

The Great Event of the Nineteenth Century: Lincoln Issues the Emancipation Proclamation

Author(s): Allen C. Guelzo

Source: *Pennsylvania Legacies*, November 2004, Vol. 4, No. 2 (November 2004), pp. 20-23

Published by: University of Pennsylvania Press

Stable URL: <https://www.jstor.org/stable/27764945>

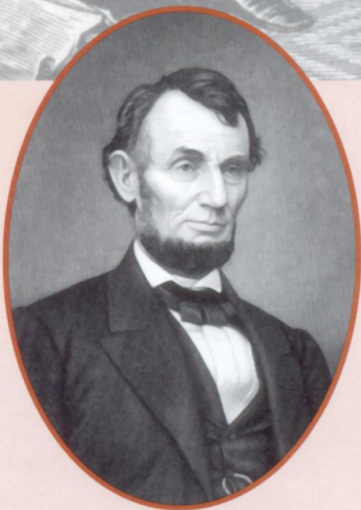
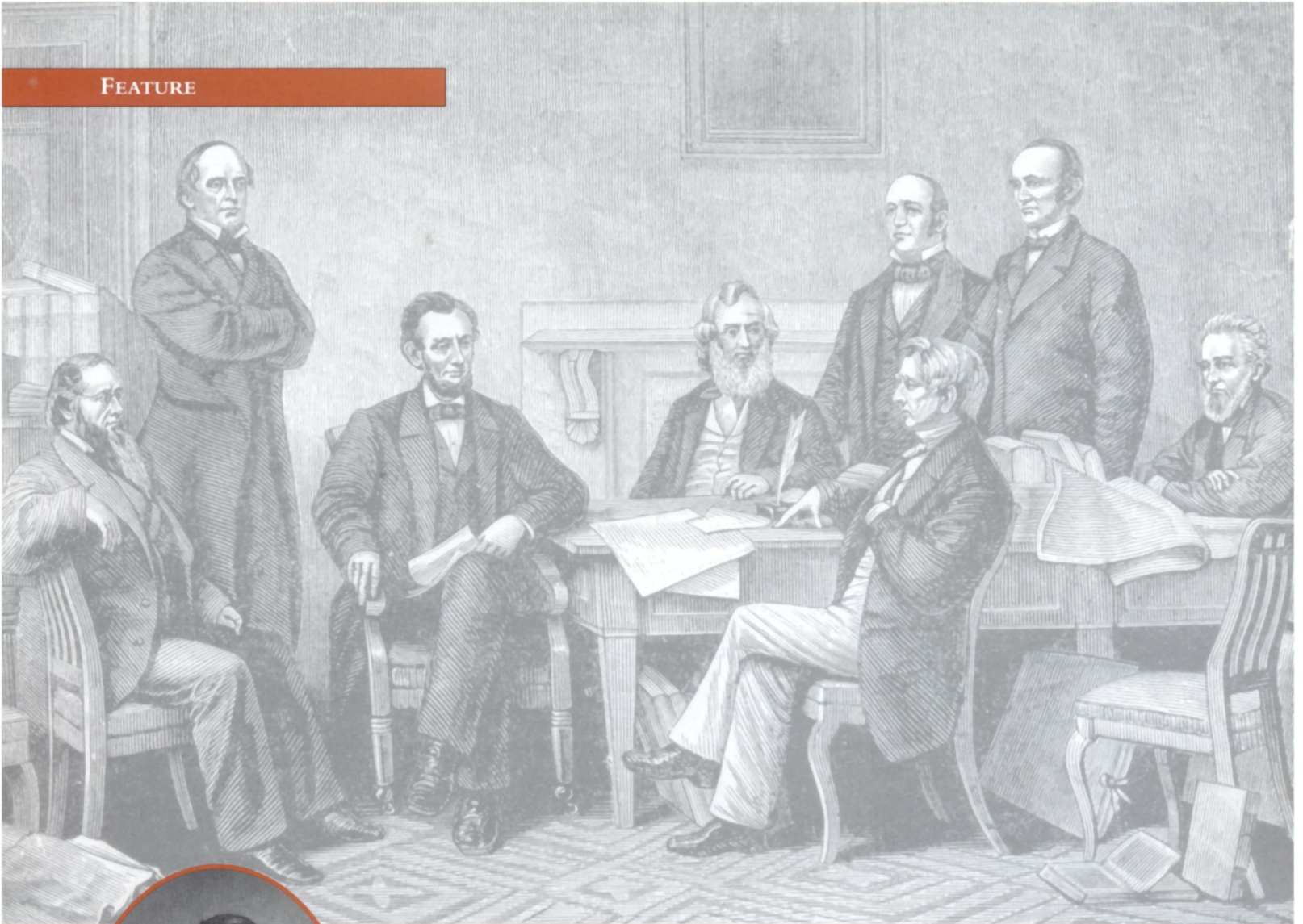
JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



University of Pennsylvania Press is collaborating with JSTOR to digitize, preserve and extend access to *Pennsylvania Legacies*

JSTOR



The Great Event of the Nineteenth Century : Lincoln Issues the Emancipation Proclamation

Above: Engraving of Abraham Lincoln by A. B. Waters, from a photograph by Matthew Brady. Society Print Collection.

Top: Signing the Emancipation Proclamation, after a wood engraving.

by Allen C. Guelzo

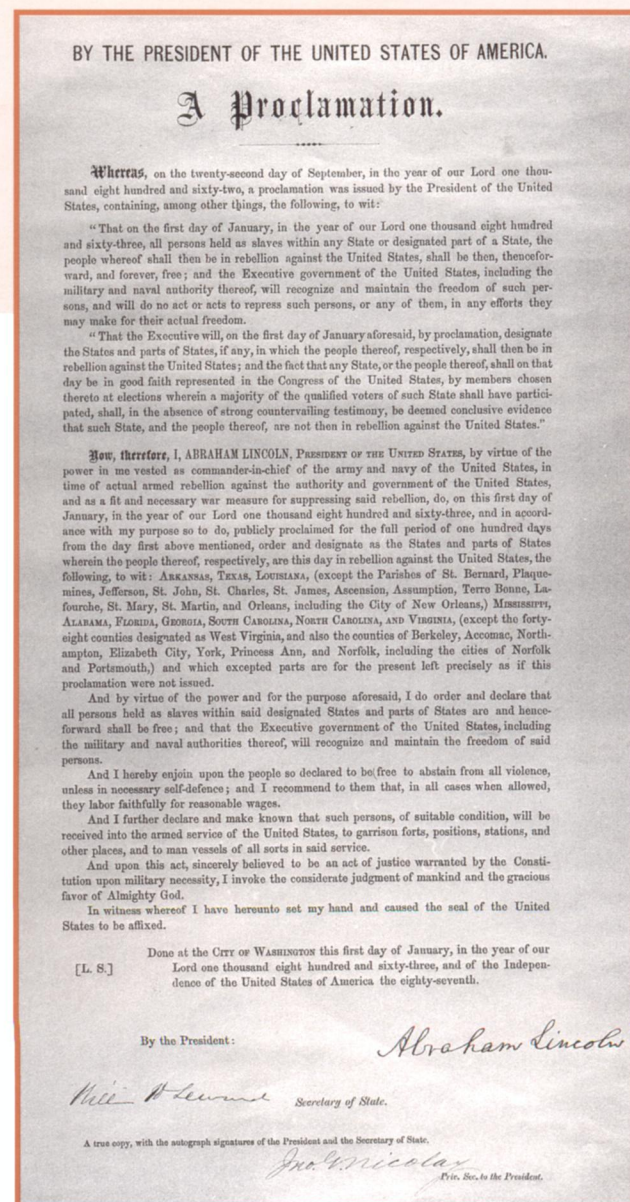
Abraham Lincoln's Emancipation Proclamation was unlike any other presidential proclamation in American history. It was, in fact, the single most far-reaching, even revolutionary, act of any American president. At one stroke, Lincoln declared that over 3 million African American slaves "henceforward shall be free," that the "military and naval authorities" would now "recognize and maintain" that freedom, and that these newly freed slaves would "be received into the armed service of the United States" in order to make war on their former masters. Even Lincoln rated it as the greatest of his accomplishments: "It is the central act of my administration and the great event of the nineteenth century."

But it almost did not happen.

This was not because Abraham Lincoln had any hesitations about ending American slavery. "I am naturally anti-slavery," he insisted, "I can not remember when I did not so think, and feel." But slavery—and in America, this meant the enslavement of black people whose ancestors had been kidnapped from Africa in colonial times and transported to work the tobacco and cotton fields of the South—was a matter of law in the southern states. Living as he did in Illinois, a northern state that outlawed slavery, Lincoln could well afford to hate slavery, without being in a position to do a single thing about it in the states where it was legal. The laws that shackled African Americans to the South's plantations were state laws, and a legal firewall separated the powers of the states from the powers of the federal government. And the Supreme Court was dominated by a southern-born chief justice, Roger B. Taney, whose most famous opinion was written in 1857 in the case of Dred Scott—an opinion which held that black men and women, simply because they were not white people, had no standing as citizens of the United States and could not sue in the courts for their freedom.

But if the legal walls that protected southern slavery seemed impossible to scale, the moral revulsion of the rest of the country was another matter. And by 1860, the free states of the North had acquired enough population and enough votes to elect Lincoln, an avowedly antislavery candidate, as president.

But what difference did that make, exactly? The Constitution Lincoln had sworn to uphold, he noted,



Emancipation Proclamation, 1863, signed by President Abraham Lincoln and Secretary of State William H. Seward, printed by Frederick Leyboldt in Philadelphia.



Emancipation, lithograph by Thomas Nast.

"forbade me to practically indulge my primary abstract judgment on the moral question of slavery." If Lincoln issued an emancipation decree abolishing slavery, southern slaveholders would be in the federal courts the next day, looking for injunctions and filing suits, and in the end the suits would come to the Supreme Court and the unsympathetic eye of Mr. Justice Taney, and that would be the end of emancipation, perhaps for good.

But if Lincoln had no direct way of laying his hands on slavery, he did have two indirect ways of dealing with it. First, he could offer federal buy-outs to slaveholders. In November 1861, Lincoln drew up a plan for the state of Delaware (the northernmost of the slave states) which involved presenting the Delaware legislature with United States bonds in return for a bill from the Delaware legislature setting up a timetable for abolishing slavery there. Lincoln was confident that if the plan succeeded in Delaware, then other marginal slave states like "Maryland, Kentucky, and Missouri" would also take the bait and "gradual emancipation and governmental compensation" would bring slavery "to an end."

Lincoln was, as it turned out, far too optimistic about the willingness of any slave state to

surrender its hold on slavery, no matter what the price. But in any event, it hardly mattered. Within six weeks of his election, the slaveholding states of the Deep South announced their secession from the Union and formed an independent slave republic, the Confederacy. And within six weeks of his

inauguration, the Confederates had opened fire on the United States garrison inside Fort Sumter, in Charleston harbor, and begun the Civil War.

The Civil War transformed Lincoln from a president into the constitutional commander in chief of the army and navy. What that meant, exactly, was far from clear. But that status might also give him yet another route toward emancipation. International law recognized that, in time of war, military commanders had the authority to suspend the normal operations of civil law and rule by decree. Only one American general—Andrew Jackson—had actually ever done this on American soil. But there had also never been a civil war in America before. And so Lincoln began gradually flexing his "war powers"—he suspended the

writ of habeas corpus, he called up armies of volunteers into federal service, and he imposed a blockade of the Confederacy.

Of course, at each point, Taney and the Supreme Court hotly contested Lincoln's use of these "war powers." And this made him leery of pressing the "war powers" to the point of emancipating the South's slaves. But by the summer of 1862, the military aspect of the war was going very badly. Relying on the labor of its slaves, the Confederacy was able to field armies that could easily hold their own against Lincoln's armies. And his own generals—chief among them George B. McClellan, the commander of the Army of the Potomac—were politically unsympathetic to emancipation and sulky in taking orders from Lincoln. And to make matters worse, Delaware turned down the buy-out plan. If Lincoln waited longer, he might have victorious rebel armies surrounding Washington; or he might have mutinous generals threatening to seize the government for themselves. We "must change our tactics or lose the game," Lincoln announced, and on July 22, 1862, Lincoln read to his cabinet a draft of an emancipation proclamation, threatening to decree the freeing of the slaves as a "fit and necessary war measure for suppressing" the rebellion. When McClellan and his army finally defeated the Confederates at Antietam in September, Lincoln published the proclamation and gave the Confederates 100 days to end the

The Civil War transformed Lincoln from a president into the constitutional commander in chief of the army and navy. . . . International law recognized that, in time of war, military commanders had the authority to suspend the normal operations of civil law and rule by decree.

rebellion or the emancipation would take effect. The 100 days came and went without any repenting on the part of the Confederates, and on January 1, 1863, Lincoln signed the Emancipation Proclamation into law.

Into military law, that is. Lincoln had no more civil authority as president to emancipate slaves in 1863 than he had had at the beginning of the presidency, and every lawyer in the country knew it. This is why the proclamation did two very peculiar things: first, it based its emancipating authority strictly on Lincoln's "power in me vested as Commander-in-Chief . . . in time of actual armed rebellion." Second, it limited the reach of emancipation only to the slaves in "the States and parts of States . . . this day in rebellion against the United States." The four slave states that had not joined the Confederacy (Delaware, Maryland, Kentucky, and Missouri) were not "in rebellion" and so Lincoln's "war powers" had no reach over them.

In years to come, when time had softened people's memories of how precarious the world had seemed on January 1, 1863, Lincoln's critics would seize on the way he cast emancipation as a "military necessity" as proof that emancipation was only a trick in his strategic bag, and that emancipation was a cynical device for whipping

up Northern morale and enlisting the sympathy of foreign governments. This is absurd. Appealing to "military necessity" was the only way, by 1862, that he could have gotten to emancipation without having emancipation struck down by the Taney Court.

The other criticism fastens onto the second peculiarity. The exemption of the slaveholding areas not "in rebellion" has been held up as ultimate proof of Lincoln's bad faith on the subject of race and slavery, since (as the objection usually runs) Lincoln emancipated slaves where he had no control and left them in slavery in the places he did control. This is nonsense. Lincoln had no "control" as commander in chief over Delaware, Maryland, Kentucky, and Missouri because they were not in rebellion; and he had no authority as commander in chief to exercise "war powers" there. As for freeing the slaves held by the Confederates, one simply has to ask whether laws are any less laws simply because at a particular moment a president (or a governor or a cop on the beat) is not there to enforce them. We may as well ask whether the Declaration of Independence really made us independent, as ask whether the Emancipation Proclamation really freed the Confederacy's slaves.

The real test of that last point would have come if the proclamation had indeed been challenged in the courts once the war was over. But Lincoln was prudent enough not to take that chance. By pushing a constitutional amendment abolishing slavery (the Thirteenth Amendment) through Congress in January 1865, he sealed the work the

Portrait of George McClellan, On the Battlefield of Antietam, lithograph by T. Sinclair.



Dred Scott. Leon Gardner Collection.

proclamation had begun before any court could tamper with it.

In the end, it was the former slaves themselves who offered the most vivid testimony to what Lincoln had accomplished. "On January 1, 1863," recalled William Henry Singleton, Lincoln "signed the Emancipation Proclamation," and though Singleton remained a slave for another six months before running away to the Union army, it was still the proclamation "which made me and all the rest of my race free." Whatever the fine print of exemptions, "The negroes [now have] altogether different feelings from those of former times," wrote a federal provost marshal in the summer of 1863, "a spirit of independence—a feeling they are no longer slaves."

"History dwells on results rather than the means employed," wrote Massachusetts senator Charles Sumner in 1865, and in Sumner's estimate the results of the Emancipation Proclamation spoke for themselves, and for Lincoln's greatness. Lincoln "put his name to Emancipation," and in doing that, every other consideration became secondary. "Therefore, we honor him," Sumner added, "& Fame takes him by the hand." ♦

Allen Guelzo is the Henry R. Luce Professor of the Civil War Era at Gettysburg College, where he is director of the Civil War Era Studies Program. His book, *Lincoln's Emancipation Proclamation: The End of Slavery in America* (2004) is a main selection of the History Book Club and the Book-of-the-Month Club.

Editor's note: The Historical Society of Pennsylvania has two copies of an edition of 48 autographed printings of the Emancipation Proclamation done by Frederick Leypoldt in Philadelphia for Charles Godfrey Leland and George H. Boker for sale as fundraisers at the Great Central Sanitary Fair held in Philadelphia in June 1864. This edition features the original signatures of President Abraham Lincoln and Secretary of State William H. Seward. These documents complement HSP's other important holdings in African American and 19th-century history.

