAL-RHETORICAL ANALYSIS OF PAMPHLETS
ON THE EMANCIPATION PROCLAMATION, 1862-1864

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A HISTORICAL-RHETORICAL ANALYSIS OF PAMPHLETS
ON THE EMANCIPATION PROCLAMATION, 1862-1864

BY
JOSEPH VINOVIKH

THESIS

Submitted in Partial Fulfillment of the
Requirements for the Degree of
Master of Arts in Speech
in the Graduate School of
The University of New Mexico
Albuquerque, New Mexico
August, 1969

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ABSTRACT OF THESIS

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Joseph Vinovich
Department of Speech
The University of New Mexico, 1969

Union pamphleteering societies and individuals were activists in the daily turmoil of the American Civil War. The number of their publications was in the millions that were circulated in every section of the United States and its territories.

This thesis investigated the historical and rhetorical relevance of pamphlets in the American Civil War from 1862 to 1864, especially the arguments and evidence used for, and against the Emancipation Proclamation. The specific aims of the study were to determine (1) the significance of the Emancipation Proclamation to the Civil War and pamphleteering; (2) the processes of pamphleteering in the war; (3) the political make-up of pamphleteers; (4) how the exigencies of the Emancipation Proclamation were dealt with by the pamphleteers; and, (5) the argumentative means the pamphleteers used for and against the Emancipation Proclamation.

The analysis involved an in depth analysis of the development of the Emancipation Proclamation during the Civil

War; the development of pamphleteering societies and their operations in the North, including individual pamphleteering efforts; biographical information on the pamphleteers selected in this study; and an analysis of arguments and evidence in the pamphlets. The final chapter summarized and concluded the discussions in the previous chapters.

The analysis of the pamphleteering societies and their pamphlets during the Civil War disclosed that they were organized and written by foremost leaders in the Northern society, especially lawyers and publishers; that temperance and conservatism were the keys to their rhetoric. The pamphleteers were activists who stated it was their purpose to awaken and appeal to Northern public opinion, but it was found that their rhetoric was aimed more for those directly concerned with political decisions in Washington. The pamphlets were well written, organized, and came to grips with the relevant issues of the times. Most of the arguments were on the constitutionality of the Emancipation Proclamation and the powers granted to the President of the United States.

The arguments and evidence were often generalized statements on policy, states' rights, constitutional authority, and political ambitions of the Republican administration. Amazingly few arguments were emotional or moral, including those in the divisive issue of slavery. The evidence presented varied from in depth footnote citations to sweeping

categorical statements of personal opinion. Seldom was evidence absent in the development of arguments, but often the evidence appeared contradictory. Testimony and analogy were often used methods to establish a point of view, but many analogies were confusingly constructed or contradictory.

As a means of influencing public opinion, it was evident from the analysis that pamphleteering played an important role in determining the attitudes of the citizens in the North on the Emancipation Proclamation from 1862 to 1864.

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CHAPTER I

INTRODUCTION

Statement of the Problem

Before the Civil War more than a century of American history had been involved with the civil liberties and rights of the black man in chattel throughout the United States and its territories. Since the Declaration of Independence, which held that "all men were created equal" and were granted the rights of "Life, Liberty and the pursuit of Happiness,"¹ the government of the United States had been confronted with the task of establishing a system which would make such a philosophy workable for "all men."

It was not until December 18, 1865, that the Constitution of the United States specifically stated a policy to protect and ensure the inalienable rights of all men.

Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.²

¹Richard Hofstadter, Great Issues in American History, I (New York: Random House, 1958), 71.

²Cong. Globe, 39th Cong., 1 sess., December 4, 1865, p. 2.

The development of circumstances leading to the adoption of the Thirteenth Amendment is one of the foremost civil rights movements in United States history. This thesis is devoted to part of that movement. Generally, this study is concerned with pamphleteering in the North during the Civil War years of 1862-1864, and specifically, an analysis of the arguments and evidence used in pamphlets for and against the Emancipation Proclamation from 1862 to 1864.

Background and Development of the Problem

When the confrontation between the North and the South disintegrated into military conflict in 1861, the war of words was continued in an intensified form, especially on the Union side. Engaged in a hard and sometimes uncertain struggle, the citizens of the North sought to define the meaning of the war. What should the objectives be; what was the essence of the Federal Union they were asking their men to preserve; what end was to be accomplished? It was vital that both civilians and soldiers know why they were engaged in conflict. Pamphleteering offered a convenient means of expression to individuals or groups who felt they had answers for the people of the North.³

Dr. Frank Freidel's recent publication, Union

³ Frank Freidel (ed.), Union Pamphlets of the Civil War, 1861-1865, I (Cambridge, Mass.: Belknap Press of Harvard University Press, 1967), 2.

Pamphlets of the Civil War, 1861-1865, conveys the range and depth of the public controversies that swept the North during the war. The main subjects of debate in the pamphlets were the Emancipation Proclamation, the suspension of habeas corpus, the national elections of 1864, and the Vallandigham case. The war cannot be traced through the pamphlets, but neither can it be wholly understood without them.

Until Freidel's publication, Northern Civil War pamphlets were difficult to obtain singly and unobtainable as a coherent collection. Attempts were made to describe their history, but the pamphlets' content has not been subjected to rhetorical analysis. For the first time, Freidel's collection has provided the rhetorician an opportunity to gain insight into the workings of Union pamphleteers and the issues they forwarded to the citizens in the North.

Because of the relative obscurity and unavailability of Union pamphlets, previous research relevant to pamphleteering issues during the war has been minimal. However, some investigations by historians were conducted that give insight into pamphleteering.

In 1944 George Winston Smith focused on organizations and publishers directly involved in the dissemination of pro-Northern arguments through pamphlets.⁴ He traced

⁴George W. Smith, "Union Propaganda in the American Civil War," The Social Studies, XXXV (January, 1944), 26-32.

the arguments of sectional conflict that materialized in the 1830's and climaxed in the military strife of the 1860's. Smith did not, however, deal with pamphlet content, except for a discussion on some newspaper editorials, which were not directly concerned with pamphleteering. In a later article he examined the workings of the New England Loyal Publication Society.⁵ The primary purpose of the article was to outline the development of the Society's method of operations throughout New England during the Civil War. Smith concluded that the Society's object was to supply "local newspapers with better material than they were likely to have at hand," and direct public opinion on the important issues of the war. He did not provide an analysis of pamphlet or broadside content and it can only be assumed that this was, in part, due to their unavailability. However, the value of Smith's articles lay in their detailed presentation of the historical development and significance of pamphlets in the Civil War.

Freidel's "Note on the Texts," clearly states the importance of examining the pamphlets:

The numerous pamphlets appearing in the North during the Civil War serve as windows through which a later generation can glimpse the intense inner debates that stirred the area while the armies were contending on the battle-fields.⁶

⁵G. W. Smith, "Broad sides for Freedom: Civil War Propaganda in New England," The New England Quarterly, XXI (September, 1948), 291-312.

⁶Freidel, I, 25.

Freidel's introduction is a chronological development of pamphleteering societies prominent during the war; methods of pamphlet dissemination; the primary arguments which had been developed and urged by pamphleteers; and a general history of the war years.⁷

Because of scant research on the pamphlets, historical and rhetorical, this thesis developed from the need to understand further the implications of pamphleteering issues in a war context. Since civil rights has always been an issue before the American public, it is imperative that the issue of emancipation be re-examined. Freidel's collection provides rhetoricians substance to investigate the arguments and evidence used by the pamphleteers. Although Freidel's volumes contain pamphlets dealing with a variety of issues, the issue of the Emancipation Proclamation was chosen as a criterion for selecting the pamphlets to be analyzed.

Methodology

Since the concern of this thesis is a historical-rhetorical analysis, each chapter has been developed with a particular end in mind. Chapter II discusses the development of the Emancipation Proclamation, with an emphasis on political and constitutional considerations expressed in the North, in order to gain further insight into how and

⁷Ibid., p. 1-24.

why the act was issued during the war. Chapter III is an investigation of the development of Union pamphleteering societies and their pamphleteers to gain understanding of why pamphleteering was used to disseminate issues, and how the societies and individuals conducted their activities in the North. For both Chapters II and III, historical background material relevant for each issue was accumulated, ranging from government documents to pamphleteering society chronicles. The chapters are concerned with the circumstances of the Civil War and how they related to the development of a policy of emancipation; the development and maintenance of pamphleteering activities, especially on the issue of emancipation; and the means of pamphleteering in the Civil War. Chapter III, however, is limited to those pamphleteering societies and individuals who dealt with the Emancipation Proclamation.

Chapter IV is a biography of the pamphleteers who wrote the pamphlets selected for analysis in this thesis. The focus of each biography is the central political thought each pamphleteer had towards the Emancipation Proclamation; the extent of their pamphleteering activities; and, how each reacted to the issues of the Civil War. Finally, a summary is provided to point out the characteristics and the political conscience the pamphleteers had in common. This accumulation of biographical material came from biographies, autobiographies and selected works on the history of the Civil War.

Chapter V, the emphasis of this thesis, is an analysis of the arguments and evidence of each pamphlet selected for the study. These pamphlets either dealt entirely with the Emancipation Proclamation, or included it with other issues, or mentioned the act in passing; therefore, some pamphlets were necessarily excluded from analysis. The criteria for selection are primarily the same used by Freidel: the contemporary fame, representativeness, and originality of thought of each pamphlet.⁸ The main restriction was that each pamphlet must have appeared in the North during the period of September 22, 1862, to March, 1864, when the proclamation of emancipation was a major issue before the citizens. As a result, three pamphlets dealing with the issue were excluded from analysis.⁹ Each selected pamphlet was published in its entirety in the Freidel collection, together with appendices and associated matter; wording and spelling remained unchanged, but some printer's errors had been corrected.¹⁰ Only two pamphlets in this thesis appeared in other sources readily available

⁸ Ibid., pp. 25-26.

⁹ The three pamphlets omitted from analysis are, [Henry Carey Baird], General Washington and General Jackson on Negro Soldiers, No. 3 (Philadelphia: Union League of Philadelphia, 1863), pp. 650-657; Robert C. Winthrop, Great Speech . . . at New London, Conn., No. 23 (New York: Campaign Document, Society for the Diffusion of Political Knowledge, 1864), pp. 1077-1118; and, Joseph P. Thompson, Abraham Lincoln; His Life and Its Lessons, No. 85 (New York: Loyal Publication Society, 1865), pp. 1149-80.

¹⁰ Freidel, I, 26.

for examination, Clement L. Vallandigham's "Great Civil War" speech in Congress, January, 1863, and Charles Sumner's Atlantic Monthly article, "Our Domestic Relations," published in 1863. Both were subjected to content analysis and were discovered to be accurately reproduced in pamphlet form.

Each pamphlet selected for analysis was carefully outlined for analysis, but the outlined extracts were excluded from this thesis because of the availability of Freidel's collection. However, an appendix of government and private documents was provided because they are continually referred to in the thesis, providing the reader reference material without going beyond this thesis. The documents were gathered from primary sources.

In the analysis of arguments and evidence, each pamphlet was examined as a separate entity and placed in the same time-sequence they appear in Freidel's collection. This was done to relate the salient features of the pamphlet to the political situations as they occurred. Freidel prefaced each pamphlet with brief comments on the circumstances surrounding the time of publication of the pamphlet, and this method of prefacing was used in this thesis.

The analysis in Chapter V does not rhetorically categorize the pamphlets' content because it was felt that an arbitrary distinction would only weaken the conclusions in the analysis of the pamphlets' content. The analysis concentrates on the arguments and evidence used by the pamphleteers and keeps in mind the audience to whom they

wrote. Hopefully, this critical approach will allow greater latitude in finding out how and why the pamphleteers used the arguments and evidence they did. Internally, lines of argument and evidence used are reported in full, interpreted when necessary, and evaluated. It is not the intent of this thesis to criticize or evaluate the moral wrong or right of the arguments presented; therefore, an attempt has been made in the analysis to understand how and why the pamphleteer presented his arguments and evidence. Except for the first pamphlet, a comparative analysis of each pamphlet with the prior pamphlets follows in a brief evaluative summary. In nearly every pamphlet, issues other than emancipation were discussed; those issues which directly related to, or gave relevance to the arguments on the Emancipation Proclamation were included in the analysis.

The summary and conclusions in Chapter VI attempt to (1) synthesize the previous chapters; and (2) to answer the following:

1. Why the Emancipation Proclamation was issued during the Civil War and its significance to pamphleteering;
2. How and why pamphleteering was conducted in the Civil War;
3. The political characteristics of the men who wrote the pamphlets studied in this thesis;
4. The ways these pamphleteers dealt with the

exigencies of the Emancipation Proclamation;

5. The means of argument and evidence used by
the pamphleteers?

CHAPTER II

THE NORTH AND THE EMANCIPATION PROCLAMATION

After the fall of Fort Sumter political and constitutional as well as moral considerations conditioned Abraham Lincoln's thought on what to do about slavery. During 1861, political implications of emancipation predominated. The dramatic breakup of the nation and the war that followed made it imperative for the President to foster unity in the North and to prevent such border states as Kentucky and Maryland from seceding. The Northern States, especially those along the Ohio River, contained many persons who sympathized with the Southern cause, so Lincoln tried to keep the issue of the conflict one of suppression of armed insurrection and restoration of national unity. On two occasions, in August 1861 and May 1862, he countermanded orders of generals in the field who proclaimed emancipation in the areas they commanded. Thus the Commander-in-Chief kept the decision of freeing the slaves in his own hands, which lessened tensions in border states.¹

¹James M. McPherson, The Struggle for Equality (Princeton: Princeton University Press, 1964), pp. 52-66.

Lincoln's greatest difficulty, however, was not being able to satisfy the extreme abolitionists. He disliked slavery, stating that "if slavery is not wrong then nothing is wrong."² But at the same time, he believed the Negro was inferior to the white man and doubted the Negro's capacity for American citizenship. Also, Lincoln doubted that peaceful cohabitation by black and white men was possible. As a result, he suggested colonization.

I do not speak of emancipation at once, but of a decision at once to emancipate gradually. Room in South America for colonization, can be obtained cheaply, and in abundance; and when numbers shall be large enough to be company and encouragement for one another, the freed people will not be so reluctant to go.³

Lincoln's belief that the Negro was inferior to whites but at the same time should not be kept in chattel, displeased many abolitionists in the North. They believed that Lincoln was confused on the issues of emancipation and the purpose of the war.

By early 1862 events had made clear to the governments and people of both sides that the war called for major efforts and that the struggle might be long. For the Federal Government, strengthening the Northern citizenry's will to win became a prime necessity.⁴ Active

²Richard N. Current (ed.), The Political Thought of Abraham Lincoln (New York: Bobbs-Merrill Co., 1967), p. 110.

³Ibid., p. 196.

⁴McPherson, pp. 75-81.

abolitionists demanded emancipation with increasing clamor, taking the position that the existence of slavery was the only true cause of the war.⁵ Lincoln felt that slavery should be corrected, but knew that a pronounced anti-slavery policy could end the loyalty of the border states; only forbearance and tact could hold the Union together.⁶

Four elements could be distinguished in the Administration by 1862: anti-slavery Republicans, represented by Charles Sumner; moderate Republicans, who were represented by William H. Seward; War Democrats, represented by Stephen Douglas; and loyal border state men, for whom stood Edward Bates and Montgomery Blair. Lincoln's task was to combine these elements in Congress for the purpose of saving the nation.⁷

While Lincoln was faced with uniting the political factions in Congress, steps had been made to announce emancipation as a measure against the Confederacy. The earliest suggestion of such a policy occurred in a letter from a correspondent of Samuel P. Chase in April, 1861. The letter recommended adoption of John Quincy Adams' doctrine that slaves be freed as a war measure.⁸ But steps

⁵Current, pp. 191-194.

⁶Ibid.

⁷James K. Hosmer, "The Appeal to Arms," The American Nation: A History, XX (New York: Harper and Bros., 1907), p. 202.

⁸G. P. Sanger (ed.), U.S. Statutes at Large, XII (Boston: Little, Brown and Co., 1859-1863), 319.

were also being taken by Congress towards a policy of emancipation. The Southern victory at the first battle of Bull Run led to an immediate step in the advancement of a declaration through the pending Confiscation Act. To this bill Congress added a clause which stated that the confiscation of slaves was necessary for military purposes. Lincoln believed Congress had acted in haste and disapproved their policy.⁹

Generally, moderate anti-slavery opinion in the North began to support the abolitionists' position and the drift towards a more radical policy grew more intense. A bill to reaffirm the Crittenden resolution of the previous summer¹⁰ was set aside by a narrow vote, widening a rift between Republicans and Democrats. Shortly thereafter, Congress forwarded another anti-slavery policy statement originally introduced in the Senate on December 16, 1861, by Henry Wilson of Massachusetts. The bill advocated abolishing slavery in the District of Columbia, and it was passed by Congress.¹¹ The President, in his opening address to Congress, recommended the recognition of Haiti and Liberia, stating three points of his own on emancipation: (1) that it should be voluntary

⁹E. J. Kempf, Abraham Lincoln's Philosophy of Common Sense, III (New York: New York Academy of Sciences, March 1965), 1131-1140.

¹⁰U.S. Cong. Globe, 37th Congress (Washington: John C. Rives, Cong., Globe Office, 1861), 1st sess., p. 209.

¹¹Kempf, III, 858.

on the part of the loyal slave states; (2) that compensation should be made to the slave-owners; (3) that colonization of the freed Negroes take effect.¹² Wilson's bill adopted the President's suggestions providing moderate compensation and colonization, but became a topic of heated debate for many months thereafter. The bill passed April 16, 1862, and was signed by Lincoln; a million dollars was appropriated for compensation to slave-owners, and one hundred thousand dollars to assist in colonization.¹³

On March 6, 1862, Lincoln asked for a joint resolution that would provide pecuniary aid to states adopting gradual abolition of slavery, but the measure was not well received. It was denounced by Thaddeus Stevens as "the most diluted milk and water-gruel proposition ever made to the American Nation."¹⁴ The resolution passed, and on March 10, Lincoln called to the White House the border-state delegates for the purpose of accepting compensated emancipation. Thirty members of Congress listened, but only a minority approved the measure.¹⁵ It was possible that the border state men had become doubtful of a Union success, and preferred to

¹²J. H. Clifford and M. M. Miller (eds.), Works of Abraham Lincoln, II (New York: Newton and Cartwright, 1908), 102.

¹³U.S. Statutes at Large, XII, 376.

¹⁴Blaine, I, 447.

¹⁵J. G. Nicolay and J. Hay (eds.), Complete Works of Abraham Lincoln, VI (New York: F. D. Tandy, 1905), 109.

keep their slaves rather than part with them for bonds which could prove worthless.¹⁶

On March 13, a statute was passed prohibiting officers from returning fugitive slaves who might seek refuge with the army, whether the slave-owners were loyal or not.¹⁷ That same month, I. N. Arnold of Illinois introduced a bill making "freedom national and slavery sectional," thereby prohibiting slavery "in the present territories of the United States, and in any that shall here-after be acquired."¹⁸ The President signed the bill after the language had been modified to suit border state sentiment.¹⁹

Lincoln's attitude of conservatism was further marked in his dealings with the employment of Negro troops. He disapproved the actions of Brigadier Phelps to organize and use Negro troops, and of Senator Lane of Kansas in the far-West to deploy Negro troops.²⁰

To Secretary Chase had fallen the duty of carrying out the confiscation act. As an anti-slavery man, Chase had taken pleasure in conducting the first experiment at civilizing

¹⁶Blaine, I, 447-448.

¹⁷U.S. Statutes at Large, XII, 354.

¹⁸Ibid., p. 432.

¹⁹Kempf, III, 1226-1227.

²⁰Ibid., p. 1275; Harry Hansen, The Civil War (New York: Mentor Books, 1961), pp. 165-168.

the freedmen who were sent to Port Royal, South Carolina.²¹ Chase selected General Rufus Saxton as the military governor of the Sea Islands in July of 1862, and Saxton assumed direction of the Negroes found within Federal lines.²² Lincoln expressed little sympathy with Chase's experiment, stating, "what is all this itching to get niggers into our lines?"²³ The recruiting of Negro troops in the Sea Islands began to be agitated and both the border state men and Northern Democrats were incensed; some feared slave insurrections; others declared Negroes inherently cowardly and incapable of fighting; but both sides urged that white troops would be disgraced by the comradeship of Negroes.²⁴ Garrett Davis of Kentucky declared that it would force out of the struggle for the Union all pro-slavery men.²⁵

On July 17, 1862, Congress passed a bill introduced by Senator Trumbull of Illinois, relating to confiscation, which was more sweeping and definite regarding the slave property of disloyal owners than the first confiscation act. In Trumbull's bill:

²¹Albert B. Hart, Salmon Portland Chase (Boston: Houghton, Mifflin and Co., 1899), p. 225.

²²Hosmer, XX, 208.

²³Hart, p. 259.

²⁴G. W. Smith and C. Judah, Life in the North during the Civil War (Albuquerque: University of New Mexico Press, 1966), pp. 141-146, 155-156.

²⁵Hosmer, XX, 208.

All slaves . . . escaping from persons and taking refuge within the lines of the Army; and all slaves captured from such persons or deserted by them coming under the control of the Government of the United States; and all slaves found on or being within any place occupied by forces of the United States, shall be forever free of their servitude, and not again held as slaves.²⁶

Furthermore, all officers were forbidden to return slaves that sought refuge within Union lines; the President was authorized "to employ as many persons of African descent as may seem necessary and proper for the suppression of this rebellion," which was a commitment of the Union to the employment of Negro troops.²⁷ Trumbull's act passed, but it was still with some hesitancy that Lincoln signed it. Lincoln doubted that public opinion would sustain the act, fearing the estrangement of those whose help could not be spared.²⁸ He also knew that the time for a change in policy was ripe.

By mid-summer, after the Union advance on Richmond had been stopped with bloody fighting, Lincoln shifted his strategy toward emancipation.

Things had gone from bad to worse, until I felt that we had reached the end of our rope on the plan we had been pursuing; that we had about played our last card, and must change our tactics or lose the game. I now determined upon the adoption of the emancipation policy; and without consultation with, or the knowledge of, the Cabinet, I prepared the

²⁶ U.S. Statutes at Large, XII, 591; Cong. Globe, 37th Cong., 2nd sess., Part 4, appendix, 412-413; see Appendix A.

²⁷ Ibid.

²⁸ Blaine, I, 373-378.

original draft of the proclamation, and after much anxious thought, called a Cabinet meeting upon the subject.²⁹

President Lincoln spent considerable time in the writing of his proclamation. In June and July, while General George B. McClellan's Peninsular campaign ground to a halt and Union armies began to regroup in front of a victorious Robert E. Lee, Lincoln spent his time in the cipher room of the War Department telegraph office. There, freed from interruption he slowly and carefully composed the proclamation.³⁰

Whether Lincoln used John Quincy Adams' suggested emancipation as a war measure is unknown, but considerable legislation had occurred which could have influenced Lincoln's thoughts on his act as a war measure and its constitutionality. The Constitution by indirection and liberal interpretation did recognize slavery; it gave to the Federal Government no power to abolish that institution, which rested on the laws of the states.³¹ The act was based upon Lincoln's authority as the Commander-in-Chief during the time of war, that is, emancipation was a war measure.³²

²⁹Nicolay and Hay, X, 1.

³⁰Frank Donovan, Mr. Lincoln's Proclamation (New York: Dodd, Mead and Co., 1964), pp. 107-111; see also, R. P. Basler (ed.), The Collected Works of Abraham Lincoln, V (New Brunswick, N.J.: Rutgers University Press, 1953), 336-337.

³¹Donovan, pp. 105, 114-119.

³²Ibid., p. 108.

On Tuesday, July 22, 1862, Lincoln laid the first draft of the Emancipation Proclamation before the Cabinet.³³ Most of the Secretaries were reported to be startled because they had not suspected that the President was considering such a policy.³⁴ But Lincoln was determined on the expediency of issuing the writ, and desired counsel. Edward Bates, Attorney General and representative in the Cabinet of border state sentiment, approved the proclamation while the anti-slavery Chase disapproved. Seward urged that the proclamation not be issued during a Northern set-back in the war.³⁵

It may be viewed as the last measure of an exhausted Government, a cry for help;--the Government stretching forth its hands to Ethiopia, not Ethiopia stretching forth its hands to the Government;--a shriek on the retreat.³⁶

Lincoln adopted Seward's suggestion and laid the document aside for a more appropriate time; but the core of the preliminary draft clearly advocated emancipation as a military measure:

As a fit and necessary military measure for effecting this purpose, 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

³³Nicolay and Hay, VI, 123-127.

³⁴Ibid.

³⁵Frederic Bancroft, The Life of William H. Seward, II (New York: Harper's, 1900), 333.

³⁶Ibid., p. 334.

within any state or states, wherein the Constitutional authority of the United States shall not then be practically recognized, submitted to, and maintained, shall then, thenceforward, and forever, be free.³⁷

However, there were some doubts about the legality of the document because it applied only to the embattled Southern states and not to slave states like Kentucky and Maryland, which were still in the Union. Also, the proclamation did not apply to parts of seceded states already under Federal control. In other words, the writ applied only in states or parts of states where the Federal Government was powerless to enforce emancipation; the act did no more than announce that another proclamation would be issued later.

While the document remained in secrecy and Lincoln awaited an appropriate time for its presentation, he was between two pressure points. On one side he was faced with the sentiments of loyal slave-holders claiming their rights, and on the other side with those who demanded a more radical policy of action. Soon after the defeat of the second battle at Bull Run, Horace Greeley, editor of the New York Tribune, published an imperious editorial demanding that the slaves be freed and that the North wanted immediate action.³⁸ Lincoln

³⁷ Appendix B, 2nd paragraph; for an analysis of the act, see James G. Randall, Constitutional Problems Under Lincoln (New York: D. Appleton and Co., 1926), pp. 358-363.

³⁸ Frank Moore (ed.), Rebellion Records, XII (New York: Putnam, 1861-63; D. Van Nostrard, 1864-1868), 480-483.

answered Greeley's August 20 editorial, stating:

My paramount purpose in this struggle is to save the Union, and is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the colored race I do because I believe it helps to save the Union; and what I forbear, I forbear, because I do not believe it would help to save the Union. I shall do less whenever I shall believe what I am doing hurts the cause; and I shall do more whenever I shall believe doing more will help the cause. I shall try to correct errors when shown to be errors, and I shall adopt new views so fast as they shall appear to be true views. I have here stated my purpose according to my view of official duty; and I intend no modification of my oft expressed personal wish that all men everywhere could be free.³⁹

This letter to Greeley was written exactly one month after Lincoln told his Cabinet that he was going to proclaim the slaves free, a fact of which the editor was not given the faintest idea.

While Lincoln waited, he questioned the ultimate meaning of his proposed policy in a letter to a convention of ministers:

Suppose they [Negroes] could be induced by a proclamation of freedom from me to throw themselves upon us, what should we do with them?⁴⁰

Historian Bruce Catton summarized the hindering questions which Lincoln and others in the North contemplated:

Was America ready for unlimited freedom? What would it do with the Negro? It had begun by making

³⁹Current, pp. 214-215.

⁴⁰Appendix C.

a slave of him, and whenever he managed to stop being a slave and tried to make his way as a free man in a free society it resented him, with the deep, illogical resentment we reserve for those whom we have wronged. Suppose the whole race suddenly came out of slavery: Was there a place for it in America.⁴¹

In other words, the North might dislike slavery, but it was not prepared for the shock that would run through the society when millions of freedmen tried to lay their hands on the benefits of freedom.

General Robert E. Lee's defeat at Antietam on September 17, 1862, gave rise to the presentation of Lincoln's proclamation of emancipation. On Monday, September 22, Lincoln read his proclamation to a full meeting of the Cabinet. His Secretaries approved, though Montgomery Blair, the Postmaster General, warned that the document might have unhappy political consequences for the Republican Party, especially in the border states.⁴² Secretary Gideon Welles remembered that the President stated he had waited for a victory over the invading armies and had made a covenant with God: a victory over Lee would mean that God intended slaves to be freed, and the President would guide himself accordingly; with Lee beaten, the meaning was unmistakable, "God had decided this question in favor of the slaves."⁴³

⁴¹Bruce Catton, Terrible Swift Sword, II (New York: Doubleday and Co., 1963), published for the Centennial History of the Civil War series, 3 volumes), 369.

⁴²Donovan, p. 108.

⁴³Gideon Welles, Diary of Gideon Welles, I (Boston: Houghton, Mifflin, 1911), 143.

During the previous months the border states had been nursed along with great care, but now the Congress questioned whether or not this action would pressure them into secession. Twice before Lincoln had overruled anti-slavery pronouncements in fear that the border states would be lost. The border states had not listened when he spoke of compensated emancipation and the hope that a slave-holding society might under exceptionally favorable conditions read the signs of the times and adjust, had finally died. Lincoln answered that he had thought about the problem, but it was too late, because "the difficulty was as great not to act."⁴⁴ He had argued with the border state men and it was in vain; therefore, it seemed to him that "slavery had received its death blow from slave-holders--it could not survive the rebellion."⁴⁵

As early as 1858, Secretary Seward had warned that something like the day's business could happen because slavery condemned the nation to an irrepressible conflict in which a higher law would come into operation. After the session with the President, Seward wrote his daughter:

Having for twenty years warned the people of the coming of this crisis, and suffered all the punishment they could inflict upon me for my foresight and fidelity, I am not displeased with the

⁴⁴ Nicolay and Hay, VI, 162, quoting Welles in The Galaxy, December 1872, pp. 846-847.

⁴⁵ Ibid., p. 163.

position in which I find myself now--of one who has not put forth a violent hand to verify my own predictions.⁴⁶

The punishment Seward referred to was what he believed to be a denial of the presidency in 1860. However, Seward further wrote in the letter that the timing of the proclamation was right.⁴⁷

The proclamation was read, commented upon, given minor corrections, and signed.⁴⁸ On the next day, Tuesday, September 23, 1862, it was made public. On January 1, 1863, the President was to designate the states and portions of states where the act would go into effect. David Strother, who called himself a Virginia Yankee and border state man who would die for the Union, but did not like a fight against slavery, wrote:

The war is going against us heavily. The Revolution is raging at all points while the folly, weakness and criminality of our heads is becoming more decidedly manifest. Abraham Lincoln has neither sense nor principle. . . . The people are strong and willing, but "there is no king in Israel." The man of the day has not yet come.⁴⁹

⁴⁶Frederick W. Seward, Seward at Washington, III (New York: D. Appleton and Co., 1877-1891), 135-136; Seward's speech, "Irrepressible Conflict," October 25, 1858 keynoted Republican policy in the Republican convention of 1860 in Chicago. During the war years Seward reportedly told a White House aid seeking a patronage job, "you talk of dis-appointment to a man who has been denied the rightful leadership of his party." See Edward E. Hale, Jr., William H. Seward (Philadelphia: George W. Jacobs, 1910), p. 321.

⁴⁷Seward, III, 136.

⁴⁸See Appendix D.

⁴⁹David H. Strother, A Virginia Yankee in the Civil War (Chapel Hill, North Carolina, 1961), pp. 116-117.

Many people worried about the effects the proclamation could bring. In the Cabinet discussion Blair believed it would cost the Administration the fall elections. A wave of reaction overcame the nation; favorable majorities were diminished and, in some cases, quite reversed; considerable Democratic action took place in New York, Ohio, Indiana, Illinois, and Pennsylvania in condemnation of the Republican policies. Two years later, in the election of 1864, the Democrats increased their number of forty-four seats in the 37th Congress to seventy-five in the 38th Congress, leaving the Republicans twenty. Except for solid Republican delegations from Maryland, Kentucky, and Missouri, Republican representation in the House would have been all but lost.⁵⁰

On September 23, 1862, a crowd gathered at the White House to serenade the President and hear a speech. Lincoln's speech was brief:

What I did, I did after a very full deliberation, and under a very heavy and solemn sense of responsibility. I can only trust in God I have made no mistake. I shall make no attempt on this occasion to sustain what I have done or said by any comment. It is now for the country and the world to pass judgment, and, may be, take action upon it.⁵¹

By September 26, Lincoln knew what the governments of the free states thought of the act. A delegation of

⁵⁰Blaine, I, Chapter XX.

⁵¹Nicolay and Hay, VI, 164.

eleven governors called at the White House to express personal and official respect and offer the determination, under all circumstances, to support his constitutional authority. The governors pledged their aid in all measures to prosecute the war to ultimate victory until all rebels returned to their constitutional duty and obedience. They congratulated Lincoln upon his proclamation as a measure of justice and sound policy, and Lincoln thanked them for promising support and giving him their assurance.⁵²

While Lincoln received political accord, Northern white labor grew resentful over the influx of liberated Negro labor. The government was beset by a complex of rebellious Northern antagonisms, despite general public acclaim of national emancipation. Radical opposition to the proclamation as an unconstitutional violation of states' rights was augmented by the general suspension of the writ of habeas corpus, especially in cases of military arrest of persons who interfered with the suppression of insurrection and the drafting of troops. This combination of protests increased to a degree that threatened the loss of the coming national elections.⁵³

An even more serious problem was developing in the

⁵²Kempf, III, 1160-1171.

⁵³B. Catton, Never Call Retreat, III, published for the Centennial History of the Civil War series, (New York: Doubleday and Co., 1965), 57-60.

Northern army. Gossiping officers believed that the government's policies were not designed to emancipate slaves or win battles, but to effect a compromise that would restore the Union with a continuation of slavery.⁵⁴

Official condemnations of the administration's policies by Democratic conventions were augmented by personal attacks in the press, pamphlets, and the army, as Lincoln continued to keep McClellan in command after the slump which followed his victory over Lee at Antietam.⁵⁵ However, conscription, emancipation, and military suppression of habeas corpus met with approval in the army as increased Union military power reduced Confederate power.⁵⁶

It was desirable for the administration to induce the people of suppressed rebel states and loyal slave states to hold elections before January 1, 1863, to adopt the conditions of emancipation. Lincoln started this movement in Kentucky, Tennessee, Louisiana, Missouri and Arkansas by sending special officers and commissioners to get them to realize the importance of taking state action by popular vote in order to make it constitutional. But the states were slow to respond. It became evident by late November that the Southern states were not going to respond to the provisions

⁵⁴Ibid., pp. 93-97.

⁵⁵Ibid., Chapter I; also see, Joseph B. Mitchell, Decisive Battles of the Civil War (New York: Fawcett World Library, 1966), pp. 101-102.

⁵⁶Kempf, III, 1163.

of the preliminary proclamation of emancipation; therefore, as President, Lincoln would have to use his military authority to free slaves, as enacted by Congress.⁵⁷

In his annual message to Congress on December 1, Lincoln recommended a new plan of compensated emancipation. He used his inaugural address argument that the only substantial dispute between the states was the belief in one section that slavery was right and should be extended, and in the other that it was wrong and should not be extended; since the states could not be separated physically, and their cultural and commercial interests were so interwoven and interdependent, they must be legally and economically cooperative to serve best the interest of everyone.⁵⁸ Lincoln recommended that adoption of his resolutions and articles be amendatory to the Constitution,⁵⁹ but his proposal to insure compensation for emancipation of slaves to states not then in rebellion against the Union lost appeal as the war continued and suppression of secession progressed. Congressional opposition maintained that as the rebellious states purposefully started and continued the war to destroy the Constitution and the Union, they must be held responsible and compelled to

⁵⁷Ibid., pp. 1161-1171.

⁵⁸Cong. Globe, 37th Cong., 3rd sess., pp. 1-5; also see, A. Craig Baird, American Public Addresses, 1740-1952 (New York: McGraw-Hill Book Co., 1956), pp. 107-113, for Lincoln's First Inaugural Address; also see Appendix F for extract.

⁵⁹Ibid., Cong. Globe.

surrender, immediately accepting complete and uncompromising emancipation without compensation.⁶⁰

In the preliminary proclamation of September 22, the purpose was to liberate part or all of the slaves to save the Union; the President would continue to prosecute the war to restore normal constitutional relations between the Union and each of its states. Practical measures of compensation for gradual or immediate emancipation would be voluntarily adopted or rejected by any state whose people were not then in rebellion, and by rebellious states if they renewed allegiance to the Constitution before January 1, 1863. Lincoln further stated that on January 1, he would issue another proclamation designating the states and parts of states in which the people were still in rebellion, and declaring all slaves in those areas free. The weakest link in Lincoln's plan of emancipation existed in the resistance of Congress to his request to provide a means of compensation. By late December, Congress had avoided action on his proposed amendment to the Constitution and not one rebel state expressed interest in adopting emancipation.⁶¹

On December 30, Lincoln submitted a draft of the final proclamation to his Cabinet for discussion and final revision. Two days later, January 1, 1863, he issued the --

⁶⁰ Kempf, III, 1172-1175; Hosmer, I, 22-125.

⁶¹ Kempf, III, 1174-1180.

document in final form.⁶² It proclaimed free all persons held as slaves in seceded states, excepting certain parishes in Louisiana and the city of New Orleans, West Virginia, and specified counties of Virginia; it asked the freed people to abstain from violence except in self-defense and to work faithfully for reasonable wages; and it declared that the freed men would be accepted in the armed forces of the United States. The President characterized the act as "an act of justice, warranted by the Constitution upon military necessity."⁶³

The final proclamation was obviously not a moral political act by Lincoln to free slaves; he never had such constitutional power. It was an act of war by the Commander-in-Chief of the Army and Navy to break the military power of the rebels, which was presumably based on slavery. Also, it declared "all persons held as slaves," in those areas designated, free.⁶⁴ It did not state "forever free" as in the preliminary proclamation, but only implied that the slaves would continue to be free after their former owners restored allegiance to the Union and/or their states' governments resumed normal functions in the Union. In essence, the Union could no longer end the war by truce, and Lincoln was

⁶²See Appendix G.

⁶³Ibid.

⁶⁴Ibid.; see Appendix D for comparison of language.

asserting firmer direction, over his own administration, and over the nation's biggest army. Basically, the proclamation was an extension of war because it was a war measure.

The act received numerous declarations of belief in its constitutional validity and military necessity from Congress,⁶⁵ the governments of free states,⁶⁶ and from the press and ministry.⁶⁷ However, it was condemned by white labor and radical politicians who charged that it was designed to prolong the war in order to free Negroes.⁶⁸ In the loyal and rebellious slave states the act was considered unconstitutional and that it violated the sanctity of the white race by enrolling Negroes into military service.⁶⁹

The most definitive statement of Lincoln's reasoning on the constitutional basis of his proclamation was in his letter to Salmon P. Chase, Secretary of the Treasury:

The original proclamation has no constitutional or legal justification, except as a military measure.⁷⁰

⁶⁵Blaine, I, Chapters XX and XXI.

⁶⁶Ibid., Chapter XXI.

⁶⁷Official Records of the War of the Rebellion, XX (Washington: United States Government Printing Office, date unknown), Part Two, 282-308.

⁶⁸Smith and Judah, pp. 129-154, 157-169.

⁶⁹Albert D. Kirwan, The Confederacy (New York: Meridian Books, 1967), pp. 148, 243-249; also see, Dunbar Rowland (ed.), Jefferson Davis, V, (Jackson, Miss.: Printed for the Mississippi Department of Archives and History, 1923), 390-411.

⁷⁰Kempf, III, 1182.

The remaining months before the 1864 national elections proved to be trying and demanding for Lincoln and his Republican Administration.⁷¹ During the late months of 1863, attempts were made to ratify the Emancipation Proclamation as a thirteenth amendment to the Constitution, but failed. Through the months after January, 1863, the Democratic party became victim to extreme internal factionalism and the Republican ranks managed to overcome their divisions enough to defeat the Democrats by ten percent of the popular vote.⁷²

After the final Emancipation Proclamation, Congress rejected resolutions to submit the proposed amendment to the Constitution for ratification. But constant pressure from Lincoln and the people encouraged Congress to pass the Thirteenth Amendment on February 1, 1865:⁷³

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled. (two thirds of both houses concurring), That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three-fourths of said Legislature, shall be valid to all intents and purposes, as a part of the said Constitution, namely: Article XIII, Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate legislation.⁷⁴

⁷¹Ibid., pp. 1274-1329.

⁷²Catton, III, 375-395.

⁷³Kempf, III, 1305-1317.

⁷⁴Ibid., p. 1318.

Lincoln was assassinated before the amendment was ratified. It was declared on December 18, 1865 by Secretary of State William H. Seward. Illinois ratified it on the day it passed Congress and Maryland followed soon after; most states eventually voted for it except Kentucky and Delaware, which opposed, Alabama and Mississippi, which gave conditional ratification, and Texas, which abstained.⁷⁵

Summary

The proclamations for emancipation were never full-throated cries for freedom. The final proclamation's language was prosaic rather than exalted, and it was only a declaration. Moreover, it applied only to those areas in arms against the Union except Tennessee, and, therefore, aimed more at rebellion rather than slavery. Also, the act gave the go-ahead for recruitment of Negro soldiers; nearly 180,000 black men served in the remaining war years for the North. Whatever the technical shortcomings of the proclamation, however, it gave new meaning to the war. Below the Mason and Dixon line the edict was sternly opposed and rejected, but in the North the proclamation proved to be psychologically effective. Reformers and Negroes hailed the act, and favorable responses were reiterated in Republican newspapers. Within six months after it was issued the proclamation was regarded by the people of the North not only as a milestone

⁷⁵ Catton, III, 163-169, 331-332.

in the struggle to free the Negro, but as a death blow to the Confederacy. The Thirteenth Amendment was a finalization of the long struggle to free the Negro in the United States.⁷⁶

⁷⁶ See Appendix H for a chronology of events in American history pertaining to the attempts to emancipate the Negro up to ratification of the Thirteenth Amendment.

CHAPTER III

UNION PAMPHLETEERING SOCIETIES

General Background of Pamphleteering in the North

While the Union armies, humiliated by frequent defeats in the earlier stages of the Civil War, were suffering the discomforts of winter bivouac, Democrats fed their dissatisfaction with newspapers and pamphlets criticizing mismanagement from Washington, attacking emancipation, and playing upon the irritation and grievances border states had long felt toward New England.¹ Apparently Northern soldiers responded to the arguments. Professor Francis Lieber of Columbia College in New York City, a political scientist and publicist, complained in February, 1863:

The cars, on my return from Washington were full of discharged soldiers and such loud, nasty, infernal treason I have never believed my ears should be destined to hear. I changed cars, but it was everywhere the same.²

¹Freidel, I, 4.

²F. Freidel, Francis Lieber, Nineteenth Century Liberal (Baton Rouge, Louisiana, 1947), p. 345; James G. Randall and David Donald, The Civil War and Reconstruction (Boston: Little, Brown and Co., 1961), pp. 490-491.

Numerous prominent Republicans, like Lieber, blamed the disaffection of the troops less upon the discouraging conditions they faced than upon Democratic rhetoric. Early in the winter the Union League movement, beginning in Philadelphia, spread throughout the North. In city after city Republicans banded into various groups and began holding mass meetings to counter Democratic sentiment dominating the cities. In the same fashion they organized pamphleteering, primarily to indoctrinate Northern troops. The New Yorkers met on February 14, 1863, to establish "a Publication Association chiefly for the army to counteract the base camarilla of [the New York] 'World' renown," which was distributing disloyal newspapers and pamphlets among the soldiers. They called their organization the Loyal Publication Society. The previous night New York Democrats met to establish the Society for the Diffusion of Political Knowledge. On February 17, the Union League of Philadelphia established a Board of Publications. Thus, the three major pamphleteering organizations of the Civil War came into existence within five days of each other. In Boston the New England Loyal Publication Society, which directed itself to the sending of broadsides or clip-sheets to newspaper editors, began operations in January and was formally organized in March.³ Numerous pamphlets were

³Ibid., Freidel; F. Freidel, "The Loyal Publication Society," Mississippi Valley Historical Review, XXVI (December, 1939), 359-376. On the views of the New York World, see Mary Cortona Phelan, Manton Marble of the New York World (Washington: Catholic University of American Press, 1957).

circulated prior to the development of the organizations, but the activities were primarily singular efforts by one or two individuals.

Society for the Diffusion of Political Knowledge

The Society for the Diffusion of Political Knowledge was established under the aegis of the wealthy developer of the telegraph, Samuel F. B. Morse. When Morse was serving as president of a pro-slavery society, the American Society for the Promotion of National Unity, he defended his society "as warm-hearted, praying . . . Christians as ever assembled to devise means for promoting peace."⁴ Among them were Episcopal Bishop Hopkins of Vermont and Leonard Woods, president of Bowdoin College, where Calvin Stowe was teaching while his wife wrote Uncle Tom's Cabin.

When Lincoln announced his January 1, 1863 Emancipation Proclamation, Morse expressed a need to counter the "rabid abolitionism" of the Republican Administration.⁵ Morse called a private meeting of his pro-slavery friends, and on Friday evening, February 13, they created the Society for the Diffusion of Political Knowledge. Some of the more prominent Democrats of New York City who attended the

⁴Edward L. Morse (ed.), S. F. B. Morse: His Letters and Journals, II (Boston: Little, Brown and Co., 1914), 416.

⁵Carleton Mabee, The American Leonardo (New York: Alfred A. Knopf, 1943), p. 347.

meeting at Delmonico's restaurant were, August Belmont, an agent of the Rothschilds and proprietor of the World; E. H. Miller, Wall Street operator; Henry Young, Troy, New York millionaire; Samuel J. Tilden, corporation lawyer; and three editors, Manton Marble of the World in Boston, William C. Prime of the Journal of Commerce in Connecticut, and James Brooks of the Express in Maine.⁶

In attendance, by invitation, was a reporter representing William Cullen Bryant, editor of the Republican newspaper, the Evening Post; Morse believed that the Republican Post would give the people of New York an explanation of both sides of the new Society, that is, a Democratic point of view and a Republican point of view of the purposes of the Society. Bryant, however, stated that the purpose of the Society was to:

Raise a fund for the circulation of political ignorance, as of treasonable newspapers and speeches, The rich men of New York are to supply the money, and the reactionist editors of the World, the Express, and the Journal of Commerce the brains.⁷

In answer to these objections, Morse replied that the purpose of the society was:

To uphold and strengthen the Government, by diffusing among the people, such a knowledge of the principles upon which it is founded, that it shall not be in the power of any administration, whether weak or wicked, to work its injury.⁸

⁶Ibid., pp. 347-348.

⁷Ibid., p. 348.

⁸Freidel, I, 636.

Morse reiterated this position numerous times, stressing that the Society's purposes were to promote a sound political education of the public mind, prevent arbitrary and unconstitutional measures by the Government, and restore the Constitution.⁹ In their attempts to meet these ends, the Society published over one hundred pamphlets that were circulated as far west as Illinois, north to Maine, and the remaining areas of the Union.¹⁰ From March 1863, to the end of the Civil War, when the Society discontinued publishing, its activities were varied and many. As Freidel pointed out:

The contents were diametrically opposed to those of the pro-Union societies . . . and must have served as an effective foil to some of the publications of the pro-Union organizations. . . . Morse's pamphlets ran the gamut of the Democratic attack upon the Lincoln administration.¹¹

The following pamphlets published by the Society for the Diffusion of Political Knowledge were selected for examination in this study:

1. Edward N. Crosby and S. F. B. Morse, The Letter of a Republican, Edward N. Crosby, Esq., of Poughkeepsie, to Prof. S. F. B. Morse, Feb., 25, 1863, and Prof. Morse's Reply, March 2nd, 1863. Pamphlet No. 4.

2. George Franklin Comstock, Let Us Reason Together,

⁹Mabee, pp. 346-350.

¹⁰Morse, II, 423-424.

¹¹Freidel, I, 14-15.

New York, 1864. Pamphlet No. 18.

3. Clement Laird Vallandigham, The Great Civil War in America. (Speech in the House of Representatives, January 14, 1863) New York, 1863.¹²

Loyal Publication Society

Worried by persistent efforts made to disseminate disloyal journals and documents among the northern troops, especially by the Society for the Diffusion of Political Knowledge, a group of pro-Union men planned a counteractive organization. With the forming of Morse's Society on February 13, these self-named "loyal gentlemen" organized the Loyal Publication Society on February 14.

The founders passed a resolution declaring that the object of the Society should "be confined to the distribution of journals and documents of unquestionable and unconditional loyalty" throughout the United States. Such materials were to be distributed especially among the troops in the field to off-set:

¹²There is some doubt as to whether or not the Society for the Diffusion of Political Knowledge published Vallandigham's speech in a pamphlet, but Vallandigham was a leading Democrat from the West, a friend of several of the Society's leading financiers, and his ideas were fairly consistent with the views of the Society, therefore, there is a high probability that the Society anonymously published the pamphlet. Since the political views are basically the same, this pamphlet has been included as one being published by the Society.

The EFFORTS NOW BEING MADE BY THE ENEMIES OF THE Government and the advocates of a disgraceful peace.¹³

Charles King, aged president of Columbia College, was nominated president, and John Austin Stevens, Jr., Republican banker and pro-Union leader, was made permanent secretary.¹⁴

The activities of the organization were carried on by three committees. Funds necessary for its operation were collected by a finance committee, which elected one of its members as treasurer of the entire organization. A publication committee was selected to distribute such newspapers and pamphlets as it thought necessary to help the Union cause, and edit manuscripts for pamphlet publication. An executive committee was designated to attend to the printing and distribution of the publications.¹⁵

On the committees were such men as Christian E. Detmold, engineer and manufacturer, who in 1833 superintended the laying of the foundations of Fort Sumter; Charles Astor Bristed, an essayist who was the great-grandson of John Jacob Astor; and William C. Church, newspaperman and army colonel whose Army and Navy Journal received aid from both the New York organization and the New England Loyal Publication

¹³[John Austin Stevens], Proceedings at the First Meeting of the Loyal Publication Society, No. 44 (New York: Loyal Publication Society, 1864), p. 7.

¹⁴Ibid., p. 8.

¹⁵Freidel, "Loyal Publication Society," pp. 360-361.

Society. Francis Lieber first served as chairman of the publication committee; George Palmer Putnam, publisher, was the local collector of internal revenue; Oliver Wolcott Gibbs, chemist, resigned when he left New York to assume the Rumford professorship at Harvard. On the executive committee was Sinclair Toursey, president of the American News Company. One finance committee member was Levi P. Morton, who later became Vice-President of the United States under Benjamin Harrison.¹⁶

At the end of the first year, King, who meanwhile had resigned from the presidency of Columbia, also resigned as head of the Loyal Publication Society. His place was filled by Lieber, who thereafter was in considerable measure responsible for the policies of the organization. . . . He wrote ten of its ninety pamphlets.¹⁷

The Society's operations began immediately and arrangements were made for transmitting pamphlets to Union forces. Between February 23 and April 4, 1863, thirty-six thousand journals were sent to Washington for distribution to the Army of the Rappahannock.¹⁸ Lieber informed President Lincoln in June:

We have distributed over the United States not far from 150,000 copies of pamphlets, broadsides . . . and wish to do a great deal more.¹⁹

¹⁶[Stevens], p. 9.

¹⁷Freidel, I, 9.

¹⁸[Stevens], pp. 9, 11.

¹⁹Freidel, Lieber, p. 346.

Cooperative relationships were instituted with other pamphleteering organizations. Two organizations were the New England Loyal Publication Society in Boston, and the Union League of Philadelphia. Besides exchanging suggestions, these Societies loaned each other stereotype plates and assisted each other in distributing pamphlets. In November 1863, the New York organization threatened to close because of a lack of funds and the Philadelphia society contributed over twenty-eight hundred dollars to renew their activities.²⁰

During 1863, the Loyal Publication Society issued a total of four hundred thousand copies of forty-two pamphlets; in 1864 it maintained about the same level of activity. These leaflets ranged in size from four to forty-two pages. At first they were issued without covers; later they appeared in straw-colored paper jackets bearing the Society's seal, an American eagle within a ring of stars. Over the eagle was printed the motto, "Our Country." Although the pamphlets were printed on many local presses, the greatest number bore the imprint of the William Cullen Bryant Co., publishers of the New York Post.²¹

In addition to distributing pamphlets, the Society issued a large number of exchange publications and nearly a hundred thousand newspapers and broadsides. It sent materials into ten states, including fifteen thousand pamphlets for forces occupying Louisiana; they concentrated upon New York, but avoided Pennsylvania and Massachusetts where the sister organizations worked.²²

²⁰ [Stevens], pp. 11-14.

²¹ Freidel, I, 10.

²² Freidel, "Loyal Publication Society," pp. 362-363.

The recipients of publications in 1863 included 649 Union Leagues and associations; 474 Ladies' Associations; 21,160 Private individuals; 744 Editors; and the Soldiers in the Army. . . . In 1864, Adams Express Company helped the Society circumvent the high postage rates by joining in the distribution of the pamphlets, but the political emergency created by the presidential campaign that year led to a concentration upon New York City, where one-hundred-and-twenty-thousand pamphlets were circulated.²³

The Loyal Publication Society continued operations after the war ended, but these were negligible. Its leaders believed the Society's duties ended with the successful completion of the war and dissolved the organization at the third annual meeting, February 27, 1866.²⁴

As one of the largest and most significant pamphleteering societies during the Civil War, the Loyal Publication Society of New York City raised nearly thirty thousand dollars, which they expended in publishing ninety pamphlets, approximately nine hundred thousand of which were printed and distributed over the entire United States and its territories, except for Pennsylvania and Massachusetts.²⁵

²³Freidel, I, 11; [J. A. Stevens], Proceedings at the Second Anniversary Meeting, No. 78 (New York: Loyal Publication Society, 1865), pp. 1, 18-19, 23-27; [George Palmer Putnam], Loyal Publication Society; Final Report and Address of the President (New York: Loyal Publication Society, 1866), p. 7.

²⁴[Putnam], p. 12.

²⁵A survey of the Loyal Publication Society's activities is included in Edith E. War, "Committees of Public Information, 1863-1866," The Historical Outlook, X (Philadelphia, February, 1919), 65-67; Freidel, "Loyal Publication Society," pp. 359-376.

Only one pamphlet has been selected from the Freidel collection which was published by the Society: Grosvenor P. Lowery's The Commander-in-Chief . . . an Answer to Ex-Judge Curtis' Pamphlet, . . . "Executive Power," published in New York by George P. Putnam, a member of the Loyal Publication Society. The pamphlet bore no trade-marks of the Society's other pamphlets, but is considered as a published document by the Society.

Union League of Philadelphia

The largest, richest, and most active pamphlet-eering organization was the Board of Publications of the Philadelphia Union League, better known as the Union League of Philadelphia. Before the end of March, 1863, one of its members, John W. Forney, boasted in his Philadelphia Press that not only had the League forty thousand dollars in its treasury, but its Board of Publications had raised twenty-two thousand more "for the purpose of circulating loyal weekly newspapers, short printed arguments, pamphlets, etc."²⁶

A board of twenty-seven members supervised the work of the League. Benjamin Gerhard, lawyer and editor of several text books in his profession, was chairman; James L. Claghorn, Philadelphian banker and financier, treasurer;

²⁶ [George H. Boker], First Annual Report of the Board of Directors of the Union League of Philadelphia (Philadelphia: Union League of Philadelphia, 1863), p. 6.

and M. H. Messchert, retired banker, secretary. The board worked through three committees: finance, headed by Lindley Smyth, Philadelphia millionaire; publication by Stephen Colwell, businessman and active Republican; and distribution, William H. Ashurst, businessman and Wall Street investor. Colwell, an iron manufacturer, political economist and businessman, presided over the first formal meeting in the establishing of the Union League, and was also active in the Sanitary Commission and the Christian Commission. Other members, Henry Charles Lea, publisher, belonged to several Union League Committees and devoted considerable time to its work; William Henry Rawle, lawyer and legal writer, was also on the Board; Cadwalader Biddle, of the powerful Philadelphia Biddle family;²⁷ all made the immediate financial power of the League evident.

Each of the twenty-seven contributed two-hundred-and-fifty dollars to head the subscription list. Soon the Board of Publications had thirty-five thousand dollars in its treasury.²⁸

The League's distribution of materials was broad. George H. Boker, a member of the United States Diplomatic Service and secretary of the League, stated in his first annual report: "There is scarcely a post-town, from Maine

²⁷Chronicle of the Union League of Philadelphia (Philadelphia: Wm. F. Fell and Co., 1902), pp. 105-107, 403-417.

²⁸[Boker].

to California, that has not received a package of our publications."²⁹

Throughout its history the League engaged in numerous political fights, including the gubernatorial campaign of 1863 in Pennsylvania, in which Governor Andrew G. Curtin, the Republican candidate for re-election, was himself a member of the Union League. Five years later the Board of Publications dissolved, concluding:

That no department of the work of the League has been of more real service to the country, or reflected more true and lasting honor upon the League itself, than its department of publication, at that most critical period in our country's history, the autumn of 1863, when Governor Curtin was a candidate for re-election. He declared openly that he owed his success to the Union League of Philadelphia.³⁰

In 1864 the Board concentrated upon Lincoln's campaign for re-election. Postmasters, school teachers, and other community figures in Pennsylvania enlisted as distributing agents for the Board.

The League was also active during the state elections of 1866, then was dormant until 1868 when it supported General U. S. Grant for President of the United States. After Grant's victory the Board dissolved.

During the war years, the League coordinated many of their activities with the Loyal Publication Society of

²⁹Ibid.; see also, Chronicle of the Union League, pp. 107, 154-155.

³⁰George P. Lathrop, History of the Union League (Philadelphia: Wm. F. Fell and Co., 1884), p. 69; see also, Chronicle of the Union League, p. 55.

New York and the New England Loyal Publication Society in Boston. All three organizations were pro-Union and fully supported the Republican Administration in Washington.

In six years the Union League issued over four-and-a-half million copies of one-hundred-and-forty-five pamphlets and forty-nine broadsides. In 1863 and 1864 it distributed over a million copies of their pamphlets, but less than sixty thousand in 1865.³¹

Almost all of the Union League publications either bore no identifying symbol, or merely the notation, "Printed for Gratuitous Distribution," accompanied at times by a small emblem of Columbia, spear and shield in hand.³²

The one pamphlet most likely financed by the Union League of Philadelphia, published by their sister organization in New York, was Grosvenor P. Lowrey's, The Commander-in-Chief: A Defence upon Legal Grounds of the Proclamation of Emancipation; and an Answer to Ex-Judge Curtis' Pamphlet, Entitled "Executive Power." Second edition, with Additional Notes. New York, 1863. The pamphlet was selected for examination in this thesis because it reflects the pro-Union attitudes of the Republican societies.

³¹G. H. Boker, Sixth Annual Report of the Board of Directors of the Union League of Philadelphia (Philadelphia: Union League of Philadelphia, 1868), p. 12.

³²Chronicle of the Union League, pp. 106, 154-160.

The final pamphlet in this study is the Union League's anonymous publication, Abraham Lincoln, 1864. This pamphlet was included as an exhibit of campaign pamphleteering. The arguments and evidence used are broad, sweeping statements, but still provide insight on how the League propagated political information to the Northern citizenry.

Atlantic Monthly

When writers contributed to many journals in the North during the war, some journals would distribute the contribution in pamphlet form. Their activities are relatively unknown, but one of the most active pamphleteering journals was the Atlantic Monthly, in Boston.

Generally, the Atlantic was pro-Union throughout its Civil War publications.³³ The number of pamphlets published are unknown and the depth of circulation has not been reported. What is important, however, is the fact that journals like the Atlantic Monthly, the Independent of New York, and others, took the responsibility of disseminating published articles in pamphlet form.

The pamphlet selected for this thesis, which was published by the Atlantic Monthly, is Charles Sumner's, Our

³³An examination of the few pamphlets in Freidel's collection of Union Pamphlets of the Civil War exhibits pro-Union sentiment; also, a review of the Atlantic Monthly during the war years reveals that they supported the Lincoln Administration throughout the war.

Domestic Relations: or, How to Treat the Rebel States, Boston, 1863. This pamphlet on reconstruction was reprinted from the Atlantic Monthly article in exact textual content.³⁴

Privately Published Pamphlets

During the war many individuals hired the services of printing offices or publishers and financed their own pamphlets. As Dr. Freidel explained:

It was possible for an individual through his own expenditure, or through a modest subscription raised by friends or fellow-thinkers, to put his ideas into print and bring them to the attention of others, using pamphlets as his vehicle.³⁵

One such pamphlet chosen from the Freidel collection was Benjamin Robbins Curtis' Executive Power, published in Cambridge, 1862. Curtis was independently wealthy, serving as president of his own law firm in Boston at the time of publication;³⁶ it was very probable that Curtis financed the pamphlet and/or received aid from colleagues in the area.

Another pamphlet which could be considered as having been published privately is Grosvenor P. Lowrey's, The

³⁴See, The Atlantic Monthly, LXXII (Oct., 1863), Vol. XII, 507-529.

³⁵Freidel, I, 1.

³⁶The National Cyclopaedia of American Biography, III, (New York: James T. White and Co., 1899), 472.

Commander-in-Chief . . . an Answer to Ex-Judge Curtis' Pamphlet, . . . "Executive Power." Lowrey's pamphlet appeared twice,³⁷ both published by George P. Putnam in New York. Even though the pamphlet bore no trade-marks of the Loyal Publication Society, Lowrey's pamphlet has been included as a specimen of the Society's publications based on the fact that Putnam was a member of the society and the sentiment of the pamphlet corresponds with that of the Loyal Publication Society and the Union League of Philadelphia.

As in the case of Clement Laird Vallandigham's pamphlet, The Great Civil War in America, which was included as a Society for the Diffusion of Political Knowledge publication, Lowrey's pamphlet has been placed with the pro-Union Society. In either case, this writer is aware that some margin of error does exist; however, because of the political sentiment of each pamphlet, combined with the association each man had with members of the two societies, it seems reasonable to include them as publications by politically amenable agencies.

Summary

The above descriptive history of the pamphleteering societies in the North during the Civil War was primarily a focus upon the societies this writer is directly concerned with in the analysis of arguments and evidence on the

³⁷Freidel, I, 474.

proclamation of emancipation. Certainly, numerous other societies existed which forwarded ideas through pamphlets, but it is not within the scope or purpose of this thesis to examine all the pamphleteering societies mentioned in the Freidel collection. To discuss the other societies would be both impractical and unnecessarily time consuming. The pamphleteering societies examined proliferated other societies organized primarily to meet a need of informing the Northern society on the issues of the times. In the coming analysis of the arguments and evidence of the pamphlets it is evident that the purposes of the pamphleteers were either to inform and/or persuade the reader on the issue of the Emancipation Proclamation; the appearance of an authoritative, powerfully reasoned treatise sometimes led to an immediate response by another pamphleteer or pamphleteering agency, and in this fashion prompted more complex, perplexing arguments. For example, in the case of the Democratic Society for the Diffusion of Political Knowledge, it was their purpose to propagate counter-arguments against what they believed to be inherent weaknesses of policy by a misguided Republican administration. The Republican societies, on the other hand, concentrated their efforts in support of the administration in hopes of maintaining unity and high morale among the citizens of the North. In both cases, however, the societies used the rhetorical medium of pamphlets in an attempt to control and coordinate public opinion.

CHAPTER IV

BIOGRAPHIES OF SELECTED PAMPHLETEERS

This chapter is devoted to a descriptive study of the men who authored the pamphlets under examination. The primary purpose of each biography is to attempt to reveal the writer's political conscience toward the Emancipation Proclamation.

Benjamin Robbins Curtis, 1809-1874

In 1851, Benjamin Robbins Curtis was one of the associate justices of the United States Supreme Court. After graduating from Harvard in 1829, he was immediately appointed as proctor of the University. Without completing his courses, he left school to practice law in Northfield, Massachusetts. By 1832 he was admitted to the bar and in 1834 was attorney of the Supreme Court of Massachusetts. That same year he entered into a law partnership with Charles Pelham Curtis and earned a reputation for acuteness in constitutional law.¹

¹The National Cyclopaedia of American Biography, II (New York: James T. White and Co., 1891), 472.

After becoming an associate Justice of the United States Supreme Court in 1851, Curtis became involved in the now famous Dred Scott case. He dissented from his associates and upheld the right of Congress to prohibit slavery, which was counter to the majority of the Justices' dictum that a person of African descent could not be a citizen of the United States.² When the decision held in favor of prohibiting citizenship and denied Congress the right to legislate on slavery in the territories, he resigned and returned to private practice.

When civil war threatened, he urged Massachusetts to repeal her personal liberty laws (to prevent the return of fugitive slaves) as a gesture of goodwill toward the South.³

Even though Curtis sympathized with the South, he maintained that he was non-partisan:

I am a member of no political party. . . . I have nothing but my country for which to act, in any public affair; and solely because I have that yet remaining, and know not but it may be possible, from my studies and reflections, to say something to my countrymen which may aid them to form right conclusions in these dark and dangerous times.⁴

Curtis opposed confiscation and emancipation, not necessarily on the moral aspects of the acts, but on their constitutionality. He was conservative throughout his life

²Ibid.; Freidel, I, 450.

³Freidel, I, 450.

⁴Ibid., p. 456.

and maintained a stern literal interpretation of the national Constitution.

Grosvenor P. Lowrey

Unlike many contributors to pamphlets in the North, Lowrey remains relatively unknown to historians and rhetoricians. His pamphlet was prompted by Benjamin Curtis' attack upon the constitutionality of Lincoln's Emancipation Proclamation:

Impressed by a strong conviction that it is not alone from the side to which Judge Curtis' warning points that dangers threaten the cause of Christian progress, as it is illustrated in our social and political forms, I have felt it an imperative duty to give whatever thought has been given me upon the grave subject discussed by him.⁵

Lowrey's political affiliation was primarily Republican and pro-Union. His anti-slavery sentiment is evident throughout his pamphlet which was published by George P. Putnam, publisher and member of the Loyal Publication Society of New York.

Samuel Finley Breese Morse, 1791-1872

During his college days at Yale, Morse studied electro-magnetism and oil painting. After his graduation in 1810, he studied art in Europe for five years.

He returned to the United States in 1815 and became president of several prominent art academies. Morse returned

⁵ Ibid., p. 477.

to Europe in 1829 for further study, and on his voyage home in 1832, he conceived the idea of an electro-magnetic telegraph.⁶

From 1837 to 1843, Morse met many members of Congress in attempts to appropriate funds for the development of his telegraph. In 1844 he opened his Magnetic Telegraph Company and his success spread around the world.

During his travels, Morse developed a nativist attitude toward America,⁷ which guided his political interests when he ran for Congress in 1854. His experiences abroad and observations of the circumstances in the United States helped him to develop strong anti-abolitionist attitudes, and become an apologist for American slavery; in 1854, he maintained that the South became a separate nation and used this thesis as his platform for the Congressional elections.⁸

Morse failed to win election to Congress, but he continued to sympathize actively with the South, blaming the Republican administration for destroying the Constitution and being the aggressor in the war. In 1863, he created the Society for the Diffusion of Political Knowledge to clarify for the public the misadministration of the Republicans.⁹ While in the Society, he published and

⁷Ibid., pp. 33-38, 169-178, 343-345.

⁸Ibid., pp. 173-178.

⁹Ibid., pp. 343-345.

edited numerous pamphlets,¹⁰ but after the war he left the entire political scene and returned to his work in art.

Clement Laird Vallandigham, 1820-1871

As a congressman and politician, Vallandigham led one of the most turbulent lives of any man during the Civil War years. After studying law at home, he was admitted to the bar in Maryland in 1842, then moved to Ohio where he served in the legislature from 1845 to 1847. By 1852 he earned a reputation as an ultra pro-slavery advocate, proposing that the United States be divided into four countries.¹¹

After three unsuccessful attempts to win a congressional election, he earned a seat in Congress in 1858 and 1860. During his 1860-62 term, Vallandigham strenuously advocated dividing the country. As a result, he became one of the leading thorns in the government's side. From mid-December 1862 to March 1863, he delivered over fifteen speeches in the House, forwarded four resolutions against administration policy, and constantly interrupted the session.¹² The greatest irony in Vallandigham's record

¹⁰Ibid., pp. 347-355.

¹¹Cong. Globe, Part 1, 2nd sess., 36th Cong., 1860-61, December 10, 1860, p. 38, this was his first public announcement of this policy.

¹²See Cong. Globe, Parts 1 and 2, 37th Cong., 3rd sess., 1862-63.

was on December 15, 1862, when he voted in favor of the final Emancipation Proclamation of January 1, 1863.¹³

Vallandigham's activity did not end after his congressional career. He continued to declare that the Republican administration was bringing ruin to the Union. By May 1, 1863, he was arrested by General Burnside, commanding the Department of the Ohio, tried by a military court, and sentenced to imprisonment. Lincoln commuted his sentence and deported Vallandigham beyond the lines. After it became evident that the Confederates had just as little use for him as did the North, he made his way to Bermuda and then back to Ohio. In 1864, the Democrats of Ohio nominated Vallandigham for Governor, but he lost and went into general political obscurity.¹⁴

Charles Sumner, 1811-1874

When Charles Sumner graduated from Harvard Law School in 1833, he was admitted to the bar, but by 1837 he returned to his studies abroad. Shortly after his return from Europe, he was invited to deliver the Fourth of July oration in Boston, in which he denounced war. By 1846 Sumner had a reputation as an accomplished orator and at the Massachusetts Whig Convention he attacked slavery.¹⁵

¹³Cong. Globe, Part 1, 37th Cong., 3rd sess., p. 92.

¹⁴The National Cyclopaedia of American Biography, III (New York: James T. White and Co., 1893), 145.

¹⁵Moorfield Storey, Charles Sumner (Boston: Houghton, Mifflin Co., 1900), pp. 11-97.

In 1848 Sumner addressed a mass meeting convened at Worcester, Massachusetts to form a Free-soil party on June 18; on July 25, he delivered "The Law of Human Progress" before the Phi Beta Kappa of Union College. As a result of these activities, he became a Free-soil candidate for Congress.¹⁶

In 1849 Sumner spoke upon "The War Systems of the Commonwealth of Nations" before the American Peace Society; on September 12, before the Free-soil convention; on December 4, appeared before the Massachusetts Supreme Court to speak against the constitutionality of segregated schools; in early 1850, again attacked the Fugitive Slave law; and on April 24, 1851, was elected to the United States Senate on an anti-slavery platform.¹⁷

Sumner became a thorn in the side of pro-slavery men in Washington. On May 26, 1852, he spoke out against the Fugitive Slave law, stating, "freedom is national, slavery sectional."¹⁸ By 1855 he was one of the leading anti-slavery men in Washington. After his famous "Crime Against Kansas" speech in the Senate, May 1856, in which his attitude of militancy was clearly apparent,¹⁹ he was

¹⁶Ibid., pp. 144-151.

¹⁷Ibid., pp. 156-159.

¹⁸Ibid., p. 182.

¹⁹Lewis Copeland (ed.), The World's Great Speeches (New York: Garden City Publishing Co., 1942), pp. 291-294.

assaulted by Preston S. Brooks, a representative from South Carolina. After considerable convalescence, Sumner returned to his senatorial duties on December 15, 1859.²⁰

In 1861, Sumner was chairman of the Senate Committee of Foreign Affairs, urged immediate emancipation, employment of Negro soldiers, and confiscation of Confederate property. Through the war he delivered numerous speeches supporting the administration and emancipation.²¹ He wrote several articles to various journals in the North and one article was released in pamphlet form by the Atlantic Monthly; most of his article was pro-Union, therefore, favorable for publication in pamphlet form by the Atlantic Monthly.²²

Sumner's activities in the Senate for abolition of slavery were consistent and great in number. Seldom did he pass an opportunity to speak for emancipation; from 1861 to 1863 he often conferred with Lincoln on the issue of emancipation.²³ After the war Sumner remained active in politics, including taking part in the proceedings to impeach President Johnson.

²⁰The National Cyclopaedia of American Biography, III, 301.

²¹See C. E. Lester, Life and Services of Sumner; Edward L. Pierce, Memoir and Letters of Charles Sumner; Storey, pp. 247-260.

²²This thesis, p. 51, Footnote 34.

²³Storey, pp. 229-231.

George Franklin Comstock, 1811-1892

A notable jurist, Comstock graduated from Union College in 1834 and then entered law in Syracuse, New York in 1837. After ten years of specializing in legal research, he was appointed as Reporter of the Court of Appeals in New York. His interests were not only law; he organized savings banks, including the Syracuse Savings Bank in 1849. As a result of his legal and banking interests, he was appointed by President Fillmore Solicitor of the Treasury of the United States.²⁴

By 1855 Comstock was an active nativist in the American Party and in that year became one of the judges of the United States Court of Appeals. Within six years, he was Chief Justice.²⁵

During the Civil War, Comstock rejected Sumner's views of Reconstruction, Representative Thaddeus Stevens' conscription and Reconstruction views, and Lincoln's plan for Reconstruction in December, 1863; Morse conferred with Comstock and published his pamphlet opposing the Republican plans for Reconstruction.²⁶

Comstock argued that the Constitution had so firmly and permanently fixed the relationship

²⁴The National Cyclopaedia of American Biography, XII (New York: James T. White and Co., 1906), 151.

²⁵Ibid.

²⁶Freidel, II, 873; see also, Mabee, pp. 354-355.

between the states and the Federal Government that not only had secession been illegal on the part of the states but also, since they could not leave the Union, their powers within it remained unimpaired.²⁷

Also, Comstock believed that slavery was an issue to be settled by the individual states, refuting the military measures taken by the administration.

After the war Comstock was involved in several nationally publicized legal cases, and by 1869 assisted the founding of a number of schools; also, he became the director or president of many manufacturing and commercial corporations.

Anonymous Author(s) for the Union League of Philadelphia, 1863

No author has been credited for writing the Union League pamphlet, Abraham Lincoln, but several comments by members of the League give insight on the political conscience behind the pamphlet.

Morton McMichael, lawyer and investor-owner in numerous journals and newspapers, stated, January 11, 1864:

Executive power is necessarily prominent and active in periods of civil strife and public danger. . . . Who, then, is so fit to lead us into the uncertain future, to cope with its difficulties, to solve its problems, to front its dangers, as the man who has thus been tried and not found wanting?²⁸

This attitude of trust and confidence exhibited by

²⁷Freidel, II, 873.

²⁸Chronicle of the Union League, pp. 119-120.

McMichael was the same sentiment expressed in the pamphlet, Abraham Lincoln, but not the exact language. Also, the League openly endorsed every administrative act by Lincoln during his first three years as President, concluding:

Lincoln's career is traced with graphic and skilful [sic] art, culminating in a striking summary of his strong characteristics as a man and a statesman, which for its eloquence and analytic force must be preserved here as a fitting type of the Union League's proud record of patriotic service in the field of high politics.²⁹

The League's attitude toward emancipation had been primarily abolitionist, but not radical. The main focus of the League was on the logical and moral obligation to declare that slavery cease throughout the United States and its territories.³⁰

Summary

Except for Samuel F. B. Morse, each man in this chapter was a lawyer of some renown with deep-seated attitudes on the issue of emancipation. The anti-slavery men, Sumner, Lowrey, and the members of the Union League of Philadelphia, were prominent men in their professions and leaders in the Northern society. Curtis, Morse, Vallandigham, and Comstock, sternly opposed the emancipation policies of the administration, but, like the pro-Union men, were prominent in law and politics.

²⁹ Ibid., p. 119.

³⁰ Ibid., pp. 34-36.

As politicians, lawyers, journalists, publicists, with impressive academic backgrounds, these men intellectually examined the Government's role during a time of war and civil strife. There was no touch of cowardice about them, rather they were activists in desperate times. Their views did not change in the postwar years; they continually argued with greater experience and with historical precedent on the issues they had faced during the war.

CHAPTER V

ANALYSIS OF UNION PAMPHLETS

Introduction

This chapter examines the arguments and evidence of pamphlets dealing with the Emancipation Proclamation from September, 1862, to March, 1864. Each pamphlet is individually examined and evaluated. A brief statement of the circumstances of the time of publication prefaces each pamphlet. Most of the pamphlets include in their prefaces extracts of the documents under discussion. These extracts are described and discussed by this writer; some of the extracts are included in the Appendix. Many issues in the pamphlets have been omitted from the analysis except for those directly correlating to the arguments and evidence on the Emancipation Proclamation. The analysis follows the arguments as they occurred in the pamphlet and cited in their entire content, interpreted when necessary, and periodically summarized or compared to its prior arguments and evidence. An evaluative summary follows, and except for Benjamin R. Curtis' pamphlet, the summary compares the pamphlet with those examined previously.

Throughout the pamphlets there are underlying themes. On one side there are men favoring maximum freedom for the individual white man to enslave his fellow man and/or to harass his government in wartime. On the other side are those accepting the administration, though sometimes reluctantly, as the only means of surviving the crisis. The irony in the position of the more radical Republicans is evident: on the grounds of expediency, or "military necessity," they condone the extension of martial law over border states' areas, yet fight for the Negro slaves.

Benjamin Robbins Curtis, "Executive Power," Cambridge, 1862

Shortly after the publication of the September 22, 1862, Emancipation Proclamation,¹ Northern conservatives denounced the act. Benjamin Robbins Curtis immediately opposed the proclamation in his pamphlet, Executive Power, based on its constitutionality and that Lincoln had violated his presidential powers.

The pamphlet opened with extracts of the Proclamations of September 22, and of September 24² on the necessity of tribunal law to suppress insurrection and the suspension of the writ of habeas corpus. Included in the extract was the order of the Secretary of War, September 26, stating the

¹Appendix D. When necessary for further clarity, some of the documents in the appendix have been footnoted. Some minor changes occurred before publication and after, therefore, special note has been given to them as they appear.

²Appendix E.

appointment of provost marshals to carry out the actions requested and so ordered in the aforementioned proclamations.³

Curtis began his pamphlet stating why he needed to examine the three proclamations:

There is nothing . . . which should prevent a candid and dispassionate discussion either of their practical tendencies, or of the source of power from whence they are supposed to spring.⁴

Of this "source of power" concerning the Emancipation Proclamation, Curtis explained:

The proclamation of emancipation, is . . . only a declaration of what . . . might prove expedient, within yet undefined territorial limits, three months hence, thirty days after the next meeting of Congress, and within territory not at present subject even to our military control. . . . Such an executive declaration . . . must be understood by the people to be liable to be modified by events, as well as subject to such changes of views, respecting the extent of his own powers, as a more mature and possibly a more enlightened consideration may produce.⁵

The expediency of the act, Curtis held, was the possibility that it may further the defeat of the Confederacy. However, the "territory not at present subject even to our military control" was not defined and seemingly inconsistent with the remark that the people should be aware of circumstances that could alter the final statement from Lincoln on January 1.

Curtis realized that Lincoln submitted the preliminary proclamation as a recommendation to Congress, but, he

³Freidel, I, 452-453.

⁴Ibid., p. 453.

⁵Ibid., p. 454.

maintained, it could "hardly be supposed that this proclamation was intended to be a recommendation" because Lincoln "makes known to the people of the United States his proposed future executive action."⁶ Curtis was not clear as to whether or not the Chief Executive had the power to submit such a proclamation to Congress, either as a recommendation or as an announcement of executive policy.

After a brief discussion on the rights of inquiry by the people on government issues and policies, Curtis stated that this was "not a government of men," but "a government of laws." Furthermore, the laws were "declared by the Constitution."⁷

Our obedience is due to those laws; and he who would induce submission to other laws, springing from sources of power not originating in the people, but in casual events, and in the mere will of the occupants of places of power, does not exhort us to loyalty, but to a desertion of our trust.⁸

Curtis did not explain his premise that the United States, under the Constitution, was "not a government of men," but one of laws. Nor did he clarify whether or not the enforcement of existing laws was an executive responsibility. But, Curtis reasoned that these laws were entrusted to the President, and except for the will of the people, unalterable; if authority were exerted by any source

⁶Ibid., p. 454.

⁷Ibid., p. 455.

⁸Ibid., p. 456.

of power other than the Constitution or the people, then that power was abusive and not trustworthy. Curtis did not believe it was Lincoln's intent to expedite existing laws under the Constitution, but he admitted that "the war in which we are engaged" was just and necessary. Curtis did not clearly state what he meant by just and necessary, but some indication of what he believed them to be was suggested in his following statement:

With what sense of right can we subdue them by arms to obey the Constitution as the supreme law of their part of the land, if we have ceased to obey it, or failed to preserve it, as the supreme law of our part of the land.⁹

Curtis felt that it was a contradiction to submit the Confederacy to Northern interpretations of the Constitution of the United States when it appeared that the North itself had not followed the laws of the Constitution, especially when the war was just and necessary only to subdue the South by arms to obey the Constitution.

Curtis then stated those areas of the proclamation he would not discuss:

I do not propose to discuss the question whether the . . . [proclamation] . . . can have any practical effect on the unhappy race of persons to whom it refers; nor what its practical consequences would be, upon them and upon the white population of the United States, if it should take effect; nor through what scenes of bloodshed and worse than bloodshed it may be, we should advance to final conditions; nor even the lawfulness, in any Christian or civilized sense, of the use of such means to attain any end.¹⁰

⁹Ibid., p. 456.

¹⁰Ibid., pp. 456-457.

Standing on his assumption that this was a "government of laws," not of men, Curtis questioned the Chief Executive's action.

If the entire social condition of nine millions of people has . . . been allowed to depend upon the executive decree of one man, it will be the most stupendous fact which the history of the race has exhibited.¹¹

Apparently, Curtis' argument was not so much against the proclamation as it was against the issuing of policy by one man, namely, the President of the United States.

I do not perceive that this vast responsibility is placed upon the President of the United States. I do not yet see that it depends upon his executive decree, whether a servile war shall be invoked to help twenty millions of the white race to assert the rightful authority of the Constitution and laws of their country, over those who refuse to obey them. But I do see this proclamation asserts the power of the Executive to make such a decree.

I do not yet perceive how it is that my neighbors and myself . . . may be enforced by constitutional means, should be subjected to the possibility of military arrest and imprisonment, and trial before a military commission, and punishment at its discretion for offences unknown to the law; a possibility to be converted into a fact at the mere will of the President . . . but I do perceive that this executive power is asserted.¹²

Earlier Curtis held that the war was just and necessary for the purpose of submitting the Confederacy to the laws of the Constitution, but moreover, the President did not have the power by executive decree, to advance that submission. Curtis saw no need for a Constitutional amendment, especially through the originating source of power of the presidency;

¹¹ Ibid., p. 457.

¹² Ibid.

this would only subject Northern patriots to the Executive's will.

However, Curtis felt that some exceptional events could warrant executive proclamations.

I am quite aware, that in times of great public danger, unexpected perils, which the legislative powers have failed to provide against, may imperatively demand instant and vigorous executive action, passing beyond the limits of the laws; and that, when the Executive has assumed the high responsibility of such a necessary exercise of mere power, he may justly look for indemnity to that department of the government which alone has the rightful authority to grant it; --an indemnity which should be always sought and accorded upon the clearest admission of legal wrong, finding its excuse in the exceptional case which made that wrong absolutely necessary for the public safety.¹³

According to Curtis, then, the only time the Chief Executive had the power to assert his will was when the legislative branch failed to ensure the safety of the citizens, and that this Executive action had power only through the judicial branch of government. Therefore, as the Chief Executive corrected errors of the legislative branch, the judicial element amended executive decisions. Curtis did not illustrate how a check and balance of executive action by the judiciary would operate; nor did he provide particulars that would be exceptions for executive action.

Curtis believed that the three proclamations in the Prelude of the pamphlet were out of order in a democratic society:

They do not relate to exceptional cases--they establish a system. They do not relate to some

¹³Ibid.

instant emergency--they cover an indefinite future. They do not seek for excuses--they assert powers and rights. They are general rules of action, applicable to the entire country, and to every person in it; or to great tracts of country and to the social condition of their people; and they are to be applied whenever and wherever and to whomever the President, or any subordinate officer whom he may employ, may choose to apply them.¹⁴

In other words, Curtis' argument was that the actions of the Executive were dictatorial because they denied the people their democratic process of government. Curtis then immediately considered the characteristics of the Emancipation Proclamation and the military powers of Lincoln.

Above all, let us examine that portentous cloud of the military power of the President, which is supposed to have overcome us and the civil liberties of the country, pursuant to the will of the people, ordained in the Constitution because we are in a state of war.

And first, let us understand the nature and operation of the proclamation of emancipation.¹⁵

This first characteristic of the proclamation was accurately paraphrased by Curtis, that "all persons held as slaves, within such States or parts of States as shall be designated" and, by military assistance, be freed from their services. Curtis maintained that slaves were held "to service by the laws of the respective States in which they reside," authorized under the present system of government. As a result, states' rights were violated.

This proclamation, then, by an executive decree, proposed to repeal and annul valid State laws which

¹⁴Ibid., pp. 457-458.

¹⁵Ibid., p. 458.

regulate the domestic relations of their people. Such is the mode of operation of the decree.¹⁶

Curtis' contention that the war was just and necessary becomes clearer in light of the above statement. First, Curtis held that by the use of arms, the North had to submit the rebellious states to the Constitution, not in the name of freeing the slave, but only to the supreme law of the Constitution. Second, he maintained that although the South had committed acts separating them from the Union and the laws of the Constitution, they were still entitled to the same rights held previously in the Union, especially when they re-entered the Union after the war. These arguments presented by Curtis were fairly disorganized, but his second argument was the very issue which plagued Lincoln, eventually forcing him to use his military powers to enforce emancipation.¹⁷

Curtis' second contention was based on the second characteristic of the proclamation.

This executive decree holds out this proposed repeal of State laws as threatened penalty for the continuance of a governing majority of the people of each State, or part of a State, in rebellion against the United States.¹⁸

The inference that states not yielding to the proclamation would suffer penalties was unsupported by Curtis. In fact, in the preliminary proclamation Lincoln did not state

¹⁶Ibid.

¹⁷Kempf, III, 1157-1187; Nicolay and Hay, VI, 151-166; Current, pp. 244, 269-271.

¹⁸Freidel, I, 458-459.

that the decree was a penalty for being in rebellion against the Union; the purpose of the proclamation was clearly stated in the first paragraph, which Curtis omitted from his extract:

The war will be prosecuted for the object of practically restoring the constitutional relation 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.¹⁹

This purpose could be interpreted as a threat to the South, but the preliminary proclamation provided only the instructions on how to return to the protection of the Constitution and the Union.

Curtis returned to the argument on where the actual source of power lay, which was his main argument against the decree.

The President hereby assumes to himself the power to denounce it as a punishment against the entire people of a State, that the valid laws of that State which regulate the domestic condition of its inhabitants, shall become null and void, at a certain future date, by reason of the criminal conduct of a governing majority of its people.²⁰

Curtis' interpretation of the decree was seemingly based more on inference than what was actually stated:

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.²¹

¹⁹Appendix D, paragraph 1.

²⁰Freidel, I, 459.

²¹Appendix D, paragraph 4.

In other words, through elections the rebellious states could adopt an emancipation policy which would be considered state law, therefore, a step toward peace and re-union. Curtis, on the other hand, believed that the Chief Executive only usurped his powers and was becoming despotic.

Curtis' third argument against the decree was that because of the two previous harms, it punished loyal Southerners.

It is not . . . a punishment of guilty persons, that the commander-in-chief decrees the freedom of slaves. It is upon the slaves of loyal persons, or of those who, from their tender years, or other disability, cannot be either disloyal or otherwise, that the proclamation is to operate, if at all; and it is to operate to set them free, in spite of the valid laws of their States, because a majority of the legal voters do not send representatives to Congress.²²

Curtis did not cite who those "loyal persons" were, or how the decree would actually punish them. As a repeal of "valid laws of their States," Curtis believed that the will of people of the South would only be a reflection of the will of the President, indicating that they were living in a dictatorship.

Curtis' final argument against the proclamation was that the Southern states had the right to determine their own domestic relations.

It is easy to understand how persons held to service under the laws of these States, and how the army and navy under the orders of the President, may

²²Freidel, I, 459.

overturn these valid laws of the States, just as it is easy to imagine that any law may be violated by physical force. But I do not understand it to be the purpose of the President to incite a part of the inhabitants of the United States to rise in insurrection against valid laws; but that by virtue of some power which he possesses, he proposes to annul those laws, so that they are no longer to have any operation.²³

Because the victor of battle could determine the destinies of the conquered and their laws, Curtis concluded that the usurpation of executive power to cause insurrection gave unlimited powers to the President of the United States.

Lincoln's last quotation following the extract of the Emancipation Proclamation provided Curtis, for the remainder of the pamphlet, arguments on the President's violation of executive power. Curtis' arguments against the two other proclamations following the extract of the preliminary proclamation were based upon Lincoln's statement that "as commander-in-chief of the army and navy, in time of war I suppose I have a right to take any measure which may best subdue the enemy."²⁴ Curtis agreed:

So far as I know, no source of these powers other than the authority of commander-in-chief in time of war, has ever been suggested.²⁵

The only sources of power, Curtis held, were through the will of the people, the powers of Congress, and the scrutiny of the judicial branch. Therefore, since these

²³Ibid.

²⁴Appendix C.

²⁵Freidel, I, 460.

powers were never exercised, a violation of executive powers had occurred even though they were not stated in the Constitution.²⁶ After quoting Article II, Section 2, paragraph 1 of the Constitution, Curtis stated what he deemed as the military powers of the President.

He is general-in-chief; and as such, in prosecuting war, may do what generals in the field are allowed to do within the sphere of their actual operations, in subordination to the laws of their country, from which alone they derive their authority.²⁷

To support this contention Curtis cited several Supreme Court actions,²⁸ but these cases applied only to the confiscation of goods and property during war time and not a consideration of Executive power subordinate to the Constitution.

As for Executive powers subordinate to the Constitution, Curtis stated:

All the powers of the President are executive merely. He cannot make a law. He cannot repeal one. He can only execute the laws. He can neither make, nor suspend, nor alter them. He cannot even make an article of war. He may govern the army, either by general or special orders, but only in subordination to the Constitution and laws of the United States, and the articles of war enacted by the legislative power.²⁹

Curtis based his arguments on Sections 2 and 3 of

²⁶Ibid.

²⁷Ibid., p. 463.

²⁸Mitchell vs. Harmony (13 How. 115), Mostyn vs. Fabrigas (1 Cowp. 180), were the two primary cases cited by Curtis.

²⁹Freidel, I, 465.

the Second Article of the Constitution, which state Presidential powers. But, the Sections are not as clear as Curtis seemed to believe, for example, Section 3 states:

He [the President] shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.³⁰

Before the presentation of the preliminary proclamation to the Congress, Lincoln replied to Greeley that he would do whatever he deemed expedient to reunite the Union,³¹ and he appeared to be within his authorized powers to present for consideration and recommendation his proclamation of emancipation. However, Curtis did not consider this as a justified interpretation, and maintained only that Lincoln had exercised powers of a "despotic" monarch.³²

Summary

Benjamin R. Curtis' arguments against the Emancipation Proclamation of September 22, 1862, in his pamphlet, Executive Power, were (1) the proclamation was not intended to be a recommendation to Congress; (2) the will of the President could, by enactment of the proclamation, exert itself over that of the people and the Constitution; (3) the proclamation was an executive decree violating states' rights; (4) the Constitution stated the powers invested by

³⁰Hofstadter, p. 98.

³¹Kempf, III, 1153.

³²Freidel, I, 472.

the President, who had become despotic.

Curtis' arguments were basically the issues which Lincoln himself had to justify, especially the issue of Constitutional power. But, Curtis continually failed to provide supporting materials which would have carried his arguments. This was a result of several deficiencies. First, Curtis' discourse was primarily philosophical, seemingly based on personal and ethical opinions on the conduct of the Chief Executive. Second, he did not provide any specific evidence to support his generalities of what would become the future powers of the President. Third, and most important, Curtis' arguments lacked clarity; his assertions and contentions were neither defined nor illustrated, placing some doubt on the truth of his arguments. This critic was left with the impression that a more critical and candid mind should have been at work.

Grosvenor P. Lowrey, The Commander-in-Chief; A Defence upon Legal Grounds of the Proclamation of Emancipation; and an Answer to Ex-Judge Curtis' Pamphlet, Entitled "Executive Power," New York, 1863.

After the release of Curtis' pamphlet, Grosvenor P. Lowrey published an extensive refutation. This pamphlet was published twice: immediately following Curtis' pamphlet,³³ and after the January 1, 1863, announcement of the final proclamation. The second edition was an enlargement of the

³³Freidel, I, 474; date and amount of circulation of publication unknown.

first, elaborating on the international laws of war and public policy to establish the Emancipation Proclamation as a justified war measure and to support Lincoln's actions.

Lowrey started his second pamphlet, stating:

In the first edition of this pamphlet was published the Emancipation Proclamation of Sept. 22, 1862; but the interest of that document is now merged in its successor; of Jan. 1, 1863, which we print in its place.³⁴

Besides the complete printing of the January 1 decree, Lowrey included in the Preface a quotation from James McKaye's pamphlet, The Birth and Death of Nations.³⁵

But what a bottomless slough of absurdities, are even honest men compelled to swelter in, when once they have put their hand in that of slavery, and allowed themselves to be led by it! . . . Only one act, it seems, imposed by the terrible exigencies of war, is unconstitutional, and that is, the destruction of its cause, slavery! No wonder that the great heart of the world swells with a suppressed shout of derision at such acumen and statesmanship.³⁶

To close the Preface, Lowrey used an extract from "Professor Parsons'"³⁷ letter to the Boston Daily Advertiser.

³⁴Ibid.; see Appendix G; Lowrey accurately reprinted the final proclamation.

³⁵Ibid., p. 476; James Morrison Steele McKaye was a Garrison abolitionist, who was one of three commissioners appointed by Lincoln to investigate the conditions of the Negro in the South. The date, publisher, and title of his pamphlet is unknown.

³⁶Ibid.

³⁷Theophilus Parsons was Dane Professor of Law at Harvard when he wrote the letter; Harvard conferred on him the degree of LL.D. in 1849; he was a fellow of Harvard, and member of the Massachusetts Historical Society.

Judge Curtis' argument would give the Constitution and the law to the rebels, as their sword to smite with, and their shield to save them; and leave it to us only as a fetter.³⁸

Both emotionally tainted extracts were preludes to Lowrey's arguments and were probably used to excite the readers towards a favorable disposition for his arguments for emancipation.

Lowrey's opening remarks were both a recognition of a need to defend the Emancipation Proclamation, and the necessity of refuting Curtis' arguments.

When Congress . . . passed the bill known as the Emancipation Act, there arose all over the land a loud cry of remonstrance, coming mostly from timid patriots and bold sympathizers with rebellion. . . . It was made to appear . . . that the national legislature had exceeded its constitutional functions, and usurped a power which could be exercised lawfully by the President acting as Commander-in-Chief in time of war alone. . . . Although men of legal eminence were found among its adversaries, it entered no man's mind to question it upon legal grounds, until Ex-Judge Curtis . . . made that issue public. . . . The avowed object of that pamphlet is, not alone to question the power of the President to emancipate the slaves of rebels, but to warn the American people against encroachments upon their civil liberties, by various abuses of those vast powers belonging in time of war to the Commander-in-Chief of the army and navy. . . . I have felt it an imperative duty to give whatever thought has been given me upon the grave subject discussed by him.³⁹

To open his refutation against Curtis' pamphlet, Lowrey restated the contention in Executive Power that the Emancipation Proclamation of September 22, was not within the authority of the President on three levels.

³⁸Freidel, I, 477.

³⁹Ibid., pp. 477-478.

There are, touching the Emancipation Proclamation, three questions only. First: Had the President, as the civil executive, constitutional power to issue it? Second: Granting he had the power, was it expedient to use it? Third: Has he power, as Commander-in-Chief, to issue it at this time, as an act of war? These three questions . . . are so indiscriminately treated, as sometimes to mislead, and sometimes confuse the reader.⁴⁰

Lowrey's restatement of Curtis' arguments were brief and accurate. But before Lowrey attempted to show that the proclamation was lawful and necessary as a measure of war, he felt it more important to "review the peculiar character and purpose of this war, and the situation in which it finds us."⁴¹

The true and real life of a nation is the political idea upon which it is based. The ideas of our government are, Liberty and Unity. The Constitution . . . is not the cause, but the means of American Freedom. The charter of our free system of laws is the Constitution, but the charter of the Constitution is, the purposes for which it was erected, and which are thus declared in the preamble.⁴²

Although Lowrey did not directly say so, his argument agreed with Curtis' assertion that a government is one of laws, not of men.⁴³ Lowrey's constitutional philosophy, however, provided that the flexibility of the Constitution allowed its constituents to be regulated by man-made law.

After an extensive examination of codes of war, principles of government that "underlie the Constitution,"

⁴⁰Ibid., p. 478.

⁴¹Ibid.

⁴²Ibid., p. 480.

⁴³Ibid., p. 455.

and a brief summary of Southern actions against the United States,⁴⁴ Lowrey stated the character, purpose, and situation of the war.

While the Commander-in-chief is a constitutional officer, his war functions are derived from the broad code of war; and that the general principles of that code have been made sufficiently intelligible for our present purpose; and it being borne in mind that the war is upon our part a struggle for national life, and principles of government which underlie the Constitution; and that the enemy, who have made war without cause, are also rebels and traitors, against whom the law of nations permits the utmost stretch of all the characteristics of war; we are in a situation to proceed to a more intelligent examination of Mr. Lincoln's Proclamation of Emancipation, and Judge Curtis's argument against it.⁴⁵

One of Curtis' weakest points in his pamphlet was a lack of definition for clarity. Unlike Curtis, Lowrey gave his interpretation of the character, purpose, and situation of the war, with philosophical and pragmatic definitions. What appeared to be an advantage in Lowrey's refutation against Executive Power were sufficiently defined premises to conclude from on the issues.

Lowrey began his refutation by stating what be believed to be Curtis' greatest fallacy.

It is, that no man can, at the same time, be our enemy, deserving our utmost wrath, and a friend, entitled to our support and protection. Rebels in arms against the Constitution, must not be spoken of, as men having constitutional rights. The whole scheme of Judge Curtis' argument seems grounded in a studied confusion of these two classes of persons. . . . While the loyal citizen retains all his constitutional and legal rights, as in peace, the armed rebel, having

⁴⁴Ibid., pp. 481-486.

⁴⁵Ibid., p. 486.

voluntarily withdrawn from the protection of the Constitution and submitted himself to the arbitration of war, has the same rights as any traitorous public enemy and parricide--no more.⁴⁶

Throughout, Curtis was not clear as to whether or not the Southern states were still within the protection of the Constitution, even though the war was just and necessary to return the rebels back to the supreme law, the Constitution. Lowrey clearly defined his position, which left fewer interpretations open to the readers.

Lowrey's examination of the Emancipation Proclamation and the specific arguments of Curtis started with a restatement of the first paragraph of the January 1, 1863 proclamation. Of particular importance to Lowrey was Lincoln's purpose in issuing the proclamation:

The war will be prosecuted for the object of practically restoring the constitutional relations between the United States and the people thereof.⁴⁷

In subordination to this first and primary object, Lowrey briefly summarized the remaining goals of the proclamation.

To announce his intention to recommend, as President, the adoption of certain measures by Congress; as a routine duty of the Commander-in-chief, he promulgates an article of war, and calls attention to an act of Congress. But, the important portion of the proclamation is that wherein he, as Commander-in-chief, embodying all the executive war powers and rights of the nation, as in his office of President he embodies the element of their civil executive sovereignty, declares that from a certain

⁴⁶ Ibid.

⁴⁷ Ibid., p. 487; see Appendix G; underlining is Lowrey's.

day all persons held as slaves in states or portions of states, the people whereof shall then be in rebellion, shall be thenceforward and forever free.⁴⁸

Lowrey used the same evidence as Curtis, the Second Article of the Constitution, but his interpretation of the Article's sections was more literal. Basically, Lowrey did not philosophically texture his arguments, nor rely upon his personal opinion as to what the Article should mean in relation to Presidential powers. For example, Article II, Section 3, states that the President "recommend to" the Congress "their consideration such measures as he shall judge necessary and expedient." Lowrey maintained that the President did act within his powers and cited the opening paragraphs of the Emancipation Proclamation, which stated Lincoln's intention to recommend the writ to the Congress and then cited Section 3, which contained the same language. Lowrey used the same mode of evidence to support Lincoln's promulgation of an article of war. In using the language of the Constitution and the Emancipation Proclamation, Lowrey felt he had established a consistency in the actions of Lincoln, and maintained that the President was within his executive powers.

Lowrey then restated Curtis' arguments and briefly answered the first.

⁴⁸
Ibid., p. 487.

The first question concerning this remarkable claim to power is--Has he, as civil executive, the constitutional authority required? To this the unequivocal answer is--No!⁴⁹

This was the lone area of agreement in the arguments of Curtis and Lowrey. However, Lowrey did not state why he believed the Emancipation Proclamation would be against the Constitution in peace time. In his earlier examination of the codes of war, Lowrey listed several principles which were functional characteristics of war and one principle seemed to be his reason for the proclamation as a justified war measure:

We may seize upon private property, by way of penalty for the illegal acts of individuals, or of the community to which they belong.⁵⁰

To support this contention Lowrey cited Halleck's International Law,⁵¹ Winfield Scott's Proclamation in Mexico, April 11, 1847,⁵² and Executive Document, Number 56, in the 30th Congress.⁵³ These documents provided that not only were communities and towns liable to civic control by military forces, but that the citizens were liable to punishments, including seizure of property.

⁴⁹ Ibid.

⁵⁰ Ibid., p. 485.

⁵¹ Henry W. Halleck, International Law (San Francisco: Office of Alta, California, 1861), p. 458.

⁵² Frederick Merk, Manifest Destiny and Mission (Toronto: Random House, 1963), pp. 181-183.

⁵³ Cong. Globe, 30th Cong., 1 sess., vol. 18, Ex. Doc., No. 56, p. 127.

Lowrey then moved to the second and third arguments forwarded by Curtis.

Second--Had he the power, as Commander-in-chief, to issue the proclamation at this time as an act of war? Third--Having the power, was it expedient to exercise it?⁵⁴

Before looking further into these two arguments of Curtis, Lowrey warned the reader not to lose sight of what it was Lincoln purposed in the proclamation:

To restore the constitutional relations between the United States and the people thereof, in certain insurgent districts.⁵⁵

To continue his argument, Lowrey stated what he believed to be the constitutional relations that were suspended or disturbed.

The obligation and privilege to join in a common government; the obligation and right of common defense; the duty to obey and the right to enjoy protection under the supreme law of the land.⁵⁶

In other words, the constitutional relations were suspended and disturbed by the Southern states in rebelling against the Constitution, and voluntarily withdrawing from the protection of the Constitution. At this point Lowrey defined, by analogy, Constitutional rights and Constitutional relations.

Was ownership in horses one of the constitutional relations between the states? No. But it was a right, nevertheless, and its chief protection was the Constitution, though that instrument contains no mention of it.

⁵⁴Freidel, I, 487.

⁵⁵Ibid.

⁵⁶Ibid.

Was ownership in slaves one of the Constitutional relations referred to?

Guided by the same principle, we answer, No! But it was a right, nevertheless, enjoying the same kind and degree of protection. Though often carelessly spoken of as a constitutional right, it had no special constitutional warrant, over any other property right, but rested under the same general provision which reserves to the states all powers for the regulation of their local concerns not granted to the general government.⁵⁷

To carry the analogy further, Lowrey compared the right to own horses and the right to own slaves during a time of war.

If . . . there existed by state law a right of property in unreclaimed wild animals . . . would it, in time of war, and as a measure of harm to their hostile owners, be unconstitutional to kill or entice away those beasts? Clearly not. It appears, then, that it is not necessary to the restoration of constitutional relations that the dead killed by us in battle, and who had a constitutional and natural right to life, shall be restored; nor that the horses seized by us for military purposes from citizens of rebellious communities, and which were owned by natural, and protected by constitutional law, shall be returned; nor that the animals ferae naturae shall be returned to the state, place, and ownership, from which they were taken. How is it, then, that slaves, who are certainly held by a lower tenure than horses, and precisely the same tenure as the wild animals in the suppositious case, must alone be kept in the status in which the war finds them, under penalty that by the disturbance of the relation between them and the owners, some incurable fracture of constitutional relations will take place.⁵⁸

Lowrey's analogy had some merit, for, if horses and slaves were considered property, entitlement of ownership of property was a right, regardless of the type of property,

⁵⁷ Ibid., pp. 478-188.

⁵⁸ Ibid., p. 488.

and, in war, if seizure of property was expedient to thwart the efforts of the opposition, then it meant all property. Although his assumption on the status of the slave seemed biased, Lowrey's idea was internally consistent and relatively free of contradiction. However, Lowrey did not clearly distinguish between constitutional rights and relations. At best, ownership of property was a right granted under the Constitution, but the constitutional relation was that which provided protection of the right of ownership granted by the Constitution.

Lowrey, to conclude his arguments that it was Lincoln's purpose to restore the Constitutional relations between the rebellious states and the Union, and use any measure to end the war, stated:

It seems clear, then, that the President will not necessarily find his purpose of restoring constitutional relations, rendered futile by the fact--if such should happen to be the case--that the Commander-in-chief, in the prosecution of his purpose to conquer rebellion and end the war, has, either temporarily or permanently, disturbed the relation between certain rebel masters and their horses and slaves.⁵⁹

Lowrey used specific instances and analogies to establish the right of the Union to supersede the rights of the rebellious communities and citizens of the South, and his arguments to this point in refuting Curtis' arguments were reasonably well constructed.

One of Curtis' contentions against issuing the Emancipation Proclamation was that it annulled and repealed

⁵⁹Ibid., pp. 488-489.

valid state laws. In refutation of this argument, Lowrey again stated the Act's purpose.

To set free, by force of military power, and as a measure of offence and defence, the slaves of rebellious communities. . . . They are forcibly held to this service by the same men, and the same inimical authority, which are now assaulting the life of the nation. In the interest of the nation, and for the purpose of weakening the enemy, the Commander-in-chief proposes to disregard and invite the persons so held, to disregard this local authority, and cease to serve it.⁶⁰

Lowrey then accurately paraphrased Curtis' main argument against the executive decree, stating that the basic fallacy was in the premises.

The first propositions, that the proclamation is an "executive decree," and that to free slaves, is to annul and repeal the laws under which they were held.⁶¹

One of the important features of the proclamation, according to Lowrey, was that Lincoln described himself as the executive, "when . . . he should have called himself the commander-in-chief." But, Lowrey maintained, this was not a great problem because the assumption was that as President during a time of war, Lincoln was the Commander-in-chief; also, the term executive was "a synonym for 'president.'" In any case, Lowrey asserted, Lincoln "meant military executive and not civil executive." Even though Lowrey implied that the semantics of Lincoln's statements did not interfere with the reality of his powers, he was disturbed by Curtis' use of the word decree, a title which suggested

⁶⁰Ibid., p. 489.

⁶¹Ibid.

emperors and absolutism. Lowrey did not define decree and proclamation, other than to state that decree startled the public.⁶² Although Lowrey never clarified his reasons for the use of the terms, from this point to the remainder of the pamphlet, he used "general order" in place of "proclamation."

In answer to Curtis' argument on the violation of state laws, Lowrey contended:

The act being military, is capable to produce only a military result. The military power suspends, but never destroys the law. . . . But though military power never destroys the law, its very first and principal effect is to destroy rights and things existing under the law. It is this which constitutes war.⁶³

In other words, counter to Curtis' argument that the military actions of the Union were destroying state laws, Lowrey maintained that state laws were only being denied to the citizens, not eliminated. This was consistent with Lincoln's proposal to hold state elections to make emancipation law. The Constitution did not, in 1863, clarify the responsibilities of military forces while engaged in the take-over of a community. The evidence Lowrey used in support of his counter-argument was vague, but he seemed to be using one of the principles on the conduct of war:

The state of war into which the enemy has put himself, permits us also to take advantage of any

⁶² Ibid., pp. 489-490.

⁶³ Ibid., p. 490.

occasion or disposition which we may find in his subjects, or any one of them, to commit treason against him.⁶⁴

Essentially, Lowrey maintained that whatever occurred during war time, by a military force, was necessary.

If . . . the military power has destroyed the house, the owner will find himself debarred from its enjoyment, it is true, but, by the operation of the necessity which caused its destruction, and not by anything inherent in military law or power. The general rule as to immoveable property is, that peace restores the proprietor to his former rights, unless the terms of peace prescribe otherwise; as to moveable property, the contrary rule, that peace confirms and perfects the title of the captor, prevails, subject to exceptions hereafter to be mentioned.⁶⁵

By stating the general rule that peace restored former rights, unless the terms of peace prescribed otherwise, Lowrey may have meant that individual rights would be preserved unless an intervening act during war changed the law, for example, the proclamation would be a stipulation for peace. Although Lowrey maintained consistency in his arguments to this point, he did not clarify his examples and analogies as he had in refutation of the other arguments by Curtis.

However, Lowrey used an example to clarify the powers of military takeover, especially under the aegis of the proclamation.

⁶⁴Freidel, I, 485; this statement by Lowrey was derived from Jean Jacques Burlamaqui, The Principles of Natural and Politic Law, II (London: J. Nourse, 1763), translated from French by Mr. Nugent, Chapter 6, paragraphs 18, 21, 24.

⁶⁵Ibid., p. 490.

What this . . . general order, proposes to do, is, to suspend the relation between Robert Toombs, a voluntary white resident of Georgia, who is, by that fact, presumptively a rebel, and Tom, his slave, who is presumptively loyal, so far as he is free to be anything. The civil status of Tom was slavery. . . . His military status is to be freedom. . . . This does not abolish slavery; it only abolishes the slave.⁶⁶

When military law was removed, according to Lowrey, Tom could be returned to slavery through the law existing before martial law. But, Lowrey held, the proclamation did not intend this purpose; Lincoln's act was far more reaching, that is, the slave would be forever free. After quoting Lincoln's opening of the proclamation, Lowrey combined the purposes of the Union's military force and the Emancipation Proclamation.

The right of the belligerent is, to do his utmost to deprive the enemy of the use of his property; as to irrational animals and dead matter, which form the bulk of all property, the utmost which can be done by the belligerent for that purpose, is to take possession of it himself. . . . The property in question here, is also a person, possessed of reason, speech, and power of action, and thus capable of becoming an ally in the matter of depriving the enemy of his goods. . . . We may reach his slave by proclamation, and invite him, as our ally and by our authority, to lay hands upon himself. . . . Up to this point, we consider the negro as property, because the enemy, against whom the argument is made, so treat him; and we have a right to adopt their ground, so far as it can be made useful to him; and thus far the question has been one of right between belligerents.⁶⁷

Lowrey used Halleck's International Law and Laws of War in support of the "right between belligerents,"⁶⁸

⁶⁶ Ibid., pp. 490-491.

⁶⁷ Ibid., p. 492.

⁶⁸ Halleck, p. 455.

maintaining that the slave released by the general order could never return to that status.

The slave whom we capture as property, is, after his capture and the transfer to himself of all the captured title of his master, no longer a chattel, but a man, insusceptible of recapture, except as a prisoner-of-war, entitled to all the rights and privileged of such persons.⁶⁹

In an extensive footnote to this contention, Lowrey cited several international cases which gave precedent to a belligerent's right to emancipate the slaves of an enemy.⁷⁰

When, even for an instant, his [slave] is suspended, and he [is] remitted to his natural rights as a man, there is no power on earth to take away his freedom, except by a repetition of the original fraud and force. . . . And to prevent it, the "executive government of the United States, including the military and naval authority," is pledged.⁷¹

Lowrey used the examples of the Treaty of 1793 between Britain and America when General Washington remonstrated that a breach of the treaty was committed on the part of the British permitting numerous slaves to follow them back to England,⁷² and Jefferson's complaint on the acts of Lord Cornwallis during the Revolution:

⁶⁹ Ibid., p. 493.

⁷⁰ Lowrey cited John Q. Adams' refusal to accept this policy, Cong. Globe, 27th Cong., 2nd sess., 1841-42, IX, 424; France in St. Domingo in 1793, from Augustin Cochin, L'Abolition de l'esclavage, I (Paris, 1861), 14-29; General Taylor's release of fugitive slaves found in Florida in 1838, approved by the President, House Doc., No. 225, 25th Cong., 2nd sess., p. 32.

⁷¹ Freidel, I, 494-495.

⁷² Jared Sparks (ed.), The Writings of George Washington, VIII (New York: Harper and Bros., 1847), 544-48.

He destroyed all my growing crops, . . . he used, as was to be expected, all my stock of sheep, cattle, and hogs, for the sustenance of his army; . . . he also carried off about thirty slaves. Had this been to give them their freedom, he would have done right.⁷³

The original fraud and force that placed the Negro in chattel was, according to Lowrey, a violation committed by the slave-owner in denying the Negro any rights of consent to be a freed man. To establish that this form of action was abhorrent to other nations, Lowrey cited several cases stating that belligerents could grant full rights and benefits to captured slaves.⁷⁴ Then he returned to the argument of whether or not state laws were repealed or annulled by the proclamation.

It must be plain from what has been said, that it is not the law, but something existing under it, which is destroyed by the overruling force of martial law. . . . The very first effect of all war is the disturbance and destruction of civil right.

If we are not mistaken in supposing that it is now clear that emancipation by the military power, as a military measure, does not annul or repeal state laws, and differs from the result which always ensues where martial law prevails, only by having a wider extent, it remains to inquire whether, standing upon the clean footing of a war power, it is in accordance with the laws of war, and demanded by the necessities of the occasion.⁷⁵

⁷³Thomas Jefferson Randolph, Jefferson's Works: Memoir, Correspondence, and Miscellanies, II (Boston: Gray and Brown, 1830), 426; this was in a letter written to Dr. Gordon, who was unidentified.

⁷⁴The case of The Creole, when mutinous slaves were set free at Nassau and France's emancipation of the slave. These two examples were used extensively in Lowrey's footnotes, although he did cite three other cases where emancipation had occurred after a belligerent had captured the slave.

⁷⁵Freidel, I, 496.

To support that the proclamation was a necessary war measure, Lowrey restated his proposition that once rebels proved themselves unfaithful, in this case the Confederate States to the Constitution of the United States, and constituted war by belligerent acts, the rebels were no longer due allegiance by anyone.⁷⁶ In other words, besides weakening the enemy by reducing his means of sustenance,⁷⁷ the proclamation served as a war measure because it was "put in the power of the enemy himself to avert the danger by a return to duty."⁷⁸ Therefore, once emancipation as a stipulation of peace was voted into state law, the rebel states could return to the protection and duty of the supreme law, the Constitution.

Curtis' argument that the loyal Southerner would be harmed by the proclamation was Lowrey's next refutative task.

It does not appear that there is any considerable number of such persons, or that it is practicable at present to discriminate in their favor.

It is possible, now, to deal only with communities. Individual justice must wait for calmer times. . . . The proclamation . . . promises a recommendation to Congress to provide for compensation to men who have remained loyal, for the loss of their property, including slaves. The loyal men of the South must bear the inconvenience which the war brings upon them, as well as those of the North.⁷⁹

Furthermore, Lowrey thought it ironic that the

⁷⁶Ibid., pp. 484-487.

⁷⁷Ibid., p. 497.

⁷⁸Ibid.

⁷⁹Ibid.

majority of the objections to emancipation were from Northerners and not Southerners.⁸⁰ Lowrey's arguments on state laws; the proclamation as a war measure; and the right of a belligerent to stipulate measures for peace, especially emancipation, were accomplished by resolving the issues to their lowest logical denominators and clarifying the relation of Curtis' contentions to his own. From this point in his pamphlet, Lowrey concluded his arguments by reiteration and summary.

By analogy, Lowrey attempted to summarize why slavery had to be ended to preserve the Union.

Fair Oaks, Antietam, Shiloh, and Bull Run, are related to slavery, just as the branches of a tree are related to its roots, or the assassin's blow to the murder in his heart. Slavery, which is, by its very nature, war with liberty, has simply remitted to the surface of politics some of its inherent tendencies.⁸¹

Lowrey did not explain what he meant by "inherent tendencies," but maintained that Southern states had "entered into a compact of peace with us--the Constitution--and while peace remained, they were beyond the reach of interference."⁸²

But the aristocratic idea, impelled by the necessities of its aggressive nature, has inaugurated war, and by that act become amenable to the code of war, which has for its first maxim--Destruction to the cause of war.⁸³

⁸⁰Ibid., p. 497-498; Lowrey lists the following as loyal Southerners: Alexander Hamilton and Joseph Holt, who became the Judge Advocate General of the War in 1864.

⁸¹Ibid., p. 498.

⁸²Ibid.

⁸³Ibid.

The cause of war, according to Lowrey, was the internal structure of slavery, yet, there was a more external and practical necessity.

It is necessary to distract the attention of the enemy from operations in front; it is necessary, also, to weaken him, by seducing from his service the productive labor by which alone he is enabled to support his armies.⁸⁴

Whether or not slavery served as the economic mainstay of the Confederate war effort is debatable,⁸⁵ but Lowrey assumed that slavery was the economic base of the Southern states and stated that whatever was necessary to end the war must certainly be expedient, and since slavery was the root of the cause, it must be destroyed. Therefore, the proclamation was expedient as a war measure because it helped destroy the Southern economic structure.

In a footnote, Lowrey refuted Curtis' argument that the proclamation would affect the future because it gave the President unlimited powers wherever he chose.⁸⁶

First, . . . when used in favor of rebellion, the strongest argument loses its force; second, that every plan laid in the present, to be executive in the future, is legislative in the same degree; and third, that the field of operations is wherever a rebel lives. The territory is ours, and the federal jurisdiction extends over every foot of it. Moreover, the federal flag is now planted within the

⁸⁴
Ibid.

⁸⁵For an intricate explanation of the argument, see Henry Steele Commager, The Defeat of the Confederacy (New Jersey: D. Van Nostrand Co., 1964), pp. 141-192; included is an extensive bibliography.

⁸⁶Freidel, I, 469-170.

borders of every rebel state, and we are, presumptively, in actual command of every rebellious locality.⁸⁷

In other words, the future actions and recommendations of the President were still within the discretion of the legislative branch; wherever the cause of the war was located, that area had to be destroyed; until proven to the contrary, when territory was occupied by a belligerent, it was in the full control of the belligerent. As a war measure, Lowrey believed that the writ was "the wisest and most statesmanlike act of this administration,"⁸⁸ but, the wisdom and expediency of it, in final consideration, rested upon the President.⁸⁹

Lowrey then forwarded ten conclusions, provided his premises and arguments were correct.

First: Abraham Lincoln, as Commander-in-chief, in time of war, embodies all the executive war powers of the nation. Second: These powers are extra-constitutional, having their origin in the nature of things, and are recognized as an established code by all civilized nations. Third: Principal among them, is the right to end war and obtain security for the future, by destroying the cause of the war. Fourth: The proclamation in question is intended to have that effect, and is considered necessary to that end by the nation, speaking through its supreme military authority. Fifth: The ownership of slaves is to be distinguished from the right to own slaves. Sixth: The former was not one of the constitutional relations which bound this people, and therefore, to destroy the ownership of slaves will not render a restoration of the Union, under the Constitution as it is, impossible, any

⁸⁷Ibid., p. 499, ff 6.

⁸⁸Ibid., p. 498.

⁸⁹Ibid., p. 499.

more than the destruction of the ownership of horses will have that effect. Seventh: The military power, acting through emancipation, does not pretend to destroy the legal right to own slaves, and is not, therefore, obnoxious to the charge of annulling or repealing state laws. Eighth: It is not against the laws of war to do a necessary act, even though it is possible, or, in extreme cases of necessity, even probable, that some unhappy consequences may come to innocent persons. Ninth: It is by no means a necessary consequence of freeing slaves that harm shall come to non-combatants and innocents; and such accidental result, should it ensue, will be chargeable solely upon the enemy who might have averted it. Tenth: In short, the right to free all persons held as slaves in rebellious states, on the 1st of January, 1863, is a valid war power, it is one necessary to be exercised; and its exercise is not forbidden by the Constitution or the laws of war.⁹⁰

In reaching these conclusions Lowrey defined most of his terms, factually verified his contentions, related causal events, and used simple analogies to clarify most of the attending circumstances. Of particular importance were Lowrey's appraisals of Curtis' arguments and constantly coming to grips with the issues.

Lowrey briefly stated a few remaining arguments of Curtis, maintaining that they were all auxiliary and dependent upon Curtis' main objections, which he had already answered.⁹¹

Judge Curtis refers to Mr. Lincoln's declaration--when speaking of the then proposed Proclamation of Emancipation--that he supposed he had the right to take any measure "to subdue the enemy;" . . . He also compares the Commander-in-chief to generals in the field, intrusted with a certain expedition, in such a manner

⁹⁰ Ibid., pp. 499-500.

⁹¹ Ibid., p. 500.

as to make one ask if it can be possible that he wishes to degrade . . . the functions of that high office.⁹²

Lowrey did not delve further into Curtis' argument that the President had violated his power by mis-using it, especially by supposing his right was to take any measure to subdue the enemy, except to state that the phrase, "to subdue the enemy," was reiterated by:

the author so frequently, in such connection, with such innuendo and emphasis, that the startled reader at last inquires whether it is the words, or the thing, which gives him such great uneasiness.⁹³

Apparently Lowrey felt that Curtis' constant use of the phrase tended to lose its meaning for any specific purpose except to appeal to prejudice and emotion rather than reason. One of Curtis' prevailing arguments was that the President usurped his powers, and by the phrase, "I suppose I have a right to take any measure which may best subdue the enemy," he tried to establish that Lincoln assumed powers he did not have.⁹⁴ Lowrey did not elaborate on this supposition of Curtis', stating that the issue was settled earlier in the pamphlet.

Lowrey's answer to Lincoln's functions as a possible general in the field was an attempt to establish the President's obligations as Commander-in-chief in time of war.

⁹²Ibid.

⁹³Ibid.

⁹⁴Ibid., pp. 460-462.

The field of the Commander-in-chief includes the remotest point under federal jurisdiction, as well as the seas; the enterprise committee to him is the entire war; the emergency under which, . . . he must act, is the restoration of order, national supremacy, and assured peace. This emergency is not temporary, but is constantly with him. It has neither past nor future; it is, during war, an ever-present emergency. Thus, it is impossible to measure the powers of the general, in his field, by those of the Commander-in-chief, in his field, or vice versa. The powers and acts of each are to be scrutinized in the light of the emergency peculiar to his sphere and employment.⁹⁵

Lowrey contended that each person, the general and the President, had particular duties to perform according to his title; the President was the leader and the general was the follower, and both participated in their capacities as the situation demanded.

To close his arguments against Curtis' pamphlet, Executive Power, Lowrey restated what he believed the major fallacy.

The declared purpose of the pamphlet is to protest against infraction of the civil liberties of men in the North, who, if they are guilty, are within the reach of process of law; but the whole complexion of the argument changes, when it is urged to support rights which the rebel, by a resort to war, has utterly forfeited.⁹⁶

The vaguest argument forwarded by Lowrey was why abolition of slavery could be obtained only through the circumstances of war. Perhaps he was not certain of the Constitutional rights and powers granted to the President of

⁹⁵ Ibid., pp. 500-501.

⁹⁶ Ibid., p. 501.

the United States during a peace time period, therefore, avoided deeper deliberation on the issue.

Summary

Grosvenor P. Lowrey's pamphlet, The Commander-in-Chief, was motivated by the publication of Benjamin Robbins Curtis' pamphlet, Executive Power, which was an attack against the preliminary Emancipation Proclamation of September 22, 1862. Lowrey's pamphlet was an attempt to establish the legality of the President's act and justify, by international and Constitutional law, the proclamation as a war measure.

The three major arguments Lowrey focused upon from Curtis' pamphlet were, (1) The President's constitutional power, as the civil executive, to issue the Emancipation Proclamation; (2) the expediency of the act, even if the President had the power to issue the proclamation; (3) and, whether or not the President, as the Commander-in-chief in time of war, had the power to issue the proclamation. Lowrey introduced several other arguments either in contention of Curtis or to further his own arguments, viz., all executive powers during a time of war were entrusted to the President; by the nature of things, the codes of war were internationally recognized; the main objective of the war was to destroy the cause, which was slavery; ownership of property did not mean right of ownership, specifically, the Negro as chattel; constitutional relations between the states and the Union were

for the purpose of maintaining protection under the Constitution; military occupation did not repeal or annul state laws; the proclamation was a necessary act to end war, and did not violate the principles of the Constitution.

Lowrey did not refute Curtis' contention that Lincoln did not have the civil power to issue the proclamation. However, Lowrey maintained that since it was a war administration, Lincoln had the power to issue the act. The major fault in Lowrey's refutation of Curtis' assertion was that he never clearly delineated between the executive as a civil leader and as Commander-in-chief during war. Lowrey only stated that because of war, a civil administration had to be replaced by a war administration.

Showing causal relationships was the most unique characteristic of Lowrey's arguments. In most of his arguments Lowrey detailed the relationships between supposed causes and effects. This was most evident in his argument on the rights of a belligerent during war time. By a continual use of analogy and example, Lowrey amplified his points of contention.

Throughout Curtis' pamphlet it was difficult to follow the central idea that Lincoln had usurped his powers as President. However, Lowrey's central idea that by rejecting the Constitution and attacking the United States the Confederacy had forfeited all of its rights under the Constitution, was continually amplified in the pamphlet and became his major argument against Curtis' arguments.

Lowrey's writing promoted understanding, save a few assertions that were not supported. Compared to Curtis', Lowrey's organizational pattern helped promote clarity and for the most part kept the major issues before the reader.

The greatest distinguishing factor between Lowrey's and Curtis' arguments was Curtis' use of personal opinion and philosophy, and Lowrey's focus on facts and authoritative opinions to support his arguments. Also, Lowrey liberally used quotations from authorities, historical and germane examples and analogies, which clarified his definitions by being logically consistent.

Overall, Lowrey's arguments and evidence in support of the Emancipation Proclamation were sound, but he failed to deal with Curtis' main arguments, the civil powers of the President.

The Letter of a Republican, Edward N. Crosby, Esq., of Poughkeepsie, to Prof. S. F. B. Morse, Feb. 25, 1863, and Prof. Morse's Reply, March 2d, 1863.

Soon after the January 1, 1863 Emancipation Proclamation, varied Northern reactions occurred. The abolitionists and Republicans praised the act; many Northerners remained quiet, waiting to see in which direction the war was going to turn.⁹⁷ There were those who believed that the proclamation would be the downfall of the Union war effort against the Confederacy, and perhaps, even the ruin of the entire

⁹⁷ Smith and Judah, pp. 152-153, 346-347, 364-365.

United States. In February a group of prominent Democrats, led by Samuel F. B. Morse, organized the Society for the Diffusion of Political Knowledge to disseminate pamphlets for the purpose of awaking the Union to the errors of the Republican administration in Washington.⁹⁸

In mid-March, Morse published a pamphlet in which he aired his views upon what he considered to be the war issues--his belief that Negroes belonged in slavery because they were inherently inferior to white, linking Lincoln and Alexander H. Stephens of the Confederacy in support of his racist argument; and that the Emancipation Proclamation perpetuated disunion rather than aided the war effort. The circulation of this pamphlet is unknown, but members in the Society were living throughout the entire New England area at the time of its publication, and was distributed from Pennsylvania to Maine.⁹⁹

Morse's pamphlet, like Curtis' and Lowrey's, contained a preface in which the motivating factor for his writing the pamphlet was stated. Unlike the two previous pamphlets which published extracts of entire government documents, Morse

⁹⁸ This thesis, pp. 38-41.

⁹⁹ Ibid.; in Maine was Leonard Woods, president of Bowdoin College, Episcopal Bishop Hopkins in Vermont, George T. Curtis of Boston, editor James Brooks of the Express in Maine, and editor Manton Marble of the Boston World, to mention a few who could have disseminated the pamphlet in their immediate locales.

presented a letter allegedly written to him by Edward N. Crosby.¹⁰⁰

What appeared as Crosby's reason for writing Morse was a published letter written to Morse from David Dudley Field, which appeared in the New York Evening Post, February 19, asking Morse to forego his association with the newly formed Society.¹⁰¹ Other than using a few quotations from Field's letter, Crosby generalized his reasons for arriving at the conclusions he held.

[Field's letter] harmonizes with views which I have long coveted the privilege of expressing to you, but which have been repressed by a constitutional feeling of respect for eminence and seniority and a fear of even seeming officiously to intrude.¹⁰²

Crosby asked Morse to clarify his position on several issues: why, as a leading citizen in the North, was he dissenting from the support of the Republican administration when unity in effort was necessary to defeat the Confederacy and preserve the Union; why was the Society for the Diffusion of Political Knowledge organized; why had Morse associated himself with notorious men not considered as loyalists; and what were his and other members of the Society's

¹⁰⁰The reason "allegedly written" was used is because after corresponding with Dr. Frank Freidel, the New York Bar Association, and public libraries in New York City and Poughkeepsie, no information was forwarded as to the identity of Edward N. Crosby.

¹⁰¹David Dudley Field, New York Post, February 19, 1863.

¹⁰²Freidel, II, 631.

interpretation of the situation of the war?¹⁰³ Crosby's only reference to the Emancipation Proclamation was in an indirect question.

If . . . it is a legitimate function of our Government to destroy the fabric of the Southern Confederacy, a fortiori, is it not justified in removing that which their own highest authorities pronounce to be the cornerstone of that fabric?¹⁰⁴

The only other statement forwarded by Crosby justifying Lincoln's proclamation was an allusion to Biblical scripture.

Horrible too as war is, we are to remember that it may yet be a worthy means to a worthy end. God has certainly in his word more directly and repeatedly given his sanction to it, than he has to slavery.¹⁰⁵

Morse began his answers with a friendly recognition of Crosby's kindly spirit and concern to clarify matters of national importance.¹⁰⁶ He expressed the purpose of his pamphlet briefly.

Your letter touches on many topics, upon some of which I have, for years, bestowed much study, and it may be that a frank discussion of them at a time when the public mind is alive to such discussions, may be useful in eliciting truth.¹⁰⁷

Morse divided his arguments into sixteen sections, which were the main issues he believed to be at hand: why he did not answer Field's letter; why he was writing from

¹⁰³ Ibid., pp. 630-633.

¹⁰⁴ Ibid., p. 631.

¹⁰⁵ Ibid., p. 632.

¹⁰⁶ Ibid., p. 633.

¹⁰⁷ Ibid.

a Christian stand-point; the differences between government and administration; the issues that must be supported; the necessity for the Society; the character of abolitionism; why a distinction between Republicans and abolitionists could not be made; Lincoln's dealing with slavery was inconsistent; the major fallacy that slavery was the cause of the war; the corner-stone was inherent by nature and the laws of man; and the probable British desire to prevent re-Union. Although many of these arguments appear unrelated to Crosby's line of questioning, Morse attempted to establish a causal relationship from Crosby's line of questioning to the issues he presented. Some of the sections did not deal at all with the Emancipation Proclamation, therefore, they were not included in this analysis. However, to better understand Morse's position against the proclamation, it was necessary to begin with the section entitled, "Government and Administration."¹⁰⁸

In answer to Crosby's assertion that Morse's purpose was to "undermine and paralyze the power of the Government,"¹⁰⁹ Morse defined administration and government;

The word Government has indeed two meanings, . . . the ordinary meaning of Government, in free countries, is, that form of fundamental rules and principles by which a nation or state is governed, or by which individual members of a body politic are to regulate their action.¹¹⁰

¹⁰⁸ Ibid., p. 636.

¹⁰⁹ Ibid., pp. 631, 636.

¹¹⁰ Ibid., p. 636.

Morse's definition of the ordinary meaning of government was left unqualified, but strongly paralleled John Adams' principles of government, especially the formation of a republic.¹¹¹ Morse concluded that government was "in fact a Constitution by which the rights and duties both of citizens and public officers are prescribed and defined."¹¹² This conclusion by Morse paralleled Adams' dissertations on government, which stated that a democratic republic was checked and balanced by its constitution.¹¹³ Essentially, this was the argument by definition Morse presented.

The next definition of government was what Morse believed to be a misunderstanding between the two terms, administration and government.

If the word sometimes has a secondary or more limited meaning synonymous with Administration of public affairs, then "the Government" is metonymically used for Administration, and should not be confounded with the original and true signification of the term Administration, which means the persons collectively who are intrusted with the execution of the laws, and with the superintendence of public affairs.¹¹⁴

Morse's arguments by definition appeared lacking evidence, but his statement to clear up the confounding of government with the definition of administration was similar

¹¹¹ Page Smith, John Adams, I (New York: Doubleday & Co., 1962), I, 232-34, 242-43, 245-49, 258-260, and, II, 690-98; George A. Peek (ed.), The Political Writings of John Adams (New York: Bobbs-Merrill, 1954), pp. 83-93.

¹¹²Freidel, II, 636.

¹¹³Peek, pp. 125-145, especially 142-144.

¹¹⁴Freidel, II, 636.

to the tenets of government forwarded by John Adams¹¹⁵ and John Locke.¹¹⁶ Locke's political philosophy of individualism in a civil society contracted by men to delegate to government the right to enforce principles and rules,¹¹⁷ was evident in Morse's next statement:

Opposition to the Administration then, is not opposition to the Government; the former may not only be utterly destroyed without affecting the health of the Government, but it may be, and constantly is, thought to be necessary, in the opinion of the supreme power, the People, to destroy the administration in order to preserve the life of the Government. . . . Every change of Administration at every election, Federal, State, or municipal, great or small, exemplifies this great truth. The Government remains intact . . . while the Administration is swept out of existence.¹¹⁸

In other words, as a body of individuals, the people could contract the administration of laws to others who would uphold the principles and rules of government and, by election, individualism would be exercised in preventing a despotic administration. Second, this did not mean that the body politic of individuals was overthrowing the government, only improving it according to their will.

I shall use my constitutional liberty to say so, and if the Administration transcends the power intrusted to it by the People, I shall endeavor to point out their error, . . . and to the standard of the Constitution, and the Union under it, . . . I

¹¹⁵Smith, II, 755-57, 806-807.

¹¹⁶John Locke, Of Civil Government. Two Treatises (London and New York: Bobbs-Merrill, 1924), Chapter 19.

¹¹⁷Ibid., pp. 223-228.

¹¹⁸Freidel, II, 636.

shall cling as the only political hope of the country, our only defense against anarchy and despotism.¹¹⁹

From his definitions of government and administration, Morse directly attacked the proclamation as an act outside of the Constitution.

Where in the fundamental law of the Government, the Constitution, does the President, one of the administration of the Supreme Law, find his authority for his emancipation proclamation.¹²⁰

Therefore, the suspension of habeas corpus, confiscation acts, and military arrests of civilians, united with emancipation, were "acts of the Administration, not of the Government."

They are acts subversive of the Government; acts that are "paralyzing and undermining" the Government; acts that are dividing the people of the North, alarming them for the safety of the Constitution, the Government, and arousing them to call their servants, the Administrators, to account.¹²¹

Unlike Lowrey, who used specific examples to illustrate the characteristics of his definitions, Morse's definitions seemingly did not promote clarity because of a lack of supporting materials and being open to broad interpretation, but he did develop a foundation for his analysis of the proclamation.

After concluding that Republicans and extreme radicals of abolitionism were synonymous, Morse stated his arguments against the Emancipation Proclamation.

¹¹⁹ Ibid., p. 637.

¹²⁰ Ibid.

¹²¹ Ibid.

It is a measure which I have considered from the moment of its promulgation, unwise, unconstitutional and calamitous, productive of evil and only evil, a measure that, more than any other, has tended to divide the counsels of the North, and unite the South, and render the restoration of the national Union next to hopeless.¹²²

Before elaborating on these indictments, Morse turned to what he believed to be Crosby's major fallacy.

You say "If it is a legitimate function of our Government to destroy the fabric of the Southern Confederacy, a fortiori, is it not justified in removing that which their own highest authorities pronounce to be its corner-stone?"¹²³

The fallacy, according to Morse, was in the definition of the term cornerstone.

If the stone should happen to be a providential fixture, unalterable in its very nature by any thing that man can do, a condition of a physical character, not to be affected by any act of man, you will agree with me, that the Government would not be justified in making any such necessarily abortive and quixotic attempt.¹²⁴

Besides paralleling Locke's cardinal doctrine that the people constituted a power superior to governments and administrations, Morse contended that the stone was a providential fixture, that could not be affected by any act of man, which was also similar to Locke's concept of natural rights.¹²⁵ In other words, Morse was suggesting to Crosby that if slavery was a natural right of man by the laws of

¹²²Ibid., p. 639.

¹²³Ibid., pp. 639-640.

¹²⁴Ibid., p. 640.

¹²⁵Locke, Chap. 19.

nature, then the Government would not be justified in attempting to destroy that right.

Morse presumed that Crosby concluded that the cornerstone of the Confederacy was slavery from Alexander Stephens' speech at Savannah,¹²⁶ which explained the cornerstone of the Confederacy.

You assume that this corner-stone is slavery, and so our Government is justified in its measures to destroy slavery. . . . In the first place if Mr. Stephens had made such an announcement in his speech, (which he has not,) that would not constitute law for the Government.¹²⁷

Morse's assumption that Crosby used Stephens as an authority admitting that slavery was the cornerstone, was his stepping stone to try to establish slavery as a natural right of man and that it was not the cornerstone. However, Stephens proclaimed slavery as the Southern cornerstone:

Our new Government ['s] . . . cornerstone rests, upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and moral condition. This, our new Government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth.¹²⁸

Both Crosby and Morse would be correct in their interpretation of Stephens' contention, provided Crosby was referring to it, but contrary to Morse's view, the statement admitted that slavery was the cornerstone because of

¹²⁶ Moore, I, 44-49.

¹²⁷ Freidel, II, 640.

¹²⁸ Moore, I, 45.

the natural and moral conditions provided by the laws of nature.

To further his argument that slavery was not the cornerstone of the Confederacy, Morse maintained that there was:

Not one word in the Constitution of the Confederacy that gives color to any such idea as slavery being the corner-stone of the Government; on the contrary, Section IX, Article I, clearly repudiates it.¹²⁹

Upon examination of Section IX, Article I of the Confederate Constitution, Morse was in error because the opening paragraph of the Section was only a provision restricting Congressional appropriations of money. However, paragraphs 1, 2 and 4 directly referred to slavery.

1. The importation of Negroes of the African race from any foreign country other than the slaveholding states or territories of the United States of America is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.

2. Congress shall also have power to prohibit the introduction of slaves from any state not a member of, or territory not belonging to, this Confederacy. . . .

4. No bill of attainder, ex post facto law, or law denying or impairing the right of property in Negro slaves shall be passed.¹³⁰

Also, Article IV, Section 2, provided:

1. The citizens of each state . . . shall have the right of transit and sojourn in any state of this Confederacy, with their slaves and other property;

¹²⁹Freidel, II, 640.

¹³⁰The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies (Washington, 1880-1901), Ser. 4, I, 140.

and the right of property in said slaves shall not be thereby impaired.¹³¹

Morse correctly stated that slavery was not referred to as the cornerstone of the Confederate Government in the Constitution, however, as seen by the four paragraphs, the Constitution did not clearly repudiate it.

In summary of his contentions against Crosby's argument that the Union must destroy the cornerstone of the Confederacy, Morse concluded:

If slavery is the adopted corner-stone of their Government, common-sense suggests, that in their fundamental law they would and should use every effort to strengthen and support it, and yet they forbid in that section and article that very policy which would give strength and permanency to such a corner-stone. . . . It may be well to ventilate this matter more thoroughly.¹³²

Paragraph 1 of Section IX of the First Article was apparently interpreted by Morse to mean that since slaves would no longer be imported, slavery could not be the cornerstone. Although Morse's arguments were logically consistent, they were questionable because of his not supporting them with any specific or other means of evidence.

To explain further what exactly the cornerstone of the Confederacy was, Morse again used Stephens' Savannah speech.

His language is this: "The foundations of our new Government are laid, its cornerstone rests upon"--what? slavery? no, "upon the great truth

¹³¹Ibid., p. 144.

¹³²Freidel, II, 640.

that the negro is not equal to the white man, that slavery" which he then defines to be, "subordination to the superior race, is his natural and moral condition." . . . This language could not be applied to slavery.¹³³

Morse's contention that Stephens' language could not be applied to slavery, was not explained. Morse's assumption seems to be that since the black man was by nature inferior to the white man, he must be subservient, and slavery was an inherent result of being unequal. Furthermore, Morse contended:

The error on one side which he [Stephens] combats is the assumed equality of the races. The opposite truth which he propounds is the physical, philosophical, and moral truth, that the two races are not equal, and the inference he draws from this truth is that this physical difference determines the status of the inferior race. . . . If the two physically unequal races are compelled to live together in the same community, the superior must govern the inferior.¹³⁴

In support of his contention that the races were unequal according to physical, philosophical and moral truths, Morse used Biblical allusions for the physical and moral truths, and John Adams' concept of the imperfection of man's nature for the philosophical truth.

Who has constituted the two races physically different? There can be but one answer, it is God. . . . The physical inequality of the races then is the cornerstone, and not Slavery. Slavery, which is a Government . . . can only be abolished

¹³³ Ibid., p. 641.

¹³⁴ Ibid.

by separating the races. Is it worth while to attempt to remove a corner-stone which God has laid?¹³⁵

In other words, slavery was, based on Morse's earlier definition of government, a fundamental rule established by the members of a body politic; since the Negro was inherently inferior to the white man, the superior must govern the inferior as chattel. Morse's reference to God's cornerstone was probably intended to mean that emancipation of the Negro would be against His will, therefore, the pathway to damnation.

For the philosophical bases of his argument Morse cited John Adams' constants in human nature of vanity, pettiness, and self-seeking.

The reasoning of Mr. Stephens has an apposite parallel in the reasoning of the elder Adams, on the Theory of Government, as given in his "Life by his grandson, C. F. Adams, the accomplished representative of our Government to the Court of St. James.

"Unlike most speculators on the theory of Governments, Mr. Adams begins by assuming the imperfection of man's nature, and introducing it at once as an element with which to compose his edifice.

"He finds the human race impelled by their passions as often as guided by their reason, sometimes to bad ones rather from inability to resist temptation than from natural propensity to evil. This is the Corner-stone of his system."¹³⁶

To exhibit the parallel in the reasoning of

¹³⁵ Ibid., pp. 641-642.

¹³⁶ Freidel, II, 642; Charles F. Adams, The Works of John Adams, Second President of the United States with a Life of the Author, IX (Boston: Little, Brown and Co., 1856), pp. 380-389.

Stephens and John Adams, Morse transferred the language in Adams' Theory to Stephens' Savannah speech.

"The foundations of Civil Government are laid, its corner-stone rests upon the great truth that man has an imperfect nature, that the human race is impelled by their passions, that, therefore, subordination of the inferior to the superior, inherent in the very nature of Government, is man's natural and moral condition. Civil Government is based upon this great physical, philosophical and moral truth."¹³⁷

Morse attempted to discount any thoughts of the reader and Crosby that he adopted Confederate views to justify slavery.

You will recollect the interview, on August fourteenth, 1862, between a committee of colored men and President Lincoln, invited by him, to hear what he had to say to them. His object in summoning them before him was to persuade them to emigrate, and he bases his argument to them on the very corner-stone declared by Mr. Stephens, to wit, the physical difference or inequality of the two races. President Lincoln's plan was to separate the races.¹³⁸

To support separation, Morse reiterated the comments by Lincoln to Negroes in late 1862.

We have between us a broader difference than exists between any other two races. Whether it is right or wrong, I need not discuss, but this physical difference is a great disadvantage to both, as I think. . . . Even when you cease to be slaves, you are far from being placed on an equality with the white race. On this broad continent not a single man of your race is made the equal of a single man of ours. Go where you are treated the best, and the ban is still upon you. . . . It is a fact about which we all feel and think alike, I and you.¹³⁹

Throughout the Northern States Lincoln's commentary

¹³⁷Freidel, II, 642.

¹³⁸Ibid., p. 643.

¹³⁹Ibid.

was printed in numerous papers. Many accounts were printed differently, but seemingly had the same ideas consistent with the quotation used by Morse. However, the quotation was open to considerable interpretation and it could support the beliefs of the abolitionists and anti-emancipators, such as Morse, who stated:

Mr. Stephens takes the stone, as a whole, upon which he would construct a government. Mr. Lincoln would split the stone and drag the parts asunder. Mr. Stephens accepts the fact and adjusts his fabric to it. Mr. Lincoln also accepts the fact, and is perplexed with inextricable difficulties in his attempts to dispose of the two portions of the common corner-stone.¹⁴⁰

By comparison, Morse attempted to link together the beliefs of Stephens and Lincoln, specifically, Lincoln's comments to the Negro leaders and Stephens' speech at Savannah. Morse reasoned that the cases were essentially alike in character and meaning, because Stephens accepted the equality of the races for moral, philosophical, and physical truths, and Lincoln wanted the Negro to emigrate, therefore, the two men were proclaiming the same corner-stone. Now the issue was one of policy: Stephens constructed slavery as a government, and Lincoln denied the truth of the inequality and disrupted the natural rights of man.

The remarks of the President . . . point to some great radical disturbing error, not in the President's mind alone, but pervading the popular mind on the

¹⁴⁰ Ibid., p. 644.

subject of African slavery every where.

The great fallacy, so rife throughout the world, that slavery is the cause of our national troubles, rests on the almost universal persistent closing of the eyes to this fact of the physical difference between the two races. Slavery is not the cause of the sectional war, but a blind and mad resistance to a physical condition which God has ordained and which man is, in vain, attempting to subvert.¹⁴¹

This ended Morse's argument that the corner-stone of the South was not slavery, but the inequality of the races. It was misunderstanding, Morse summarized, which caused not only the citizens of the United States to remain in confusion, but other nations throughout the world as well. He did not elaborate on his generalizations other than to restate his arguments through analogy and personal belief.

Morse's summary argument on the question of slavery as the cornerstone was prescriptive, suggesting three correctives to solve the problem.

First: We must accept as a fixed fact that ordinance of God which he has decreed, that the two races are physically different, and not complicate the fact, with any modifications, drawn from the prevalent visionary, infidel notions of an equality which has no existence, nor make any vain attempt to fix upon the mere relation of superior and inferior, or of rulers and ruled, moral or religious qualities which God in his word has not fixed to the relation.¹⁴²

Morse earlier indicated that the supreme power of the land was the people that was superseded only by God's

¹⁴¹
Ibid.

¹⁴²Ibid., p. 645.

word, which Morse inferred as the inequality of races; the people could change governments, administrations, and the rules and principles which regulated public affairs, but the natural rights of man established by God were fact and could not be changed.

Second: We must leave to each and every State in the Union where the two races exist together, whether in larger or smaller proportions, unmolested control over any adjustment of their relations to each other.¹⁴³

Although this proposition did not seem to have precedent in his pamphlet, apparently Morse introduced it because he thought it logically followed his previous arguments that the proclamation was an act subversive of the Government.¹⁴⁴

Morse's last statement was preceded by a reference to the founders of the 1787 Constitution.

Third: . . . we should refrain from embittering the relations of the two races by an irritating busy-bodyism, a meddlesome interference with the manner in which the duties belonging to their relation to each other are or are not fulfilled, and taking the Apostle's counsel "to be quiet and mind our own business."¹⁴⁵

In other words, neither should the Union pass the emancipation act nor be in war against the Confederacy. This concluding sentiment of Morse's was expressed by a small minority of citizens in the North.¹⁴⁶

¹⁴³Ibid.

¹⁴⁴Ibid., p. 637.

¹⁴⁵Ibid., p. 445.

¹⁴⁶See Kempf, III, 996-1017; Smith and Judah, pp. 17-19, 152-153; Hansen, pp. 23-37.

Summary

Morse's pamphlet was a reply to Edward N. Crosby's letter of February, 1863, forwarding the following arguments against the Emancipation Proclamation: (1) Lincoln did not have constitutional authority to forward the act; (2) it was subversive of the government; (3) the proclamation would paralyze and undermine the government; (4) the people of the North would be divided, but still be aroused enough to cling to the Constitution and Government to eradicate the Republican administration.

Morse's arguments were mostly generalizations, derived from what he believed was a government and an administration. Based on his definitions, the arguments were logically consistent throughout the pamphlet, but some weaknesses were evident. Morse's arguments were essentially philosophical and open to broad interpretation. For example, Stephens' and Lincoln's remarks were similar in language, but the circumstances surrounding the ideas were different, and Morse's comparison did not necessarily afford the interpretations he gave as the only interpretations. Second, his arguments lacked clear comparisons and examples to warrant many of his conclusions, which were mostly prescriptive statements of policy. The evidence Morse used was primarily definition and comparisons of testimony. Also, his political thought paralleled John Locke's theory on the natural rights of man and John Adams' theory of government. Morse cited Adams as an authority on the philosophical truth of

inequality, but much of the argument was vague and open to interpretation. The strongest argumentative characteristic of Morse was his consistency, but vague comparisons and shallow definitions weakened his position. More apparent was Morse's lack of in depth analysis on the Emancipation Proclamation, Lincoln's comments to the Negroes and Stephens' Savannah speech.

Curtis' views on the Emancipation Proclamation were relatively conservative and non-partisan, Lowrey's arguments were more liberal in his conception of what was necessary to promote the Union effort against the confederacy, but Morse, who sternly opposed the Republican administration and the proclamation, extolled the egalitarian virtues in the Constitution while at the same time emphasized the maintaining of the status quo. It would seem that a war context would breed firm positions on a political point of view that would be expressed in any language necessary to meet the ends of the advocate, but each of the pamphleteers studied so far, especially Morse, was amazingly temperate in presenting their views.

Clement Laird Vallandigham, The Great Civil War in America (Speech in the House of Representatives, January 14, 1863),-- New York, 1863.

Throughout the Civil War many Democrats openly opposed its prosecution by the Republican administration. One group of Democrats that demanded the war be stopped were called Peace Democrats. The Peace Democratic Party

presidential candidate, John C. Breckinridge, received 279,211 votes in the 1860 national elections. Often opponents called its members Copperheads or identified them with the Confederates by the common appellation of Butter-nuts.¹⁴⁷ Fernando Wood, Mayor of New York, and his brother, Benjamin Wood, publisher of the New York News and a member of Congress, were the spokesmen of the Peace Democrats in the East. But the chief elements of the Party were located in the Ohio Valley; among the chief leaders was Clement Laird Vallandigham.¹⁴⁸ The rank and file of the Copperheads were the smaller farmers and poor artisans of the Ohio, Indiana, and Illinois region, felt that freed Negroes would be a threat to the free farming regions of the Ohio Valley.¹⁴⁹

As each successive war measure of Congress was passed, the Confiscation Act of 1861, the abolition of slavery in the territories in 1862, the draft act and Habeas Corpus Act of 1863, and the Emancipation Proclamation of January 1, the Copperheads became increasingly furious. The Emancipation Proclamation rallied the Peace Democrats against what they believed the major issue in the war: abolition.

On January 14, Vallandigham delivered before the House of Representatives an attack upon the Lincoln Administration,¹⁵⁰ and a few months later the entire text of the

¹⁴⁷Smith and Judah, pp. 90-112, 213-244, 307-311.

¹⁴⁸Western Reserve Historical Society, pp. 32-41.

¹⁴⁹Ibid., pp. 32-35; Smith and Judah, pp. 94-103.

¹⁵⁰Cong. Globe, 37th Cong., 3d sess., Part 2, 1862-63, Appendix, 52-60.

speech was published in pamphlet form. His two major arguments were that the proclamation meant disunion and that it was unconstitutional.

Vallandigham stated that it was his purpose to present an evaluation of the state of the Union to-day, and explain the duties of the citizens in the North and South during the crisis.¹⁵¹ But before discussing the state of the Union, Vallandigham traced the history of the Civil War from its causes to its effects.

It is now two years . . . since Congress assembled soon after the Presidential election. A sectional anti-slavery party had then just succeeded through the forms of the Constitution. For the first time a President had been chosen upon a platform of avowed hostility to an institution peculiar to nearly one-half of the States of the Union, and who had himself proclaimed that there was an irrepressible conflict because of that institution between the States; and that the Union could not endure "part slave and part free."¹⁵²

The avowed hostility of Lincoln that the United States could not avoid an irrepressible conflict, because the "Union could not endure 'part slave and part free,'" was the theme of Copperhead protest since William H. Seward delivered his speech, "The Irrepressible Conflict," October 25, 1858.¹⁵³ Vallandigham's quotation reflected the Peace Democratic Party's indictment that Lincoln won the 1860

¹⁵¹Freidel, II, 698.

¹⁵²Ibid.

¹⁵³Cornelius B. Bradley (ed.), Orations and Arguments (Boston: Allyn and Bacon, 1894), pp. 298-307.

election on a war platform, which caused the South to secede.¹⁵⁴

Before Vallandigham went further into the effects of the war he felt it necessary to define his position concerning abolition.

I am one of that number who have opposed Abolitionism, or the political development of the anti-slavery sentiment of the North and West, from the beginning. In school, at college, at the bar, in public assemblies, in the Legislature, in Congress, boy and man, as a private citizen and in public life, in time of peace and in time of war, at all times and at every sacrifice, I have fought against it.¹⁵⁵

Furthermore, Vallandigham stated that sectionalism was the root of the problems between the North and the South.

For eight years past, over and over again, I have proclaimed to the people that the success of a sectional anti-slavery party would be the beginning of disunion and civil war in America, I believed it. I did. I had read history, and studied human nature, and meditated for years upon the character of our institutions, and form of government, and of the people South as well as North: and I could not doubt the event. But the people did not believe me, nor those older and wiser and greater than I. They rejected the prophesy, and stoned the prophets. The Candidate of the Republican party was chosen President. Secession began. Civil war was imminent.¹⁵⁶

After Vallandigham became the spokesman for the party in the Ohio Valley region, he predicted sectional conflict as an inevitable end. Although he did not cite

¹⁵⁴Smith and Judah, pp. 90-112.

¹⁵⁵Freidel, II, 701.

¹⁵⁶Ibid., p. 703.

specific instances of his involvement in the protests and predictions, his Congressional record reflected the truth of his warnings.¹⁵⁷ His record of opposition was most clearly marked in the winter session of Congress, 1862-1863.¹⁵⁸

In his review of Lincoln's nomination for President, Vallandigham stated that he was supported by Democrats, but after "Ft. Sumpter" [sic], he believed:

What you all in your hearts believe to-day, that the South could never be conquered--never. And not that only, but I was satisfied--and you of the Abolition party have now proved it to the world--that the secret but real purpose of the war was to abolish slavery in the States.¹⁵⁹

The indictment of the Congress by Vallandigham was not supported, except for his maintaining that it was the Republicans who had endorsed the many war measures in the session and won the elections on an abolition platform. Vallandigham stated that it was after the signing of the war proclamation, April 15, 1861, that the Peace Democrats united in protest against that purpose of the Republican administration.

Vallandigham's argument that the Republican platform of abolition caused secession had some validity. Many

¹⁵⁷This thesis, p. 58, Footnote 12.

¹⁵⁸See Cong. Globe, 37th Cong., 3d sess., Parts 1 and 2, 1862-63.

¹⁵⁹Freidel, II, 705.

Southern leaders did announce that the new administration's policies were to the disadvantage of the Union and in subordination of the Constitution, therefore, impossible for Southern states to live in harmony with Northern elements of the United States.¹⁶⁰

Vallandigham shifted his arguments several times, depending upon whether or not the issues were objections to Republican policy or war measures passed by Congress. He concluded that he could not identify with anyone who supported the war and that he was not responsible for the conduct of the Union; the burden lay upon the Republicans and those in support of the Republicans.¹⁶¹

The President, the Senate, the House, and the country, all said that there should be war--war for the Union; a union of consent and good-will. Our Southern brethren were to be shipped back into love and fellowship at the point of the bayonet. Oh, monstrous delusion! I can comprehend a war to compel a people to accept a master; to change a form of Government; to give up territory; to abolish a domestic institution; in short, a war of conquest and subjugation; but a war for Union!¹⁶²

Earlier Vallandigham maintained that the war was being fought to abolish slavery, the very issue he felt would cause the war; that he could not support an abolition war. Yet, as stated above, he could comprehend a purpose

¹⁶⁰ Kenneth M. Stamp (ed.), The Causes of the Civil War (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1965), pp. 37-59.

¹⁶¹ Freidel, II, 705-706.

¹⁶² Ibid., p. 706.

to war if it was to abolish a domestic institution. Ironically, slavery was considered a domestic institution by the North and the South.¹⁶³ Vallandigham then shifted from a position of condemnation of policy statements by Republicans to a justifying the war against the South, and then back to condemnation.

After restating the causes of the war and his position on non-support, Vallandigham summarized the state of the Union as he saw it.

Twenty months have elapsed, but the rebellion is not crushed out; its military power has not been broken; the insurgents have not dispersed. The Union is not restored; nor the Constitution maintained; nor the laws enforced. Twenty, sixty, ninety, three hundred, six hundred days have passed; a thousand millions been expended and three hundred thousand lives lost or bodies mangled; and today the Confederate flag is still near the Potomac and the Ohio, and the Confederate Government stronger many times than at the beginning. Not a State has been restored, not any part of any State has voluntarily returned to the Union.¹⁶⁴

His remark that the Confederacy was stronger than at the beginning of the war, was open to interpretation. For example, the cause and effect argument that because the Confederate flag was still near the Potomac and the Ohio Rivers, and that none of the Southern States were restored or had voluntarily returned to the Union, did not necessarily mean that the South was stronger, but only that its position had not changed. However, Vallandigham spent

¹⁶³ Stamp, pp. 108-153.

¹⁶⁴ Freidel, II, 707-708.

considerable time detailing the costs of the war, concluding:

The war for the Union is . . . a most bloody and costly failure. The President confessed it on the 22d of September. . . . And he has now repeated the confession. . . . War for the Union was abandoned; war for the negro openly began, and with stronger battalions than before. With what success? Let the dead at Fredericksburg and Vicksburg answer.¹⁶⁵

This was Vallandigham's first reference to the Emancipation Proclamation. The argument was that since all other measures failed to secure victory against the South in the name of Union, the war effort now was a rally to free the slaves. Only fourteen days had passed since the announcement of the act when Vallandigham delivered his speech in the House and a condemnation could seem premature. But Vallandigham was noted for his prophesizing and it was possible that this was more of a warning rather than a condemnation. This latter interpretation of his argument was based on his statements that the Union could be restored and that there were methods available to complete re-Union.

After a brief recapitulation of the causes leading to dis-Union and the Civil War, Vallandigham focused upon the main issue: abolition.

What . . . is the immediate, direct cause of disunion and this civil war? Slavery, it is answered. . . . Certainly slavery was in one sense--very obscure indeed--the cause of the war. Had there been no slavery here, this particular war about slavery would never have been waged. . . . But slavery is the cause of the war. Why? Because

¹⁶⁵
Ibid., pp. 710-711.

the South obstinately and wickedly refused to restrict or abolish it at the demand of the philosophers or fanatics and demagogues of the North and West. Then, . . . it was abolition, the purpose to abolish or interfere with and hem in slavery, which caused disunion and war. Slavery is only the subject, but abolition the cause, of this civil war.¹⁶⁶

Vallandigham maintained that slavery was an economic practicality for the South, therefore, it was best to leave the Negro in chattel rather than subject him to the evils of poverty and destitution of free labor in the North.¹⁶⁷ Furthermore, subordination to a superior race was better than being victim to harder times in a free-labor economy. This paternal argument of Vallandigham's served as his basis on why the proclamation could not reunite the North and South.

You can not abolish slavery by the sword; still less by proclamations, though the President were to "proclaim" every month. Of what possible avail was his proclamation of September? Did the South submit? Was she even alarmed? And yet he has now fulminated another "bull against the comet"--brutum fulmen--and, threatening servile insurrection with all its horrors, has yet coolly appealed to the judgment of mankind, and invoked the blessing of the God of peace and love! But declaring it a military necessity, an essential measure of war to subdue the rebels, yet, with admirable wisdom, he expressly exempts from its operation the only States and parts of States in the South where he has the military power to execute it.¹⁶⁸

Vallandigham's interpretation seemingly was not based on the President's constitutional power to authorize the proclamation, which was one of the major arguments in the

¹⁶⁶ Ibid., pp. 717-718.

¹⁶⁷ Ibid., pp. 718-719.

¹⁶⁸ Ibid., p. 720.

previous pamphlets in this thesis, but whether or not the act was a practicality and realization of what the war was actually caused by, sectionalism.

I deny the doctrine. It is full of disunion and civil war. It is disunion itself. . . . The fundamental idea of the Constitution is the perfect and eternal compatibility of a union of States "part slave and part free;" . . . A confederacy made up of slaveholding and non-slaveholding States is, in the nature of things, the strongest of all popular governments. . . . It makes the absolute political equality of the white race everywhere practicable. . . . Why this civil war? Whence disunion? Not from slavery--not because the South chooses to have two kinds of labor instead of one; but from sectionalism, always and everywhere a disintegrating principle.¹⁶⁹

In other words, the issue was not that the proclamation violated the Constitution or the rights of the citizen, but that it had no means of securing a reunion of the North and South, especially when the basis for the war was founded in an established sectionalism. These sectional rivalries, Vallandigham explained, existed since the nation developed, not only in politics but in family relations as well.¹⁷⁰ Although he cited several characteristics in common between the warring states, Vallandigham felt that there were many more reasons preventing reunion.

Hate, passion, antagonism, revenge, all heated seven times hotter by war. . . . While they last, are the most powerful of all motives with a people, and with the individual man; but fortunately they are the least durable.¹⁷¹

¹⁶⁹Ibid., pp. 721-722.

¹⁷⁰Ibid., pp. 722-724.

¹⁷¹Ibid., p. 723.

To conclude his pamphlet, Vallandigham stated that he foresaw a diminishing of these motives and an eventual reunion with a realization of fraternal affection and goodwill.¹⁷²

Summary

Vallandigham's arguments were not complex constitutional arguments like those of Benjamin R. Curtis, Grosvenor P. Lowrey and Samuel F. B. Morse. For example, he did not question the validity of the act as it related to Presidential authority, but whether or not the act had any practical value in an attempt to establish a re-union between the belligerents. Of particular importance was his position on sectionalism as the cause of the war. Vallandigham explained that the expanse of distance and time encouraged further misunderstanding and disunion; by a lack of appreciation of slavery as a labor force and economic advantage, the North lost sight of their responsibilities to the South.¹⁷³ Vallandigham's abolitionist arguments varied from labor force problems to the inhumanities of chattel. He assumed chattel as a natural right, as did Samuel F. B. Morse, but Vallandigham did not qualify the reasons for his belief. His basic opposition to the Emancipation

¹⁷² Ibid., pp. 725-731.

¹⁷³ See Stamp, pp. 59-81; Smith and Judah, pp. 218-226; Kirwan, pp. 225-231; Stanley M. Elkins, Slavery (New York: Grosset and Dunlap, 1963), pp. 27-81, for comprehensive explanations on sectional rivalry between the North and the South, 1830-1861.

Proclamation was that it did not end disunion; the factors of disunion were more economic than moralistic, religious, or philosophical, which were also the arguments of the previous pamphleteers.

Evident in Vallandigham's pamphlet was a broad use of generalization. Strangely enough, his pamphlet was composed from his speech to an explicit audience, yet seemed to appeal more to a general one. Also, like the previous pamphleteers, he used very temperate emotional and moral appeals. Perhaps because Vallandigham did shift from argument to argument his emotional appeals were not as efficaciously developed as they needed to be, especially on the issues of who was to blame for causing the war and the natural right of man to have slaves. By a lack of specifics, Vallandigham's arguments were open to considerable interpretation and rebuttal, particularly on the inability of the Emancipation Proclamation to reunite the North and the South.

Charles Sumner, Our Domestic Relations: Or, How to Treat the Rebel States, Boston, 1863.

By the summer of 1863 the Confederate effort was slowly waning even though draft riots gave evidence of low morale in the North.¹⁷⁴

The surrender of Vicksburg, opening the Mississippi, and the Battle of Gettysburg ending General Robert E.

¹⁷⁴ Smith and Judah, pp. 58-64; Harry Hansen, The Civil War (New York: Little, Brown and Co., 1961), pp. 550-51; Catton, pp. 170-71, 214-17, 293; Kempf, III, 1045, 1191.

Lee's northern thrust, marked a decisive turn. Before the end of the year, the debate over Reconstruction was becoming of immediate concern.¹⁷⁵

Since the beginning of the war Lincoln controlled the process of Reconstruction as Confederate territory fell under Union control.¹⁷⁶ In October, 1863, Senator Charles Sumner of Massachusetts, set forth in the Atlantic Monthly a detailed argument based on historic and legal precedents for Congressional control of Reconstruction. The Atlantic Monthly immediately issued Sumner's argument in pamphlet form.

Sumner originally prepared his argument on reconstruction for the purpose of delivering it before the Congress in February, 1862, but withheld because the North had lost several key battles to the Confederacy.¹⁷⁷ His main argument for the emancipation act was that it was the only war measure available to effectively defeat the Confederacy because it gave the Union reconstruction legality in the conquered territories. However, his strictures against Reconstruction through military governors appointed to Southern states by the President paralleled some of the Democratic criticisms of Lincoln.

Sumner began his pamphlet stating that the President did not consult Congress to appoint military governors

¹⁷⁵ Freidel, II, 818.

¹⁷⁶ Kempf, III, 1141-1177.

¹⁷⁷ Moorfield Storey, Charles Sumner (Boston: Houghton Mifflin Co., 1900), pp. 255-56.

in four States and gave them near absolute power; if this precedent were to be followed, eleven States and more than nine millions of people would be governed arbitrarily by one man which was neither recognized by the Constitution nor regulated by law.

In appointing military governors of States, we follow an approved example in certain cases beyond the jurisdiction of our Constitution as in California and Mexico after their conquest and before peace. . . . It may be proper to set up military governors for a conquered country beyond our civil jurisdiction, and yet it may be questionable if we should undertake to set up such governors in States which we all claim to be within our civil jurisdiction. At all events, the two cases are different, so that it is not easy to argue from one to the other.¹⁷⁸

To support his contention that Congressional controls to establish local governments in the South be followed, Sumner reviewed the history of the confederation and the reasons which led to the adoption of the Constitution,¹⁷⁹ then concluded:

This government is not established by the States, nor is it established for the States; but it is established by the people, for themselves and their posterity. . . . The sovereignty of the States is

¹⁷⁸Freidel, II, 820.

¹⁷⁹The two reasons for the Constitution, according to Sumner, were regulation of revenues and mutual protection. His arguments were footnoted, citing the following sources: Henry Hallam, Constitutional History of England, II (London: A. C. Armstrong & Son, 1827), 310; Thomas Carlyle, Life of Cromwell (publisher and dates unknown) Part IX, 2, 168; Noah M. Ludow, Dramatic Life as I Found It (St. Louis: G. I. Jones & Co.), pp. 559, 580-82; James Kent, Commentaries on American Law, I (New York: O. Halstead, 1832), p. 292, note b; Jonathan Elliot (ed.), The Debates in the Several State Conventions on the Adoption of the Federal Constitution, III (Washington, 1836-45), 22-29, 44.

absorbed in that more perfect union which was then established. There is but one sovereignty recognized, and this is the sovereignty of the United States. To the several States is left that special local control which is essential to the convenience and business of life, while to the United States, as a Plural Unit, is allotted that commanding sovereignty which embraces and holds the whole country within its perpetual and irreversible jurisdiction.¹⁸⁰

By the contention that there was one sovereignty recognized, the United States, Sumner believed that the enactment of the Constitution collapsed states' rights, because the Constitution was "framed in order to remove the difficulties arising from State Rights."¹⁸¹ Before outlining the problems of states' rights as proclaimed sovereignty, Sumner reiterated the powers of Congress according to the Constitution, concluding that "constantly, and in everything, we behold the constitutional subordination of the States."¹⁸² Furthermore:

Not only State laws are subordinated to the National Constitution, but the makers of State laws, and all other State officers, are constrained to declare their allegiance to this Constitution, thus placing the State, alike through its acts and its agents, in complete subordination to the sovereignty of the United States.¹⁸³

The causal effect, Sumner held, was that with a proclaimed Constitution, "our career as a Nation began, with all unity of a nation."¹⁸⁴

¹⁸⁰Freidel, II, 828-829.

¹⁸¹Ibid., p. 828.

¹⁸²Ibid., p. 831.

¹⁸³Ibid., p. 833.

¹⁸⁴Ibid.

Basing his argument primarily upon legal precedent, Sumner forwarded generalizations on the cause of the Civil War:

The new government had hardly been inaugurated before it was disturbed by the pestilent pretension of State Rights, which, indeed, has never ceased to disturb it since.¹⁸⁵

Sumner then historically traced several incidents which disturbed the national government in the name of state rights; the Virginia and Kentucky Resolutions of "98";¹⁸⁶ the prohibition of slavery as a condition to the admission of Missouri into the Union;¹⁸⁷ the Nullification Act of 1832 by South Carolina;¹⁸⁸ the Wilmot Proviso;¹⁸⁹ the Compromises of 1850;¹⁹⁰ and the Kansas Question of 1854.¹⁹¹ However, Sumner concluded that in the autumn of 1860, "on the election of Mr. Lincoln, the case became much worse."¹⁹²

Certain States at the South were about to put in execution the long-pending threat of Secession, of course, in the name of State Rights.¹⁹³

¹⁸⁵Ibid., p. 834.

¹⁸⁶Ibid.: for documental editions see Hofstadter, I, 176-184.

¹⁸⁷Hofstadter, I, 310-312.

¹⁸⁸Ibid., pp. 289-295.

¹⁸⁹Ibid., pp. 311, 346.

¹⁹⁰Ibid., pp. 311-12, 346.

¹⁹¹Ibid., pp. 312, 354-355, 359.

¹⁹²Freidel, II, 834.

¹⁹³Ibid., p. 835.

At this point Sumner discussed the various theories as to the effect of secession on the relations of the states to the Union; that the States had committed jurisprudence suicide;¹⁹⁴ that they "forfeited their rights as States, so as to be civilly dead;"¹⁹⁵ and that the Southern states had "abdicated their places in the Union."¹⁹⁶ Sumner gave legal precedent, with examples, to clarify and deduce these contentions, but in refutation of the three theories, he concluded:

It only remains that we should see things as they are, and not seek to substitute theory for fact. . . . In the absence of a loyal government, they can take no part and perform no function in the Union, so that they cannot be recognized by the National Government. . . . There are in these States no local functionaries bound by constitutional oaths, so that, in fact, there are no constitutional functionaries; and since the State government is necessarily composed of such functionaries, there can be no State government.¹⁹⁷

In other words, since states' rights were not valid at the time of ratification of the Constitution and

¹⁹⁴ Ibid., pp. 836-41; Sumner cited Luther S. Cushing, Manual of Parliamentary Practice (Boston: William J. Reynolds & Co., 1853), p. 284.

¹⁹⁵ Freidel, II, 841; Sumner cited William Blackstone, Commentaries on the Laws of England (New York: Harper & Bros., 1856), no specific reference; Robert J. Phillimore, Commentaries upon International Law, I (London: William Benning & Co., 1854-61), 147; Edmund Burke, An Appeal from the New to the Old Whigs (London, printed for J. Dodsley, 1791), no specific reference.

¹⁹⁶ Ibid., pp. 836-41; Sumner cited Thomas B. Macaulay, The History of England, II (London: Longman and Co., 1849), p. 623.

¹⁹⁷ Freidel, II, 842.

the Southern states were disloyal to that sovereignty, by witness of not having any functions in the Union, they could not be considered states within the Union. The problem, Sumner claimed, was how to reestablish rightful jurisdiction in the vacated States.¹⁹⁸

The new governments can all be organized by Congress, which is the natural guardian of people without any immediate government, and within the jurisdiction of the Constitution of the United States.¹⁹⁹

This argument paralleled the Peace Democrats' contention that in place of military power to establish a government, only Congress had the civil right to act in this capacity.²⁰⁰ However, Sumner realized the need for military control within certain limits.

The lifting of the local governments leaves the whole vast region without any other government than Congress, unless the President should undertake to govern it by military power.²⁰¹

This military power should be restrained, Sumner held, because if it were used as the only means of reestablishing local and state governments, the situation could be disastrous to the powers of Congress,²⁰² which were threefold and clearly stated in the Constitution.

¹⁹⁸ Ibid., p. 843.

¹⁹⁹ Ibid., p. 846.

²⁰⁰ Western Reserve Historical Society, pp. 8-26.

²⁰¹ Freidel, II, 846.

²⁰² Ibid., pp. 836-838, 846.

First. From the necessity of the case . . . Congress must have jurisdiction over every portion of the United States where there is no other government; and since in the present case there is no other government, the whole region falls within the jurisdiction of Congress. . . .

Secondly. This jurisdiction may also be derived from the Rights of War, which surely are not less abundant for Congress than for the President.²⁰³

The first source of Congressional power cited by Sumner was based on Article IV, Section 3, paragraph 1:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.²⁰⁴

According to Sumner, since the Southern States had vacated their rightful jurisdiction, they were once again territories without loyal local governments.

The second source of power was from Article I, Section 8, paragraph 11:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.²⁰⁵

This same jurisdiction was provided to the President as the Commander-in-chief in Article II, Section 2, paragraph 1.²⁰⁶ The line of demarcation, Sumner held, was that Congress conquered, and the authority that conquers must govern.²⁰⁷

²⁰³Ibid., pp. 847-848.

²⁰⁴Hofstadter, I, 100.

²⁰⁵Ibid., p. 94.

²⁰⁶Ibid., p. 98.

²⁰⁷Freidel, II, 848.

At this point Sumner introduced his argument in support of Lincoln's emancipation act. He stated that not only had the Confederacy vacated their rights and become territories, but:

Since the Act of Congress of July 13th, 1861, the National Government has been waging "a territorial civil war," in which all property afloat belonging to a resident of the belligerent territory is liable to capture and condemnation as lawful prize.²⁰⁸

Furthermore, besides considering the Confederate states foreign enemies, Sumner held that the national government could:

Perform the milder service of making all needful rules and regulations for the government of this territory under the Constitution, so long as may be requisite for the sake of peace and order; and since the object of war is "indemnity for the past and security for the future," it may do everything necessary to make these effectual. . . . Its terrible root must be exterminated, so that it may no more flaunt in blood.²⁰⁹

This argument by Sumner paralleled Lincoln's reply to Greeley that the paramount objective was to save the Union, and do whatever necessary under the Constitution in order to meet that objective.²¹⁰ The terrible root that had to be exterminated to prevent further crises such as the Civil War, was explained in Sumner's third point on the sources of Congressional power:

²⁰⁸Ibid.

²⁰⁹Ibid., p. 849.

²¹⁰Current, p. 215.

It will be found in the constitutional provision that "the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion." Here, be it observed, are words of guaranty and an obligation of protection.²¹¹

Sumner referred to this statement as one which exhibited a two-fold power, which had the "occasion . . . for the exercise" to confer jurisdiction above all pretended state rights.²¹² Sumner recognized that this was debatable based on what definition of a republican form of government was used, but that this no longer mattered since the rebellion had detached states from the Union. The detachment was because of the root.

It is well known that Mr. Madison anticipated this precise danger from Slavery, and upheld this precise grant of power in order to counteract this danger. His words, which will be found in a yet unpublished document, produced by Mr. [Jacob] Collamer in the Senate, seem prophetic.²¹³

In other words, the major problem was internal violence that usurped the laws and guarantees under the Constitution; Sumner believed the prophesy in Madison's statement was now apparent.

"Where slavery exists the republican theory becomes still more fallacious." . . . The danger which

²¹¹Freidel, II, 849; for the Constitutional citation, see Article IV, Section 4, paragraph 1.

²¹²Freidel, II, 849.

²¹³Ibid.; Jacob Collamer, Review of Hon. J. Collamer's speech made in the Senate on the 16th of Jan., 1865, on the Bill for the Repeal of the eighth section of the Act of July 2d, 1864, respecting trade with the people of the Revolted States (Washington: McGill & Witherow, 1865).

this statesman foresaw is now upon us. When a State fails to maintain a republican government with officers sworn according to the requirements of the Constitution, it ceases to be a constitutional State.²¹⁴

Based on the three Congressional powers, Sumner felt that it was necessary to do anything to save the Union; the root of the internal violence which caused the war was slavery, therefore, it had to be "removed without delay or hesitation."²¹⁵

After Sumner summarized his argument that Congress had the right to determine a re-establishing of government in the South, he stated that the Emancipation Proclamation was the only logical solution to defeat the South. He claimed abundant authority for congressional action in the necessity of the case; in the rights of war; and in the obligation imposed upon the United States "to guarantee to every State in the Union a republican form of government," which conferred jurisdiction above all pretended state rights. He hoped that this view would be adopted because threats were openly made that the States would restore slavery, and because of the danger to loyal men involved in the recognition of the existing governments. Furthermore, a military government was not permanent and no trustworthy civil government existed, therefore, Congress should deal with the situation and pass laws to secure reconstruction with safety to the loyal and freedom

²¹⁴Freidel, II, 850; Collamer.

²¹⁵Ibid., p. 850.

to all in mind. One such act was the Emancipation Proclamation.

Slavery . . . is the motive of the Rebellion. To my mind nothing can be clearer, as a proposition of constitutional law, than that everywhere within the exclusive jurisdiction of the National Government Slavery is impossible.²¹⁶

To establish the premise that slavery was impossible under Constitutional jurisdiction, Sumner forwarded the following syllogism:

Slavery is so odious that it can exist only by virtue of positive law, plain and unequivocal; but no such words can be found in the Constitution. Therefore, Slavery is impossible within the exclusive jurisdiction of the National Government.²¹⁷

This categorical syllogism provided the basis for his remarks on the unconstitutionality of slavery.

Thus Slavery in the Territories is unconstitutional; . . . if the Rebel territory falls under the exclusive jurisdiction of the National Government, then Slavery will be impossible there. In a legal and constitutional sense, it will die at once.²¹⁸

The difficulty was in the minor premise stating where slavery could exist and under what form of law. Sumner did not define the terms "positive law, plain and unequivocal," other than to state that slavery was not mentioned in the Constitution. Assumably, Sumner meant that "positive law" was an implied enforcement from the ruling authority, the Constitution. The minor premise would be that since

²¹⁶ Ibid., p. 851.

²¹⁷ Ibid.

²¹⁸ Ibid.

slavery was not positively stated in the Constitution, those within its jurisdiction could not be slaves. Sumner suggested that perhaps the proclamation was not necessary, because once conquered, slavery ceased to have "a legal and constitutional existence in every Rebel State."²¹⁹ To guarantee this, he concluded:

It cannot be doubted, that, by the extension of the Congressional jurisdiction over the Rebel States, many difficulties will be removed. Holding every acre of soil and every inhabitant of these States within its jurisdiction, Congress can easily do, by proper legislation, whatever may be needful within Rebel limits in order to assure freedom and to save society. . . . Above all things, the inhabitants may be saved from harm . . . and the freedmen will be rescued from the hands that threaten to cast them back into Slavery.²²⁰

Sumner's proposition was to have the proclamation added as Constitutional law so that Congress would have the power to establish loyal governments in the Rebel states and confer jurisdiction, therefore, ensuring freedom to the freedmen; the threat to be returned to chattel would no longer exist and the root of the Civil War would be dead.

Sumner devoted the remainder of his pamphlet to a summary and exaltation of several Congressional actions following the Emancipation Proclamation, and a final appeal to grant the powers of reconstruction to Congress.²²¹

²¹⁹ Ibid., p. 852.

²²⁰ Ibid.

²²¹ Ibid., pp. 853-855.

Summary

Sumner's main argument was that the Emancipation Proclamation was necessary but should be enforced through Congressional, not Executive, power. The reason was that the President could act only through his temporary military power to create local governments; but Congress, given the jurisprudence, could establish permanent governments in the Rebel states under the representation and protection of the Constitution. Sumner's arguments were fairly exempt from logical inconsistency.

Unlike the previous pamphleteers in this study, Sumner appeared not to argue from previously held premises by developing his arguments from evidence based on testimony, personal experience, analogies, legal facts, and history. The majority of Sumner's reasoning was based on causal relationships, such as the eventual overruling of states' rights by the Constitution. Like the previous pamphleteers, Sumner's style of writing was very temperate, avoiding attacks on the opponents of each position he argued; also, he based his arguments on the character of the position through legal precedent. The most unique characteristic of Sumner's pamphlet was the shift in argument from whether or not the Emancipation Proclamation was within the Constitutional powers of the President to how the act would be most judiciously enforced in the territories won from the South by the Union, which, in fact, Congress was granted the power to enforce after July, 1864.²²²

²²²Storey, pp. 255-270, 281-286.

George Franklin Comstock, Let Us Reason Together. (Papers from the Society for the Diffusion of Political Knowledge, No. 18), New York, 1964.

From October, 1863 to mid-July, 1964, numerous views of Reconstruction had been advanced. The plans of Senator Charles Sumner, Representative Thaddeus Stevens, and President Lincoln were met with stern opposition. The course of the Civil War was in the favor of the North by late 1863, and the legislative acts of Congress and the President by early 1864 were being accepted by most citizens in the North.²²³ However, the Society for the Diffusion of Political Knowledge published Comstock's pamphlet which took a rigid constitutional view on Reconstruction and the Emancipation Proclamation. His pamphlet was the last in the Freidel collection devoted to a denunciation of the Emancipation Proclamation as a Constitutional or a military measure. He argued that the Constitution firmly and permanently fixed the relationship between the states and the Federal government, therefore, secession was illegal on the part of the Southern states. Furthermore, since the Southern states could not leave the Union, their powers in the Union were unimpaired; the Federal government could not redefine this status of the states, nor could it tamper with slavery.

Comstock's introductory remarks were primarily

²²³Smith and Judah, pp. 255-370; see also, Kempf, III, 1298-1314.

indictments against the Republican administration, which he felt was usurping constitutional power and destroying the fabric of the United States.

The danger is extreme that we shall lose both the principles and forms of our institutions, and that society itself will receive incalculable injury, while we are engaged in a great and passionate struggle of arms--a struggle not merely to preserve the territorial unity of the republic, but to extend over it a government not derived from a written constitution, and unknown to any law which has the sanction of civilized men.²²⁴

Comstock reiterated the same fears of abuse by the Republican administration that Morse stated in his pamphlet.²²⁵ Even the same plea for national unity was apparent in Comstock's arguments, however, the difference between Comstock's and Morse's arguments was in their mode of argument and evidence.

One of the major delusions held by the people, Comstock argued, was accepting the sentiment that the war could be maintained at the temporary expense of the Constitution, so that National unity could be maintained.²²⁶ This dogma, he urged, would force the Nation into a uniform social system and destroy it. Furthermore:

The National Administration to-day stands pledged before the world, by the repeated and solemn proclamations of its chief, to accept no peace--no submission from the rebellious states--without the

²²⁴Freidel, II, 874.

²²⁵Ibid., pp. 636-637.

²²⁶Ibid., p. 875.

immediate surrender and destruction of the institution of slavery.²²⁷

In order to avoid the destruction of local, state and national governments, Comstock held:

Our safety . . . must be found in a faithful adherence to the Constitution, because we thereby preserve from annihilation or disturbance the just sovereignty of the States, and the local laws and institutions which have immediate relation to the happiness and wants of every individual.²²⁸

The basic assumption Comstock forwarded, contrary to the arguments of Sumner, was that the states, Rebel or not, maintained their sovereignty regardless of the present state of war; second, the Constitution could not interrupt state sovereignty, because the Constitution was the binding agent, not the determiner of relationship policy.²²⁹ In an attempt to establish this proposition as fact, Comstock asserted what he believed to be the characteristics of the Constitution.

So smooth and peaceful have been the events of our history--so few and so light have been the shocks felt by the political and social fabric--that we forget how we became, and why we are a Nation.²³⁰

Although Comstock did not support his assertions, except for his own personal opinion, he maintained that the standard of direction in support of unity was the Constitution. As examples of non-direction and eventual destruction

²²⁷Ibid.

²²⁸Ibid., p. 876.

²²⁹Ibid., p. 877.

²³⁰Ibid.

of national survival, Comstock reviewed the histories of Holland and the rest of the Netherlands, who rejected the Roman Catholic religion because of agonies they suffered under the Spanish Inquisition, and then were ravaged in Spain's attempt to destroy the surge of Protestantism. Comstock felt this analogous to the American Civil War.

Slavery in the Southern States is the cause of the war, shocking to the humanity and civilization of the age, which now rages between the sections of this country.²³¹

His analogy was ambiguous considering the conditions of the two situations: in the Civil War, according to Comstock, the cause of the war was slavery and in the former it was a rejection of Catholicism for Protestantism. Missing in the analogy were the facts that the North was attempting to rid slavery in the Rebel states, and Spain was attempting to maintain Catholicism in Holland and the rest of the Netherlands. In other words, in the former was a change in the status quo, and in the latter a preservation of the status quo. From his analogy, Comstock concluded:

Under the Constitution of the United States there is no shadow of right, in peace or war, by its laws or its military power, to spread or to propagate the opinions or sentiments of any class or section, upon social and moral questions.²³²

Comstock used the slavery-protestant analogy to maintain that a governmental standard such as the Constitution

²³¹ Ibid., p. 878.

²³² Ibid., p. 879; this entire quotation was italicized by Comstock.

could not determine social or moral regulations upon its subordinates, whether they be individuals or states.

Comstock then examined how the United States became a nation and the mode of national existence.²³³ He cited the preambles of the Declaration of Independence and Articles of Confederation which, he maintained, clearly established sovereignty as belonging to the free and independent States without exception. However, it was the distinction between the Constitution and the Confederation that Comstock felt needed clarification.

The grand distinction between the Confederation and the Constitution was, that the former established no government to execute the specified powers which were granted while the latter did establish one in the three departments--Legislative, Judicial, and Executive. The Confederation was more a treaty than a government. The Constitution is more a government than a treaty. If we have any rightful National Government it is this Constitution.²³⁴

Comstock then stated that the Constitution provided a means of maintaining the agreements between the States of Confederation. From this conclusion, Comstock forwarded what the powers of the Constitutional government were and were not; of the eleven suggested, four were reiterations of the Constitutional provisions²³⁵ and the remaining

²³³

Ibid.

²³⁴Ibid., p. 880.

²³⁵Ibid.; the four powers Comstock cited were paragraphs 3, 5, 7 and 11 of Section 8, Article I.

seven were acts not permitted by the National government through the Constitution.

It cannot pass a law for the observance of the Sabbath; it cannot enact a single regulation of internal trade, it cannot prescribe the requisites of a deed or will; it cannot regulate the protest of a note; it has nothing to do with the marriage relation, with parental or filial duties; it cannot punish adultery, polygamy, or petit larceny; it cannot suppress immorality of any description; it has no general jurisdiction over crime or the civil rights of the citizens of the States; it cannot dissolve the indenture of an apprentice, and it cannot MAKE OR EMANCIPATE A SLAVE. Of course we are speaking only of powers to be exercised within the States.²³⁶

Three of these contentions appear to be Constitutionally based: internal trade, deeds or wills, and notes.²³⁷ The rest appeared to be Comstock's own personal opinions, which parallel Locke's doctrine on the natural right of man by the laws of nature. His last phrase, "we are speaking only of powers to be exercised within the States," served as Comstock's transition into his argument that sovereignty and allegiance were the responsibility of the citizen.

The total mass of political sovereignty . . . belongs to the government of each State, while only one part is held by the common agent of all the States, the Government of the Union.²³⁸

Comstock held that one part maintained the Union, therefore, neither the national Constitution nor the state Constitutions could supersede or intervene the rights of the citizen.

²³⁶Freidel, II, 880.

²³⁷See Article I, Section 9, paragraphs 3 through 7.

²³⁸Freidel, II, 881.

The States cannot absolve the citizen from the obedience which he owes to the constitutional powers of the Union; But . . . there is no power in any branch of the Federal Government which can dissolve the allegiance due from the citizen to the State.²³⁹

Comstock then urged that secession would be impossible under such a system of Constitutional unity because the states:

Are fixed in the Union forever, and can no more forsake it than a plane can forsake its orbit around the sun. The citizens of a State combining in sufficient numbers may gain possession of the powers of administration in a State government and wield those powers against the Union; but sovereignty is not lost or destroyed, although its powers are misdirected. A sovereignty may be subjugated by force, but it cannot be a rebel.²⁴⁰

Comstock further maintained that since the national Constitution was perpetual, the relation of the states to each other and to the national Government was unchangeable.²⁴¹ This interpretation of the Constitution was maintained by Comstock to the point that he felt that no amending of the Constitution should take place, which was what he feared most.

We find the leaders and guides of a great political party disseminating over the land crude and monstrous theories which admit and proclaim the Union already dissolved, and the Constitution already overthrown.²⁴²

²³⁹Ibid., p. 884.

²⁴⁰Ibid., p. 887.

²⁴¹Ibid., pp. 886-888.

²⁴²Ibid., p. 888.

Also, the Emancipation Proclamation furthered the overthrow of the Union and the Constitution.

The sudden and violent enfranchisement of the four millions of slaves in the Southern States has now become the leading principle and animating purpose of the war as carried on by the National Administration. . . . The meaning of the edict was sufficiently plain because by its very terms, it declared the slaves to be "forever free," and pledged the armies and navies of the Union to "maintain that freedom."²⁴³

Comstock held that the proclamation could not be a military measure since it affected the internal structure of the states and their governments; as a war measure, the act would destroy the Constitution and subvert the Union.

Nowhere in all the councils of the republican party is there a single voice raised in favor of the Union of the States without emancipation, and with the quality and rights to which the Constitution entitles them. We know that the words "union and the Constitution" . . . mean simply unity and consolidation under the pressure of power to be enforced by a desolating and exterminating war, and not the union of co-equal sovereignties ordained by the Constitution. . . . The purpose to use military power of the nation, in order to overthrow all the laws and constitutions of States by which slavery is maintained, has diffused itself throughout a great political party, and this purpose must find some doctrinal justification or be abandoned. Out of this necessity various theories have arisen to justify a war of invasion and conquest outside of the Constitution.²⁴⁴

Comstock then took issue with Charles Sumner's pamphlet, Our Domestic Relations. Of particular importance to him was Sumner's contention that state sovereignty was vacated through the ordinances of secession and resistance to constitutional authority.

²⁴³Ibid., p. 890.

²⁴⁴Ibid., pp. 891-892.

To these conclusions, we oppose the self-evident proposition a State or sovereignty cannot commit suicide. A political State is composed of its people, their laws and constitution of government and perpetual succession and sovereignty are its necessary attributes. . . . It cannot cease to exist by the force of legal or logical proposition.²⁴⁵

Comstock argued that neither the Union, by means of the Constitution, alters the sovereignty of the States, nor the Constitution as a sovereign overrule another sovereign composed of people with natural rights.²⁴⁶ However, Comstock did not deal with Sumner's argument that the Southern states had vacated their constitutional rights, but focused on the issue of the states committing suicide stating that it was only possible to vacate their positions. His argument was vague and he offered no evidence in refutation of Sumner's contention, but gave his personal opinion, stated in a proposition of value, that Sumner's constitutional arguments were condemned by the rules of Christianity and the civilized world.²⁴⁷

Comstock devoted the remainder of his pamphlet to brief arguments against the Amnesty Proclamation of December, 1863; the stipulations on citizens guilty of treason; and oaths of loyalty to be taken by citizens who wished readmittance under the protection of the Constitution.²⁴⁸ Each

²⁴⁵ Ibid., p. 892.

²⁴⁶ Ibid., pp. 892-893.

²⁴⁷ Ibid., p. 893.

²⁴⁸ Ibid., pp. 894-897.

of these conditions, according to Comstock, was outside the powers of the President and the national Constitution, therefore, endangered the existence of the Constitution and the Union.²⁴⁹

In conclusion, Comstock appealed to the citizens to make their voices heard and continually impress upon their fellow citizens that a peaceful uprising of the people was coming as a result of reason and universal conscience.²⁵⁰ Enclosed at the end of the pamphlet was a brief extract reiterating his views stated in the pamphlet, concentrating especially on the sovereignty of the Constitution and the states, and that which would help maintain each sovereignty, which were a recognition and acceptance of the sovereignties.²⁵¹

Summary

Comstock opposed the Emancipation Proclamation because it was outside of the powers granted to the administration and because it would destroy the Constitution. To fight the Southern states under the banner of emancipation was not justified as a military measure because it would alter the Constitution and the Union.

To support his contentions, Comstock used his own personal opinion and some arguments from sign. However,

²⁴⁹ Ibid., p. 898.

²⁵⁰ Ibid., pp. 898-900.

²⁵¹ Ibid., pp. 901-902.

his arguments from signs lacked corroborating signs to justify and strengthen his conclusions, even to the point that not once did he speak of the circumstances of the war between the States.

The most unique characteristic of Comstock's arguments was what sovereignty and allegiance to the Constitution meant. Both definitions were based upon his interpretations of what constituted unity among the state, the individual state and the Constitution, and the states with the Constitution. Comstock supported his definitions with literal Constitutional interpretations on the duties of the Congress and the President.

Like Samuel F. B. Morse, Comstock's political thought appeared to have paralleled John Locke's treatise on the natural rights of man according to the laws of nature. In comparison of Comstock's pamphlet with Sumner's, Comstock did not exhibit the judicious thought of Sumner. His refutation of Sumner's pamphlet did not meet the major issue that Southern states had vacated their rights.

Comstock's evidence was generally insufficient to warrant the conclusions drawn, especially his conclusions on the issue of sovereignty and allegiance to the Constitution and State.

Abraham Lincoln, (Union League No. 69), Philadelphia, 1864.

By the beginning of 1864 the coming presidential election was casting its shadow over the political arena of

the United States. The Republicans knew that victory would not be easy; they had done badly in the congressional elections of 1862, and enthusiasm for Lincoln was low.²⁵² Nevertheless, some Republican organizations were endorsing Lincoln for a second term. Early in January the New Hampshire Republican convention acted in favor of Lincoln, followed by the Republicans in the Pennsylvania legislature. On January 11, 1864, the Union League of Philadelphia passed resolutions presenting Lincoln as the people's choice for President. In March, they prefaced the resolutions in their anonymous campaign pamphlet, Abraham Lincoln.²⁵³

Their major argument was that the Emancipation Proclamation was a necessary military measure consistent with the purpose of the war to end the power base of Southern resistance.

The pamphlet's preface contained the following resolutions passed on January 11, 1864:

Resolved, That to the prudence, sagacity, comprehension, and perseverance of Mr. Lincoln, under the guidance of a benign Providence, the nation is more indebted for the grand results of the war, which southern rebels have wickedly waged against Liberty and the Union, than to any other single instrumentality, and that he is justly entitled to whatever regard it is in the power of the nation to bestow.

²⁵² Kempf, III, 1272-1278; Catton, pp. 369-383; James G. Randall and R. N. Current, Lincoln the President, III (New York: Dodd, Mead, 1845-1955), 120-21; Smith and Judah, pp. 114-27.

²⁵³ See Chronicle of the Union League of Philadelphia, 1862-1902, especially pp. 154-158.

Resolved, That we cordially approve the policy which Mr. Lincoln has adopted and pursued, . . . and that we shall continue to give an earnest and energetic support to the doctrines and measures by which his administration has thus far been directed and illustrated.

Resolved, That . . . Mr. Lincoln . . . should also enjoy the largest share of the honors which await those who have contended for the right; and . . . we recognize with pleasure the unmistakable indications of the popular will in all the loyal States, and heartily join with our fellow citizens, without any distinction of party, here and elsewhere, in presenting him as the People's candidate for the Presidency at the approaching election.

Resolved, That a Committee of seventy-six be appointed, whose duty it shall be to promote the object now proposed, by correspondence with other loyal organizations, by stimulating the expression of public opinion, and by whatever additional modes shall, in their judgment, seem best adapted to the end. . . .

Resolved, That a copy of these proceedings . . . be forwarded to President Lincoln; and that they also be published in the loyal newspapers.²⁵⁴

This blanket endorsement of Abraham Lincoln's record typified the Union League's pro-Republicanism throughout its history.²⁵⁵ Without exception, Lincoln's actions were praised and honored without question. Of particular importance in the resolutions above were Lincoln's endorsement for a second term as President and being credited for the victory over the Confederacy.

After the preface, the pamphlet started by praising Lincoln's background from the Republican Convention in Chicago to his not so popular victory in the national elections.²⁵⁶

²⁵⁴Freidel, II, 903-904.

²⁵⁵Chronicle of the Union League of Philadelphia, 1862-1902, pp. 78-80, 217-222, and 245-250.

²⁵⁶Freidel, II, 905.

At this moment of supreme agony, Abraham Lincoln, new and untried, assumed the Chief Magistracy of the distracted country . . . and his first foretaste of office was the plot to assassinate him in Baltimore.²⁵⁷

The assassination attempt referred to by the League was in reference to the riot against Union soldiers held in Baltimore when President Lincoln was passed through on train.²⁵⁸ Whether or not this riot in Baltimore was a well designed assassination effort was never proven, but for the purposes of the Union League, they interpreted the event as an attempt to kill the President.²⁵⁹

In the review of Lincoln's history in the White House, the League stated that graft, treachery, and general corruption plagued all offices, civil and military.²⁶⁰ They contended that under any other man other than Lincoln, the nation would have collapsed when Ft. Sumter was attacked.

Five weeks under Lincoln found the people in a different mood. Faith in him had restored faith in themselves. . . . The country was saved so soon as the people recognized in their President a man who believed that he could save it, and who honestly intended to do so.²⁶¹

²⁵⁷ Ibid., p. 906.

²⁵⁸ Hosmer, pp. 31-32.

²⁵⁹ For an objective report of the Maryland riots against Union occupation, see Kempf, III, 988-990. Included are the exchange of letters between Lincoln and members of the Maryland legislature which explain the reasons for the riots, which were primarily in protest of occupation and martial law in Maryland.

²⁶⁰ Freidel, II, 906.

²⁶¹ Ibid., p. 907.

To prove that Lincoln restored confidence in the people of the North and restored the Union, the League listed several immediate actions by the President.

The national credit was restored and . . . finances redeemed. . . . Great armies were organized with unprecedented rapidity. Arms and munitions of war were accumulated with a promptitude hitherto unknown. A Navy was extemporized, which enforced a blockade. . . . A diplomacy of mingled firmness and moderation has kept in check . . . the jealous powers which eagerly sought occasion to complete our ruin.²⁶²

Although the League did not specify the precise actions taken by Lincoln, the references were clear enough to identify them; the national debt was settled through taxation and contracts with banks;²⁶³ a call for men was immediately ordered and organized;²⁶⁴ munitions were placed on mass production priorities;²⁶⁵ and the naval blockade was inaugurated.²⁶⁶ The checks on foreign diplomacy were primarily a trial and error method, that eventually became a major problem to the Administration.²⁶⁷

²⁶² Ibid., p. 908.

²⁶³ A. S. Hart, Salmon Portland Chase (Boston: Houghton, Mifflin Co., 1899), pp. 220-41.

²⁶⁴ Hansen, pp. 47-49, 169-210.

²⁶⁵ Ibid.

²⁶⁶ Ibid., pp. 49-51.

²⁶⁷ Ibid., Charles F. Adams, Charles Francis Adams (Boston: Houghton, Mifflin Co., 1900), pp. 137-48; William H. Seward, "Diplomatic History of the War for the Union" Part IX of vol. II from, The Works of William H. Seward, George E. Baker, editor (Boston: Houghton, Mifflin Co., 1884).

These acts by Lincoln, the League claimed, not only restored the confidence between the people and the government, but re-established the government itself.

The great duty to which Mr. Lincoln has dedicated himself with rare singleness of purpose is the one thought which engrosses every true American heart--the re-establishment of the Union on a permanent basis. To this, all else for the moment is secondary, and every obstacle in its way must be removed. Few among us, at the outbreak, recognized that slavery was such an obstacle.²⁶⁸

In their praise of Lincoln's acts the League assumed that the means justified the ends. The taxation controversy, the deaths occurring in riots over the draft, the upsetting of foreign relations after the blockade, and the controversy over emancipation were, the League held, justified because they were means to defeat the Confederacy.²⁶⁹

It was necessary, the League stated, to focus upon the one important element that caused the war.

We found that slavery was not only the cause of the rebellion, but that, in place of being, as we had supposed, an inherent weakness, it was really a source of strength. Its destruction became, therefore, necessary to the overthrow of the rebel chiefs, and also to the permanency of the triumph of the national cause.²⁷⁰

The League's basic assumption was that since the war was in favor of the North, the President's actions were warranted. However, they discussed at length the

²⁶⁸ Freidel, II, 909.

²⁶⁹ Ibid.

²⁷⁰ Ibid.

military justification of the Emancipation Proclamation. They asserted that it was necessary to overthrow the strength of the Confederacy, slavery; it was a military necessity by the very reason Lincoln gave to Greeley in August, 1862: "To save the Union, and not either to save or destroy slavery."²⁷¹ This, asserted the League, was easy to prove as a war measure.

A hundred days were given before it should take effect, in hopes that the rebels might avert it by laying down their arms. The door was held wide open for their return . . . and before the repulse of Fredericksburg, in his letter to Fernando Wood, Mr. Lincoln promised "a full and general amnesty," if they would return to the Union. . . . The rebels . . . declined to avail themselves of this error. The hundred days elapsed, and the Proclamation took effect. As an exercise of the war power, it was undoubtedly justifiable.²⁷²

Also, it was the right of the belligerent to seize the property of the opposition; this, too, justified the act as a war measure.²⁷³ As for the actual enactment of the emancipation policy, the League claimed that the events and the results of the war from 1863 to 1864 proved the proclamation was not a mistake as a military measure. Lincoln's wisdom was evident during 1864, the League stated, because the entire foundation of the South was in the process of collapse and the proclamation, as a peace measure,

²⁷¹ Ibid., p. 910.

²⁷² Freidel, II, 910.

²⁷³ Ibid.; this was the same argument Lowrey used to refute Curtis' war measure argument.

would ensure permanency to the Union at the end of the war.²⁷⁴

The last issue discussed by the League was the Amnesty Proclamation of 1863, which was the measure "that the reputation of Mr. Lincoln . . . will chiefly rest."²⁷⁵ This act, they predicted, would protect the future of the Union and ensure the permanency of the Constitution.²⁷⁶

In conclusion, the League reiterated their praise of Lincoln and appealed to the people that he was a "Man of the People," who had proved himself as the only man capable of maintaining the Union, therefore, he should be re-elected as President.²⁷⁷

Summary

The focus of the Union League pamphlet, Abraham Lincoln, was on the expediency of re-electing Lincoln as President in the national elections of 1864. The arguments were mostly causal, and granted the assumption that the means justified the end, which was the defeat of the Confederacy. Their major argument for the Emancipation Proclamation was that it struck at the cause of the war and the strength of the Southern States in rebellion, slavery.

²⁷⁴Freidel, II, 911.

²⁷⁵Ibid., p. 912.

²⁷⁶Ibid., pp. 912-913.

²⁷⁷Ibid., p. 913.

Lincoln's practicality, the League held, reunited the people and built trust between the people and the government; his ethical qualities were sagacity, excellent character, and probity. To support the Emancipation Proclamation as a necessary war measure the League cited the right of the belligerent over the property of the enemy. Precise evidence on the issue of the belligerent was lacking; however, because the purpose of their pamphlet was to openly endorse Lincoln for the Presidency, it probably was not necessary to go into depth. Their evidence was Lincoln's record as President, which the League believed to be for the good of the people. As a result, they concluded that Lincoln was the only choice for President.

Compared to the previous pamphlets, the most unique characteristic of the League's pamphlet was its blanket endorsement of Lincoln and all of his administrative policies during the war. The League avoided mentioning the issues prevalent throughout the North during the war which were not always in favor of Lincoln's actions. For example, they praised Lincoln for clearing the debt, but failed to mention the lengthy debates in Congress; praised the immediate raising of the armies, but did not mention the draft riots; and the setbacks in foreign relations after the blockade went into effect. However, as a campaign pamphlet, the League's purpose did not necessarily mean that they

had to refute their opposition's arguments against Lincoln because the war was in favor of the North by 1864.

CHAPTER VI

SUMMARY AND CONCLUSION

Summary

1. Pamphleteering Issues in the North during the Civil War.

Pamphleteering in the North during the Civil War was a significant part of the American scene. The effect on citizens of the North may never be known, but it is evident that pamphleteering individuals and societies did proliferate other societies as well as other individuals to publish pamphlets. Much of the discourse in the pamphlets was polemic and well written by leading politicians, lawyers, journalists, publicists, and intellectuals of the North.

Despite the availability of newspapers and magazines, these pamphlets were a vital vehicle of expression in the Civil War. To meet the need of keeping the issues before the people, the Loyal Publication Society of New York, the Union League of Philadelphia, the New England Loyal Publication Society, and the Society for the Diffusion of Political Knowledge, poured out their pamphlets in huge quantities. Individuals propagated their ideas either by

personally financing their publications or getting aid from amenable thinkers. Also, journals such as the Atlantic Monthly found it desirable to issue pamphlets they believed to be in public interest. For example, the pamphlet by Charles Sumner, Our Domestic Relations, was a regular article that was later published in a pamphlet. Although the pamphlets in Freidel's collection vary in content and argument, each attempted to sway public opinion to its point of view on political, social, military, and economic issues. Consequently, as the major themes changed in the course of the Civil war the content of the pamphlets changed accordingly.

When Lincoln's proclamation of emancipation became public, the pro-Democratic Society for the Diffusion of Political Knowledge developed out of a need to bring the issues, as they saw them, to the soldiers and civilians of the North. Immediately following the formation of that society other societies developed. The anti-slavery Loyal Publication Society of New York was organized the next day; a few days later the Union League of Philadelphia and the New England Loyal Publication Society were organized and began propagating pro-Union sentiment. In each case the societies pamphleteered to control and coordinate Northern public opinion.

The breadth of circulation covered the entire United States and its territories. Pamphlets appeared as far west

as California, south to Louisiana, and over the entire border and eastern state regions. Although the exact number of pamphlets circulated in the United States and territories during the Civil War is unknown, it would not be an over-exaggeration to estimate that over one million pamphlets were in circulation just from 1862 to 1864.

Both the Democratic Society for the Diffusion of Political Knowledge and the Republican pamphleteering organizations, by the wide range of their pamphlets, seemed to represent the consensus of their two parties on the issue of emancipation. In the pamphlets content, there was little distinction in the arguments of the War and Peace Democrats, and the moderate and Radical Republicans. It was possible that each political group depended upon financial backers of too broad a range of views to become the vehicle for the ideology of one faction. Also, it was possible that each political faction found a common source to focus their attacks upon, therefore, abandoned internal disagreement for the sake of a common cause.

These politically-based pamphleteering societies operated under a Republican administration: the task in pamphleteering issues was either one of reinforcing administrative policies, as in the case of Grosvenor P. Lowrey, or, to repudiate Republican policies like Morse and Comstock. Regardless of party affiliation, the pamphlets were well-reasoned treatises, and capitalized little upon emotional

and prejudicial appeals to control and coordinate the Northern society.

2. Arguments and Evidence of the Selected Union Pamphlets.

It may very well be true that it was the rhetoric of war rather than reason and deliberation which determined the final passing of the Emancipation Proclamation. However, in the analysis of the arguments and evidence by the authors of the pamphlets, it was evident that a great deal of thought was devoted to the act. As seen in Chapter II, Abraham Lincoln did study the implications and ramifications of the act. The bills and resolutions forwarded before the House from 1861 to the summer of 1862 also indicated that there were conscientious politicians seeking answers to the problems and difficulties of emancipation.

The majority of the arguments forwarded by the Democrats against the proclamations of emancipation were based on states' rights and the act's constitutionality; the argument that Lincoln usurped his powers as President was based mostly on very literal interpretations of the Constitution. For example, since the Constitution did not clearly state that the Chief Executive had the power to submit policies amendable to the Constitution, it was concluded that the President had no authority for his policy of emancipation. Also, the arguments for the protection and maintenance of states' rights were based upon the interpretation of the Constitution that the States were a confederation. Since

the Constitution protected states' rights it could not control or determine those rights. The Emancipation Proclamation was interpreted as a violation of states' rights because it would nullify the power of the states, a problem of policy which did plague Lincoln. After a long examination of the proclamation, Lincoln provided that each state, individually, hold elections to adopt the writ.

Much of the evidence used by the Democratic pamphleteers, including the non-partisan Benjamin R. Curtis, was consistent to the arguments presented, but most of it lacked depth. Most of the evidence was based on personal opinion or observations not directly preceded by proof. However, in the case of Morse, the evidence was found to be dogmatic statements paralleling the theories of John Locke and John Adams. Vallandigham and Comstock based their arguments upon legal and constitutional precedent, but their interpretations of constitutional precedents were rigidly literal. For example, Comstock did not delineate between the powers of the President as a civil executive and as the commander of the armed forces; the same was true for Samuel F. B. Morse. Curtis used broad generalities and categorical statements which did not seem to have precedent. In fact, in refutation of Curtis' arguments, Lowrey found it necessary to define elaborately and explain the issues before presenting his arguments; Lowrey continually accused Curtis of his lack of clarity.

Generally, the arguments presented by the four anti-emancipation men were the same arguments that plagued the thoughts of the Republican administration. However, the evidence, even though generally consistent with their arguments, lacked clarity.

The arguments forwarded by most of the Republican pamphleteers were primarily causal, developed through historical and legal precedent. The main argument for the legality of the proclamation was that it was within the military powers invested to the President as Commander-in-chief. Furthermore, the President was constitutionally empowered to submit for recommendation any act he wished. For example, in support of this argument, Lowery cited the preamble of the proclamation, then compared it to the Constitution's article stating the exact right of the President, that is, "the President may recommend to the Congress."

Amazingly few arguments were based on moral issues; whether or not this was the preference of the authors, Democrat and Republican alike, can only be conjectured. The only argument forwarded in the pamphlets dealing directly with the Negro as a slave was the argument on the right of the belligerent to confiscate his enemy's property; since the slave was considered property he could be confiscated and his destiny would be determined by the belligerent. The Northern belligerent decided that emancipation was the Negro's destiny.

Charles Sumner, although pro-emancipation, differed from the other pro-Union pamphleteers by not agreeing to establish local governments in the South through military control. Eventually, Congress adopted this policy and Reconstruction was handled by politicians.

Overall, some of the evidence used in the pro-emancipation pamphlets was personal opinion based on clearly stated facts, but most of the evidence was developed through historical and legal constitutional precedent. The same was true for the Democrats, but they lacked the depth and clarity of the Republicans in their use of evidence. In both cases, however, the evidence was highly informative and served as a means to persuade the reader to the author's point of view, whether he was writing for himself or his society. At times some of the evidence needed further qualification for clarity, but generally the evidence used by the anti- and pro-Republican pamphleteers was trustworthy, accurate, and credible fact and opinion.

The arguments for and against the Emancipation Proclamation were mostly on the constitutionality of the act as a war measure, a proposal affecting state laws and rights, a military policy serving as a means either to prolong or end the war, the constitutional powers of the President, and whether or not the act was attacking and ending the real cause of war, slavery. In most cases the major arguments were supplemented by other arguments on

related issues with emancipation. Most of these supplemented arguments were on the economic and political practicality of the act.

Overall, the arguments and evidence were used in a variety of ways to meet the needs implicit in the foundings of the pamphleteering societies. Emancipation of the slave was a divisive issue that was a prime subject on the minds of the citizens of the North and the South, and pamphleteering was only one of the vehicles employed to bring those issues to the society. As Dr. Frank Freidel wrote:

Pamphlets are ephemeral like the issues that inspired them; of the millions produced and circulated, only scattered copies and a few bound sets survived in attics and libraries. They are evidence of the innumerable voices . . . that echoed through the North during the Civil War.¹

Conclusions

The first conclusion is based on the questions, why was the Emancipation issued during the Civil War, and what was its significance to pamphleteering? The act was an attempt to unify the North by providing a common cause to rally behind. The act adversely affected the government in that many Republicans and Democrats became divisive over freeing the slave. It was believed by the proponents of emancipation that this act would break the power structure of the South, but it was largely ignored by the rebellious states and no pronounced disturbances of the Southern war

¹Freidel, II, 24.

efforts occurred. In the North, however, the act proliferated outcries of protest from prominent citizens who immediately published pamphlets against it. By January, 1861, pamphleteering societies, such as the Society for the Diffusion of Political Knowledge, organized in protest against the Republican administration. This in turn caused pro-Union men to organize pamphleteering societies. The most significant effect the Emancipation Proclamation had on pamphleteering was that it helped unify groups of men in their attempts to realize their political and personal ambitions, and influence public opinion.

The second question, how and why was pamphleteering conducted in the Civil War was partially answered in the above. Pamphleteering occurred mainly as a means to influence public opinion and to provide a vehicle for expressing personal views and ambitions. These aims were carried through by well organized societies using every available means to publish and circulate their pamphlets.

Third, the political characteristics of the men writing the pamphlets were of two politically diverse groups, the anti-slavery Democrats and pro-Union Republicans who endorsed emancipation. Each group was composed of minority factions who united under common banners. Apparently, these small factions found it more practical to work through a majority group endorsement to make their attitudes and opinions more influential on public opinion. This was

especially important since the national elections were only a few months away after the Emancipation Proclamation was passed; the prestige of a unified political entity could play an important role in determining whether or not the Northern citizenry would accept their views.

Fourth, the ways in which these pamphleteers dealt with the exigencies of the Emancipation Proclamation varied according to the political and military situations of the times. Unique to the pamphlets was a lack of emotional and moral appeals. It was possible that the pamphleteers knew that interpretations and evaluations would follow the reading of their treatises and, in order to persuade the reader, decided to use conservative and temperate arguments for long range effects. Also, there were numerous periods of confusion and divisiveness in the North over the Emancipation Proclamation, and by omitting emotional and moral appeals, the pamphleteers' moderateness seemed essential to motivate the public in terms of long range goals. Finally, much of the content on the legality of the act was discussed in lengthy, complex treatises which were seemingly aimed more at the contingencies in Washington rather than the average Northern layman. Therefore, by writing well reasoned arguments with few emotional and moral appeals, the pamphleteers may have thought that their views would be more influential in determining government policy. Even though the reactions of the public varied in the North, the pamphleteers maintained

moderate and temperate arguments for and against the Emancipation Proclamation. It seemed that the pamphleteers were appealing more to the men in Washington than to the average citizen of the North, civilian and military.

The fifth area of inquiry was on the means of argument and evidence used by the pamphleteers. As just stated, the pamphlets' content was marked by a lack of emotional and moral appeals. The major arguments were developed from legal and constitutional precedents to exhibit cause-effect relationships. In many cases, the arguments lacked enough specifics to warrant many of the generalizations. One reason for this lack of specifics could be that the pamphleteers thought specifics too individual, hence, hardly universal in appeal. When the pamphleteer made references to God, country, or Constitution, he may have believed that his generalities had strong emotional impacts, but this did not seem to be the case. Another reason, and most likely, for the use of generalities, was that the greater the generality the greater the potential of persuading the reader. If the pamphleteers assumed that their readers supplied their own explicit details for the generalities, then they would rely more on the truth of those generalities than on specifics. Moreover, it was possible that these generalities were unsupported so that the specifics would be filled in by the readers, thereby persuading themselves. As a final consideration, the use of generalities could be because they were

easier to prepare and present; little time would be necessary for the pamphleteer and his society to do research. All that was needed were a few generalizations supported by other generalizations, and a pamphlet was composed. This seemed to be the case in Morse's and the Union League's campaign pamphlet.

The readers of the pamphlets in the East were certainly not as homogeneous politically as those in the border states, therefore, they probably did not interpret the pamphlets in quite the same way. As a result, the pamphleteers who wrote in depth treatises, like Lowery and Sumner, were probably aware of the impact their arguments could have in determining governmental policy, therefore, they avoided the assumption that there was one universal interpretation of their arguments, and vividly described and analyzed their terms and those of their opponents.

Overall, pamphlets seemed to meet the needs of politically motivated entities as a means of influencing public opinion. These pamphlets provided the readers immediate accounts of the prevailing issues of the times. The anti- and pro-slavery elements attempted to provide discriminating arguments on the Emancipation Proclamation to the Northern people during the Civil War.

APPENDIX A

Extract of Senator Lyman Trumbull's Act

To Suppress Insurrection,

July 17, 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

Sec. 2. . . . That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States . . . shall be punished by imprisonment . . . or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves . . . or by both of said punishments, at the discretion of the court. . . .¹

Sec. 5. . . . That, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States, that is to say: . . .²

¹Following Section 2 were two sections delineating further violations against the United States and that they could no longer hold any office under the United States.

²Following were the definitions of those in violation.

Sixthly. Of any person who, owning property in any loyal State or Territory . . . or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion; and all sales, transfers, or conveyances of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section. . . .

Sec. 9. . . . That all slaves of persons who shall hereafter be engaged in rebellion against the Government . . . 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 into 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.¹

Sec. 10. . . . 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 offense against the laws. . . .²

Sec. 11. . . . That the President . . . is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

Sec. 12. . . . That the President . . . is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be

¹Prior to this paragraph were sections 6, 7, and 8, in which a sixty day warning was provided to those accused in the previous sections; the legality and procedures of moveable property; and local courts would have jurisdiction over the rulings. The diagonal between on and or is the writer's; the original transcript placed the word, or, in brackets.

²The remaining paragraph reiterated the stipulations found in section 5's first five paragraphs.

willing to emigrate, having first obtained the consent of the Government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.³

³Following this section were two sections providing amnesty and giving full power to Congress and the Supreme Court to do all other acts necessary to carry the entire act into effect.

APPENDIX B

Emancipation Proclamation, First Draft,
Presented to the Cabinet, July 22, 1862

In pursuance of the sixth section¹ 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 forfeitures and seizures, 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 abolition of slavery within such State or States--that the object is to practically restore, thenceforward be maintained, 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 constitutional authority of the United States shall not then be practically recognized, submitted to, and maintained, shall then, thenceforward, and forever, be free.

¹The sixth section provided that property of persons in States in rebellion, who did not cease to give aid to the rebellion within sixty days after the proclamation by the President, would be liable to seizure.

APPENDIX C

Abraham Lincoln's Reply to a Committee of Religious
Denominations, Asking the President to Issue a
Proclamation of Emancipation,

September 13, 1862

EXTRACT

I hope it will not be irreverent for me to say that if it is probable that God would reveal his will to others on a point so connected with my duty, it might be supposed he would reveal it directly to me; for, unless I am more deceived in myself than I often am, it is my earnest desire to know the will of Providence in this matter. And if I can learn what it is, I will do it.

These are not, however, the days of miracles, and I suppose it will be granted that I am not to expect a direct revelation. I must study the plain physical facts of the case, ascertain what is possible, and learn what appears to be wise and right.

The subject is difficult, and good men do not agree. . . . You know . . . that the last session of Congress had a decided majority of anti-slavery men, yet they could not unite on this policy. And the same is true of the religious people. Why, the rebel soldiers are praying with a great deal more earnestness, I fear, than our own troops, and expecting God to favor their side. . . .

What good would a proclamation of emancipation from me do, especially as we are now situated? I do not want to issue a document that the whole world will see must necessarily be inoperative, like the Pope's bull against the comet. Would my word free the slaves, when I cannot even enforce the Constitution in the rebel States? Is there a single court, or magistrate, or individual that would be influenced by it there? And what reason is there to think it would have any greater effect upon the slaves than the late law of Congress, which I approved, and which offers protection and freedom to the slaves of rebel masters who come within our lines? Yet I cannot learn that that law has caused a single slave to come

over to us. And suppose they could be induced by a proclamation of freedom from me to throw themselves upon us, what should we do with them? How can we feed and care for such a multitude? . . . If, now, the pressure of the war should call off our forces from New Orleans to defend some other point, what is to prevent the masters from reducing the blacks to slavery again? For I am told that whenever the rebels take any black prisoners, free or slave, they immediately auction them off. . . .

Now, then, tell me, if you please, what possible result or good would follow the issuing of such a proclamation as you desire? Understand, I raise no objections against it on legal or constitutional grounds; for, as Commander-in-Chief of the Army and Navy, in time of war I suppose I have a right to take any measure which may best subdue the enemy; nor do I urge objections of a moral nature, in view of possible consequences of insurrection and massacre at the South.

I view this matter as a practical war measure, to be decided on according to the advantages or disadvantages it may offer to the suppression of the rebellion.

I admit that slavery is the root of the rebellion, or at least its sine qua non. The ambition of politicians may have instigated them to act, but they would have been impotent without slavery as their instrument. I will also concede that emancipation would help us in Europe, and convince them that we are incited by something more than ambition. I grant, further, that it would help somewhat at the North, though not so much, I fear, as you and those you represent imagine. . . . I am not so sure we could do much with the blacks. If we were to arm them, I fear that in a few weeks the arms would be in the hands of the rebels; and, indeed, thus far we have not had arms enough to equip our white troops. I will mention another thing, though it meet only your scorn and contempt. There are fifty thousand bayonets in the Union armies from the border slave States. It would be a serious matter if, in consequence of a proclamation such as you desire, they should go over to the rebels. I do not think they all would . . . every day increases their Union feeling. They are also getting their pride enlisted, and want to beat the rebels.

Let me say one thing more: I think you should admit that we already have an important principle to rally and unite the people, in the fact that constitutional government is at stake. This is a fundamental idea going down about as deep as anything.

Do not misunderstand me because I have mentioned these objections. They indicate the difficulties that have thus far prevented my action in some such way as you desire.

I have not decided against a proclamation of liberty to the slaves, but hold the matter under advisement; and I can assure you that the subject is on my mind, by day and night, more than any other.¹

¹ Perhaps the greatest apparent point of this letter was Lincoln's attitudes concerning emancipation; this letter was reportedly written during one of Lincoln's worrisome and anxious moments in the White House. Evident in the letter, also, was Lincoln's reliance on his conviction that he must obey his conscience, and not the conscience of any other person to do what he believed would restore the Union.

APPENDIX D

Preliminary Emancipation Proclamation,

By the President of the
United States of America

September 22, 1862

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 [sic] for the object of practically restoring the constitutional relation 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 recommend the adoption of a practical measure tendering 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, may then have voluntarily adopted, or thereafter may voluntarily adopt, immediate, or gradual abolishment of slavery within their respective limits; and that the effort to colonize persons of African descent, with¹ their consent, upon this continent, or elsewhere, with² the previously obtained consent of the Government existing there, will be continued.

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;

¹ It has been reported that Seward inserted, "with their consent."

² "With the previously obtained consent of the Government existing there," has been credited by some historians to Seward.

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.

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 figure following:¹

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:

¹ It was reported that Lincoln had clipped the official printing of Trumbull's bill (see Appendix A) on the page of his autographed document.

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 offense 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 thereto; 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 time¹ 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.

In² witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

¹"In due time" was inserted in handwriting on the original copy, but some historians claim that it was not Lincoln's, to replace "at the next session of Congress."

²The remainder, including signatures, is in the hand of the clerk in Washington, D.C., National Archives.

L.S.

Done 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 of the Independence of the United States, the eighty seventh.

By the President:

Abraham Lincoln

William H. Seward, Secretary of State

APPENDIX E

Suspension of the Writ of Habeas Corpus,¹

September 24, 1862

Whereas, it has become necessary to call into service not only volunteers but also portions of the militia of the States by draft in order to suppress the insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary process of law from hindering this measure and from giving aid and comfort in various ways to the insurrection;

Now, therefore, be it ordered, first, that during the existing insurrection and as a necessary measure for suppressing the same, all Rebels and Insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice, affording aid and comfort to Rebels against the authority of the United States, shall be subject to martial law and liable to trial and punishment by Courts Martial or Military Commission:

Second. That the Writ of Habeas Corpus is suspended in respect to all persons arrested, or who are now, or hereafter during the rebellion shall be, imprisoned in any fort, camp, arsenal, military prison, or other place of confinement by any military authority or by the sentence of any court Martial or Military Commission.

¹Many historians have considered this act as the most dramatic of the Civil War because it opened debate on the limitations of interaction of the chief executive. The suspension directly dealt with the following statement in the Constitution: Article I, Section 9, defining the legislative powers of Congress, "The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it." Designations of powers to the President do not mention habeas corpus.

APPENDIX F

Abraham Lincoln's Annual Message to Congress,

December 1, 1862

EXTRACT

There is no line, straight or crooked, suitable for a national boundary upon which to divide. Trace through, from east to west, upon the line between the free and slave country, and we shall find a little more than one-third of its length are rivers, easy to be crossed, and populated, or soon to be populated, thickly upon both sides; while nearly all its remaining length are merely surveyors' lines, over which people may walk back and forth without any consciousness of their presence. . . . The fact of separation, if it comes, gives up on the part of the seceding section the fugitive-slave clause along with all other constitutional obligations upon the section seceded from, while I should expect no treaty stipulation would be ever made to take its place. . . .

Our national strife springs not from our permanent part, not from the land we inhabit, not from our national homestead. . . . In all its adaptations and aptitudes it demands union and abhors separation. In fact, it would ere long force reunion, however much of blood and treasure the separation might have cost. . . .

In this view I recommend the adoption of the following resolution and articles amendatory to the Constitution of the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both houses concurring), That the following articles be proposed to the legislatures (or conventions) of the several States as amendments to the Constitution of the United States, all or any of which articles when ratified by three-fourths of the said legislatures (or conventions) to be valid as part or parts of the said Constitution, namely:

Article--. Every state wherein slavery now exists which shall abolish the same therein at any time or times

before the first day of January in the year of our Lord one thousand and nine hundred, shall receive compensation from the United States as follows, to wit:

The President of the United States shall deliver to every such State bonds of the United States . . . for each slave shown to have been therein by the eighth census of the United States. . . . Any State having received bonds as aforesaid, and afterward reintroducing or tolerating slavery therein, shall refund to the United States the bonds so received, or the value thereof, and all interest paid thereon.

Article--. All slaves who shall have enjoyed actual freedom by the chances of the war at any time before the end of the rebellion, shall be forever free; but all owners of such who shall not have been disloyal shall be compensated for them at the same rates as are provided for States adopting abolishment of slavery, but in such way that no slave shall be twice accounted for.

Article--. Congress may appropriate money and otherwise provide for colonizing free colored persons, with their own consent, at any place or places without the United States.

I beg indulgence to discuss these proposed articles at some length. Without slavery the rebellion could never have existed; without slavery it could not continue.

Among the friends of the Union there is great diversity of sentiment and of policy in regard to slavery and the African race amongst us. Some would perpetuate slavery; some would abolish it suddenly and without compensation; some would abolish it gradually, and with compensation; some would remove the freed people from us, and some would retain them with us; and there are yet other minor diversities. Because of these diversities we waste much strength in struggles among ourselves. By mutual concession we should harmonize and act together. . . . If the plan shall be adopted, it is assumed that emancipation will follow at least in several of the States.

As to the first article, the main points are: first, the emancipation; secondly, the length of time for consummating it--thirty-seven years; and, thirdly, the compensation.

The emancipation will be unsatisfactory to the advocates of perpetual slavery; but the length of time should greatly mitigate their dissatisfaction. The time spares both races from the . . . necessity of any derangement. . . . The plan leaves to each State choosing to act under it to abolish slavery now, or at the end of the century, or at any intermediate time, or by degrees extending over the whole or part of the period; and it obliges no two States to proceed alike. It also provides for compensation and generally the

mode of making it. . . . In a certain sense the liberation of slaves is the destruction of property--property acquired by descent or by purchase, the same as any other property. . . . If, then, for a common object this property is to be sacrificed, is it not just that it be done at a common charge? . . .

Certainly it is not so easy to pay something as it is to pay nothing; but it is easier to pay a large sum than it is to pay a larger one. And it is easier to pay any sum when we are able, than it is to pay it before we are able. The war requires large sums, and requires them at once. The aggregate sum necessary for compensated emancipation of course would be large. . . .

The proposed emancipation would shorten the war, perpetuate peace, insure [an] increase in population, and proportionately the wealth of the country.¹ With these, we should pay all the emancipation would cost . . . easier than we should pay our other debt, without it. . . .

As to the second article, I think it would be impracticable to return to bondage the class of persons therein contemplated. Some of them, doubtless, in the property sense, belong to loyal owners; and hence, provision is made in this article for compensating such.

The third article relates to the future of the freed people. It does not oblige, but merely authorizes, Congress to aid in colonizing such as may consent. This ought not to be regarded as objectionable, on the one hand, or on the other, in so much as it comes to nothing, unless by the mutual consent of the people to be deported, and the American voters, through their representatives in Congress.

I cannot make it better known than it already is, that I strongly favor colonization. And yet I wish to say there is an objection urged against free colored persons remaining in the country, which is largely imaginary, if not malicious. . . .

Emancipation, even without deportation, would probably enhance the wages of white labor, and very surely would not reduce them. . . .

¹Brackets mine; the original phrase, "insure this increase," was in reference to projected population growth for the nation from 1790 to 1900.

The plan consisting of these articles is recommended, not but that a restoration of the national authority would be accepted without its adoption. . . .

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 would, I am confident, secure peace more speedily, and maintain it more permanently, than can be done by force alone; while all it would cost, considering amounts, and manner of payment, and times of payment, would be easier paid than will be the additional cost of the war if we rely solely upon force. . . .

Fellow-citizens, we cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance of 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 last 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.

APPENDIX G

Emancipation Proclamation

January 1, 1863

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, 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 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, towit:

Arkansas, Texas, Louisiana, (except the Parishes of St. Bernard, Plaquemines, Jefferson, St. Johns, St. Charles, St. James [] Ascension, 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 forty-eight counties designated as West Virginia, and also the counties of Berkley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk & Portsmouth [] ; and which excepted parts are, for the present, left precisely as if this proclamation were no 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.

L.S.

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.

By the President

Abraham Lincoln

William H. Seward, Secretary of State.

APPENDIX H

SOCIAL SETTING

Chronology of Events in Northern and Border States:

- 1619 The first Negro laborer was imported into Virginia.
- 1754 John Woolman addressed his fellow Quakers in Some Consideration of the Keeping of Negroes.
- 1775 The first Quaker antislavery society, the Society for the Relief of Free Negroes Unlawfully Held in Bondage, was organized in Philadelphia.
- 1777-1804 Gradual abolition laws were passed in the Northern states: Vermont, Massachusetts, New Hampshire, Pennsylvania, Rhode Island, Connecticut, New York, New Jersey.
- 1785 The New York City Manumission Society was organized by John Jay and Alexander Hamilton.
- 1787 The Northwest Ordinance banned slavery in the Northwest Territory.
- 1789 The Pennsylvania Abolition Society was organized by Benjamin Franklin.
- 1793 The first Federal fugitive slave act provided for the return of slaves escaped across state boundaries.
- 1794 The first national antislavery society, the American Convention for Promoting the Abolition of Slavery, was founded.
- 1807 Congress passed the law prohibiting the importation of slaves into the United States after January 1, 1808.
- 1817 The American Colonization Society was founded to settle free Negroes in Africa.
- 1820 The Missouri Compromise admitted Missouri as a slave state, but prohibited slavery in the Louisiana Territory thereafter above 36° 30' north latitude.

- 1821 The Quaker, Benjamin Lundy, started publishing his anti-slavery paper, the Genius of Universal Emancipation.
- 1822 A slave revolt occurred in Charleston, South Carolina, led by the free Negro, Denmark Vesey.
- 1831 The Liberator was founded by William Lloyd Garrison.
The Nat Turner Rebellion occurred in Virginia.
The New England Anti-Slavery Society was founded in Boston.
- 1831- Emancipation was narrowly defeated in the Virginia
1832 constitutional convention.
- 1832 William Lloyd Garrison's Thoughts on African Colonization was published. It marked a turning point of anti-slavery against colonization.
- 1833 Slavery was ended in the British Empire.
The American Anti-Slavery Society was founded in Philadelphia.
- 1834 Debates on colonization and slavery were held at Lane Seminary in Cincinnati.
The moderate and church-oriented American Union for the Relief and Improvement of the Colored Race was founded by Massachusetts Congregational ministers.
Prudence Crandall's school for Negro girls in Canterbury, Connecticut, was closed by vandalism and mob destruction.
- 1835 The near lynching of Garrison occurred in Boston.
- 1836 The office of James G. Birney's Philanthropist was sacked in Cincinnati.
- 1836- The campaign against the Gag Rule, restricting the
1844 reception of antislavery petitions, was carried on in the House of Representatives by John Quincy Adams.
- 1837 "The Seventy" were sent out to preach antislavery by the American Anti-Slavery Society.
Elijah Lovejoy's press was destroyed, and Lovejoy was killed in Alton, Illinois.

1838 Pennsylvania Hall, built for meetings of reform groups, was burned during the Anti-Slavery Convention of American Women in Philadelphia.

Abolitionists initiated a program of questioning political candidates on slavery-related issues.

1839 American Slavery As It Is: Testimony of a Thousand Witnesses, edited by Theodore D. Weld, was published. It exposed atrocities and the bad conditions of slavery.

1840 The American Anti-Slavery Society started the publication of the National Anti-Slavery Standard.

The Liberty Party was organized and nominated James G. Birney for President.

The American and Foreign Anti-Slavery Society was formed in a split of the moderates from the Garrison-dominated American Anti-Slavery Society.

The World Anti-Slavery Convention was held in London; women from the American delegation were denied seats on the floor.

1841 The Amistad Case, involving the status of certain slaves who had mutinied and were brought to Connecticut, was tried in Federal courts.

1842 Prigg v. Pennsylvania found a state guarantee of judicial process to fugitives unconstitutional, but freed state officials from enforcing the Federal Fugitive Slave Act.

1843 The Buffalo Convention of Colored Citizens marked a turning point in Negro separate organization and militancy.

1845 The annexation of Texas gainsaid abolitionist warnings and added a new issue to the cause.

1846- United States victory in the Mexican War presented a
1848 new issue of the permitting of slavery in the Mexican Cession (opposed by the Wilmot Proviso) and of the admitting of California as a free state. A temporary resolution was achieved in the Compromise of 1850.

1847 Frederick Douglass started publication of the North Star.

1848 The Free Soil Party was organized and nominated Martin Van Buren its presidential candidate.

- 1849 The Roberts Case, in which Charles Sumner unsuccessfully challenged segregation in Boston public schools, was argued.
- 1850 The Fugitive Slave Act, part of the Compromise of this year, further curtailed the civil guarantees of those seized as fugitives.
- 1851 The fugitive Jerry McHenry was rescued from the "slave catchers" in Syracuse, New York.
- The alleged fugitive Thomas Sims was returned to Georgia under the new fugitive slave law.
- 1852 Harriet Beecher Stowe's Uncle Tom's Cabin published. It epitomized the sentimental popularization of anti-slavery.
- 1854 The Kansas-Nebraska Bill passed; it fomented civil war in Kansas Territory over the slavery issue.
- The New England Emigrant Aid Company was organized to settle anti-slavery men in Kansas and to make it a free state.
- The Republican Party established; it absorbed anti-slavery Whigs and Democrats and the remnants of the Free Soil Party.
- The fugitive slave, Anthony Burns, was returned from Boston to Virginia.
- 1857 Hinton Rowan Helper's The Impending Crisis of the South, addressed to the self-interest of non-slaveholding whites, was published.
- By the Dred Scott decision Negroes, slave or free, were effectively denied rights as American citizens; Congress was denied the right to legislate on slavery in the territories.
- 1858 Abraham Lincoln condemned slavery in his "House Divided" speech.
- Stephen Douglas proposed the Freeport Doctrine in answer to the Dred Scott decision.
- William H. Seward delivered his "Irrepressible Conflict" speech at Rochester, New York.
- 1859 John Brown raided Harper's Ferry to foment and support a revolt of slaves.

- 1860 Abraham Lincoln becomes President on party platform of abolition.
- South Carolina secedes, December 24.
- 1861 Mississippi, Florida, Alabama, Georgia, Louisiana, Texas, in that order, secede from the United States.
- Virginia, Arkansas, North Carolina, Tennessee, vote for secession.
- First Confederate Congress held abolishing African slave trade.
- The fall of Fort Sumter; the Civil War begins.
- Gradual emancipation suggested by Congress, vetoed by Lincoln as presumptive.
- Henry Wilson of Massachusetts forwards bill to abolish slavery in the District of Columbia.
- 1862 Wilson's bill, amended by suggestions from Lincoln, approved.
- One million dollars approved by Congress for compensation to slaveholders; one hundred thousand dollars appropriated for colonization of Negroes.
- Fugitive slaves prohibited to be returned to masters; slavery recognized as sectional, not national.
- Trumbull's bill declaring all slaves free passed.
- Lincoln forwards first draft of an emancipation proclamation to his Cabinet.
- Lincoln replies to Greeley that the object of the war was to preserve the Union.
- First Emancipation Proclamation given to the Cabinet, made public September 23.
- 1863 Final draft of Emancipation Proclamation delivered on January 1.
- Emancipation as the Thirteenth Amendment fails.
- 1865 The Thirteenth Amendment was ratified.

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