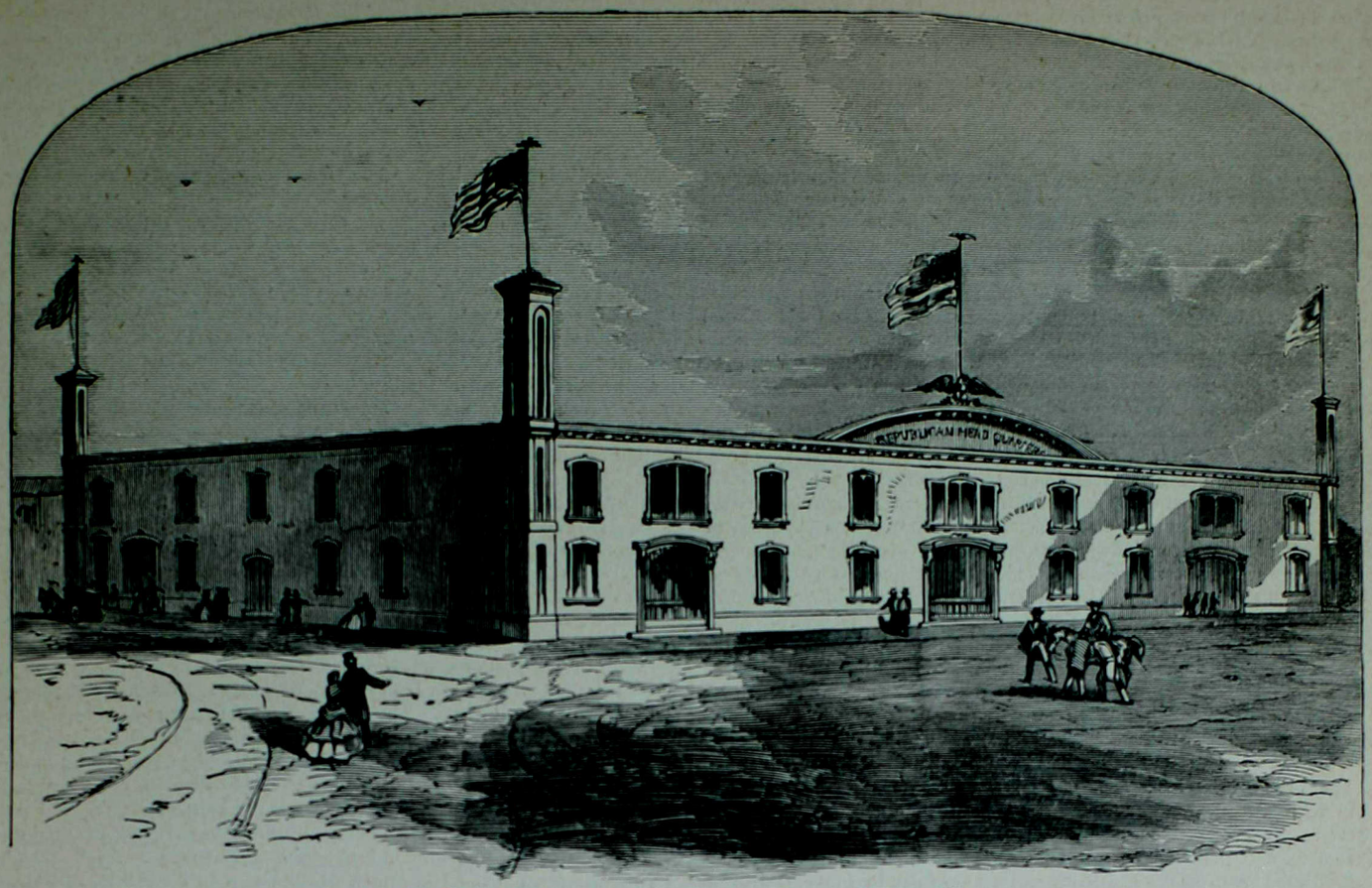


THE WIGWAM AT CHICAGO, BUILT FOR THE MEETING OF THE REPUBLICAN CONVENTION OF 1860.

CHAPTER VIII.

THE FEDERAL GOVERNMENT AND SLAVERY.

Slavery in National Politics.—Whig and Democratic Conventions, 1840, 1844, 1848, 1852.—The Republican, American, and Democratic Conventions of 1856.—The Republican Convention of 1860.—Its Platform.—The Democratic Conventions of 1860.—Disruption of the Democratic Party.—The Union Party.—Formation of Sectional Parties.—Analysis of the Electoral and Popular Votes for President.—Principles of the Parties.—Position of Mr. Lincoln on the Question of Slavery.—His Inaugural and Messages.—Contrabands.—General Butler's Decision.—Action of the Government.—Fremont's and Hunter's Orders.—Modified by the President.—Mr. Lincoln's Letter to Horace Greeley.—His Policy defined.—The Border States.—Analysis of the Slave and Free Population.—Their Relations to Slavery.—The President's Proposition for Compensated Emancipation.—Meeting of Congress, December 2, 1861.—Anti-slavery Measures proposed.—The Debates.—Laws passed.—Abolition of Slavery in the District of Columbia.—Resolution in favor of Compensated Emancipation.—Colonization Schemes.—Prohibiting Slavery in the Territories.—Freeing the Families of colored Soldiers.—The Insurrection and Confiscation Act.—The President's proposed Veto.—Hesitation of the President.—Conference with Border State Representatives.—Premonitory Proclamation of Emancipation.—The new Policy of Government.

AFTER the adoption of the Missouri Compromise in 1820, the subject of slavery was first introduced into national politics as a party question during the presidential canvass of 1840, when the Democratic National Convention adopted as one of the cardinal principles of the party a resolution that the government had no power to interfere with the domestic institutions of the states, and that all efforts to induce Congress to interfere with questions of slavery, or to take incipient steps thereto, were calculated to endanger the stability and permanence of the Union. The convention of the opposition party, which had just assumed the name of Whig, put forth no formal declaration of principles, but confined itself to assailing the administration of Mr. Van Buren on the grounds of general mismanagement and corruption. Mr. Harrison was elected President, receiving the 234 electoral votes of eleven free and eight slave states; Mr. Van Buren having the 70 votes of two free and seven slave states. Of the popular vote Harrison received 1,275,000, Van Buren 1,153,000, and barely 7000 were cast for Birney, Abolition.[1]

In 1844, no allusion was made to slavery in the "platform" or declaration of principles of the Whig party. The Democratic National Convention merely reaffirmed the principle of the previous campaign. Mr. Polk received the 170 electoral votes of seven free and eight slave states; Mr. Clay having the 105 votes of seven free and four slave states. Of the popular vote, 1,368,000 were cast for Polk, 1,299,000 for Clay, and 62,000 for Birney, Abolition.

In the Whig Convention of 1848 a resolution was proposed affirming that, while Congress had no power to interfere with the institution of slavery within the states, it had the power, which it was its duty to exercise, to prohibit the existence or introduction of slavery into any territory possessed or to be acquired by the United States. This resolution was laid on the table without action. The Democratic Convention again affirmed the declaration in respect to slavery: and in consequence, a convention of a portion of the party assembled and adopted a series of resolutions affirming that slavery in the states depended upon state laws which the Federal government had no power to repeal or modify; but that it was the settled policy of the nation to localize and discourage slavery, and that it was the duty of Congress to prohibit its introduction into any territory now free. This convention nominated Mr. Van Buren for President. At the election General Taylor received the 163 votes of seven free and eight slave states, Mr. Cass that of eight free and seven slave states, 127 in all. The popular vote was 1,360,000 for Taylor, 1,250,000 for Cass, and 291,000 for Van Buren.

In the Whig Convention of 1852 it was resolved that the party acquiesced in the compromise measures of 1850, including the Fugitive Slave Law, as a settlement of all the questions which they embrace, and that it would discourage all efforts to renew the agitation of these questions. The Democratic Convention again affirmed the principle set forth in former platforms, with the addition that it covered the whole subject of slavery agitation in Congress; that the party would adhere to the compromise measures, including the Fugitive Slave Law, and would resist all attempts to renew, in or out of Congress, the agitation of the question of slavery, in whatever shape, or under whatever color the attempt might be made. A "Free Democratic Convention" then assembled. It put forth a declaration explicitly affirming that Congress had no power to make a slave or establish slavery; that it was the duty of the Federal government to relieve itself from all responsibility for the existence of slavery wherever it had the constitutional power to legislate for its extinction; that there ought to be no more slave states, no slave territories, no nationalized slavery, no national legislation for the extradition of slaves; that slavery was a sin against God and a crime against man which no human enactment or usage could make right; that the Fugitive Slave Law had no binding force upon the American people, and should be repealed; that the compromise measures were inconsistent with the principles of democracy, and inadequate for the settlement of the questions of which they were claimed to be an adjustment; and that there could be no permanent settlement of the slavery question except by the separation of the general government from slavery, the exercise of all its constitutional power and influence on the side of freedom, and by leaving to the several states the whole subject of slavery, including the delivery of fugitives from service or labor. Mr. Hale was nominated for President by this convention. At the election, Mr. Pierce received the 254 electoral votes of fourteen free and thirteen slave states, General Scott the 42 votes of two free and two slave states. The Democratic majority was much smaller in the electoral college than in the popular vote. Many large states were carried by small majorities. Of the popular vote, Pierce received 1,631,000, Scott 1,386,000, Hale 155,000.

After this decisive defeat the Whig party virtually disappeared from national politics. Many of its former members, especially at the South, went over to the Democrats; more, both North and South, formed themselves into a new organization, which assumed the name of Americans; while the great majority in the free states organized themselves into a new party, under the

[1] In this and the following paragraphs the popular vote is given in round numbers. In South Carolina no popular vote is cast even indirectly for President, the electors being appointed by the Legislature. The vote of this state is not included in the usual statements. She voted uniformly for the Democratic candidate. We have assumed the vote of the state to be 50,000, and that 40,000 would have been cast for the Democratic candidates, and 10,000 for the opposition. In making our statements, we have added this majority of 30,000 to the numbers usually assigned to the Democratic vote. In the election of 1860 we have put this down as cast for Mr. Breckinridge.

name of Republican, which received large accessions from Democrats who were dissatisfied with the position of their party in respect to slavery.

The first Republican National Convention assembled at Philadelphia June 17, 1856, in accordance with a call addressed to the people of the United States, without distinction of party, who were opposed to the policy of the administration of Mr. Pierce, opposed to the repeal of the Missouri Compromise, to the admission of slavery into a free territory, and in favor of the admission of Kansas as a free state. The platform declared that the Federal Constitution, the rights of the states, and the union of the states should be preserved; that the existence of slavery in the territories should be prohibited by express enactments; that neither Congress nor a territorial Legislature had authority to give slavery a legal existence in any territory; and that it was "the right and duty of Congress to prohibit in the territories those twin relics of barbarism, polygamy and slavery." Mr. Fremont, who had been a Democrat, though he had taken no prominent part in politics, was nominated for President, and Mr. Dayton, a former Whig, for Vice-president. The American party was ingrafted upon a half secret association, whose main object was to confine all offices of trust and emolument to citizens of native birth. Its first national convention, styling itself the American National Council, met at Philadelphia on the 19th of February. Its proceedings took a wider range than was originally contemplated. The main points in the declaration which it put forth were that Americans only should rule America; that Congress should not interfere in questions appertaining to the individual states, nor any state with the affairs of another; that a continuous residence of twenty-one years should be a requisite for the naturalization of an alien; that foreign paupers and criminals should not be suffered to land on our shores; and that all laws should be enforced until repealed, or pronounced null and void by competent judicial authority. A resolution was proposed that no person should be nominated for President who was not in favor of the prohibition by Congress of slavery in any territory north of the latitude of 36° 30′: this was rejected by a large majority. Mr. Fillmore, formerly a Northern Whig, and Mr. Donelson, a Southern Democrat, were nominated for President and Vice-president. A Whig Convention met, and went through the form of indorsing these nominations. Its platform deprecated the formation of sectional parties, and affirmed that public safety required the election of a President pledged to neither geographical section. The Democratic Convention met at Cincinnati on the 2d of June. It reaffirmed the doctrines respecting slavery put forth by previous conventions, adding a resolution that Congress should not interfere with slavery in the District of Columbia or in the territories, and that every territory, whenever it had the requisite population, was entitled to enter the Union as a state, with a constitution admitting or prohibiting slavery, as its people might choose. Mr. Buchanan was nominated for President, and Mr. Breckinridge for Vice-president. Mr. Buchanan received the 172 electoral votes of fourteen slave and five free states, Mr. Fremont the 114 votes of eleven free states, and Mr. Fillmore the seven votes of Maryland. Of the popular vote, Buchanan received 1,868,000, Fremont 1,341,000, Fillmore 874,000.

In 1860, the Republican Convention met at Chicago on the 16th of May. Its platform declared that each state had the exclusive right to regulate its domestic institutions according to its own judgment; that the dogma that the Constitution carried slavery into the territories was a dangerous heresy; that the normal condition of all the territory of the United States was that of freedom; reaffirming the principle advanced by the previous convention that neither Congress nor a territorial Legislature had authority to give slavery a legal existence in any territory.[1] Mr. Lincoln, formerly a Whig, and Mr. Hamlin, formerly a Democrat, were nominated for President and Vice-president.

The Democratic Convention met at Charleston on the 23d of April. It was resolved that no nominations should be made until a platform had been adopted. The committee appointed to prepare this document could not agree, and two platforms were presented. That framed by the majority of the committee reaffirmed the Cincinnati platform, adding, "The democracy of the United States hold these cardinal principles on the subject of slavery in the territories: first, that Congress has no power to abolish slavery in the territories; second, that the territorial Legislature has no power to abolish slavery in the territories, nor to prohibit the introduction of slaves therein, nor any power to destroy or impair the right of property in slaves by any legislation whatever." Several reports were presented from the minority of the committee. After various amendments, these at last were embodied in a series of resolutions reaffirming the Cincinnati platform, with the addition that, as differences of opinion existed in the Democratic party as to the nature and extent of the powers of a territorial Legislature over the institution of slavery in the territories, the party would abide by the decision of the Supreme Court of the United States on the questions of constitutional law. This minority report was accepted in place of that of the majority. When the question of the final adoption of this report came up, the resolution submitting the decision of questions of constitutional law to the Supreme Court was rejected. The platform, as adopted, simply reaffirmed that of Cincinnati. About fifty of the Southern delegates then withdrew, and the remaining members, after voting that two thirds of a full convention should be required for a nomination, proceeded to vote for a candidate for President. A full convention consisting of 303 votes, 202 were requisite for a nomination. Fifty-seven ballots were taken. The votes for Mr. Douglas varied from 145 to 152. The remaining votes were scattered; Mr. Guthrie, of Kentucky, and Hunter, of Virginia, leading. A few votes were cast for Dickinson, of New York, Johnson, of Tennessee, and Lane, of Oregon. One delegate voted persistently from first to last for Jefferson Davis. At the 43d ballot Douglas received 151½, Guthrie 65½, Hunter (who had before had 42 votes) 16, Dickinson 5, Lane 13, Davis 1. After that there was no essential change in the vote. It was evident that no man could secure the 202 votes required for a nomination, and the Convention, after a fruitless session of ten days, adjourned to meet at Baltimore on the 18th of June. The members of the party in the several states were urged to appoint new delegates to fill the places of those who had withdrawn. The members who had seceded from the Convention had in the mean while held a convention of their own, lasting four days. After adopting the principles of the platform which had been voted down by the majority of the delegates, they adjourned to meet at Richmond on the 11th of June. They came together merely to adjourn till the 21st, awaiting the action of the Convention at Baltimore. When that Convention assembled, an angry discussion arose upon the admission of delegates. The disputed seats were mostly awarded to claimants who were in favor of the nomination of Mr. Douglas. Many members thereupon withdrew from the Convention; among them was Caleb Cushing, the chairman. The remaining delegates then proceeded to vote for a candidate for the presidency. There were left 194 votes; of these, 181 were given to Douglas, 7½ to Breckinridge, and 5½ to Guthrie. The nomination of Douglas was then made unanimous. Mr. Fitzpatrick, of Alabama, was nominated for Vice-president. He declined the nomination, and Mr. Johnson, of Georgia, was named in his place. The members who had seceded from this Convention assembled and nominated Mr. Breckinridge for President, and Mr. Lane, of Oregon, for Vice-president. These nominations were confirmed by the delegates who had seceded at Charleston, who were now in session at Richmond.

Thus the great Democratic party, which had, with three brief intervals, administered the affairs of the nation for more than half a century, was broken up. Neither portion could hope to succeed against the vigorous and united Republican party which had sprung to life. There was but one hope left for those who deprecated the success of this party. It was certain that Douglas could not gain the vote of the South, which was essential to his election. It was equally certain that, if the bare choice lay between Lincoln and Breckinridge, the slave states would vote for the latter and the free states for the former, giving him the election. But if a third candidate were brought into the field, obnoxious to neither section, he might draw from both sides votes enough to prevent either of the others from receiving a majority in the electoral college. Then the election would devolve upon the states represented by the popular House of Congress, all the members from each state casting a single vote, and their choice being restricted to one of the three persons who had received the highest number of electoral votes. A convention of the former "American" party, now styling itself the "Constitutional Union" party, had come together at Baltimore on the 10th of May, during the interval between the breaking up of the Democratic Convention at Charleston and its reassembling at Baltimore. Four years before this party had signally failed in its attempt to thrust itself between the Republicans and the Democrats. Now there seemed a fair chance for it to mediate between the free and the slave states. Its Convention laid down a platform "recognizing no principle other than the Constitution of the country, the union of the states, and the enforcement of the laws." To the text of this declaration all parties would assent; the only question would be as to its interpretation. In order to conciliate the South without offending the North, the nomination for President was given to John Bell, a respectable Tennessee lawyer, who had served in Congress with fair credit. To give some weight to the ticket, Edward Everett was nominated for Vice-president. The Conservatives at the North saw in this nomination a possible means of preventing the election of Mr. Lincoln. If the electoral vote of New York or Pennsylvania, and one other free state, could be taken from him, the choice would devolve upon the House of Representatives, where it was certain that he could not secure a majority of the states. Accordingly, in New York and several other states, "Fusion" tickets for electors were made up, containing the names of men who favored Douglas, Bell, or Breckinridge. The understanding was that all of these electors, if chosen, should cast their votes so as to prevent the election of Lincoln. This subtle scheme was too intricate to work. Its practical result was merely to give to Lincoln one half of the electoral vote of New Jersey, which would otherwise have been cast against him. In that state the vote was very close. The "Fusion" electoral ticket was made up of one half Douglas men, and one half who favored Breckinridge or Bell. Many of the Douglas voters struck off from their ballots the names of the Breckinridge or Bell electors, so that in their place three Republicans were chosen by a small majority.

The result of the presidential election of 1860 was that Mr. Lincoln received 169 electoral votes, being the whole of those of the sixteen free states except three votes from New Jersey; Mr. Bell the 39 votes of Virginia, Kentucky, and Tennessee; Mr. Douglas the 9 votes of Missouri, and 3 from New Jersey—12 in all; and Mr. Breckinridge the 72 votes of the remaining eleven slave states. The popular vote, apportioning that cast on Fusion

[1] The following is the text of the articles in the platform relating directly to slavery:

"The maintenance inviolate of the rights of the states, and especially the right of each state to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend; and we denounce the lawless invasion by armed force of the soil of any state or territory, no matter under what pretext, as among the gravest of crimes."

"The new dogma that the Constitution, of its own force, carries slavery into any or all of the territories of the United States, is a dangerous political heresy, at variance with the explicit provisions of that instrument itself, with contemporaneous exposition, and with legislative and judicial precedent; is revolutionary in its tendency, and subversive of the peace and harmony of the country."

"The normal condition of all the territory of the United States is that of freedom. As our republican fathers, when they had abolished slavery in all our national territory, ordained that 'no person should be deprived of life, liberty, or property without due process of law,' it becomes our duty, by legislation, whenever such legislation is necessary, to maintain this provision of the Constitution against all attempts to violate it; and we deny the authority of Congress, or of a territorial Legislature, or of any individuals, to give legal existence to slavery in any territory of the United States."

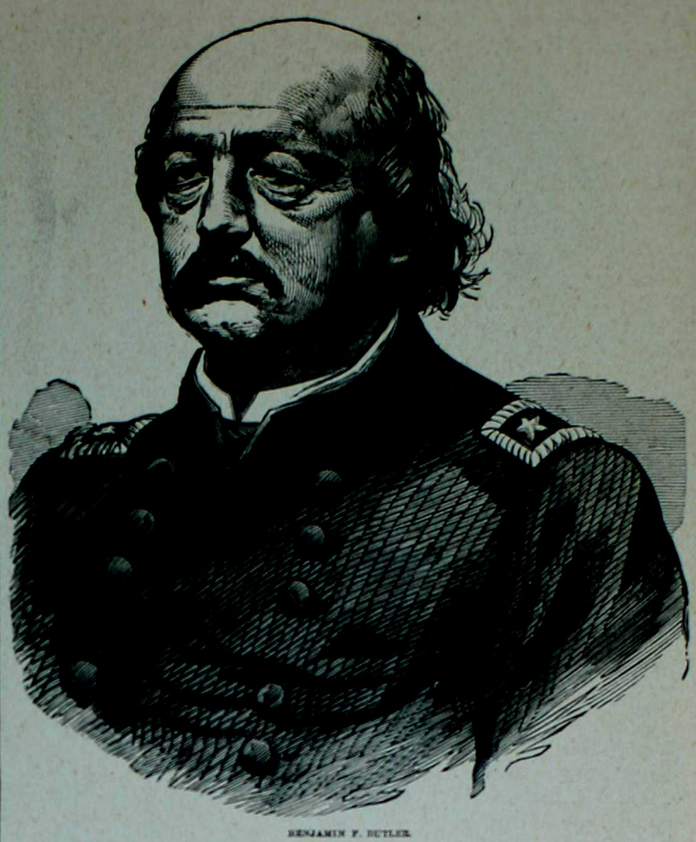
tickets according to the best estimates of the strength of the several parties, and giving to Breckinridge a clear majority of 30,000 in South Carolina, was, for Lincoln 1,855,000, for Douglas 1,360,000, for Breckinridge 870,000, for Bell 590,000.

Thus, previous to 1856, the question of slavery did not enter fairly into the presidential election, and there was no geographical line separating the great political parties. In 1840, Harrison was elected by the votes of eleven free and eight slave states; the votes of two free and seven slave states being cast against him. In 1844, Polk was elected by seven free and eight slave states; against him were seven free and four slave states. In 1848, Taylor was elected by seven free and eight slave states; opposed to him were eight free and seven slave states. In 1852, Pierce was elected by fourteen free and thirteen slave states; against him were two free and two slave states. But in 1856, Buchanan was elected by the votes of the whole fourteen slave states and five free states, while eleven free states voted against him. And in 1860 Lincoln received the entire vote of the sixteen free states, with the exception of the half vote of New Jersey, while the whole vote of the fifteen slave states was cast against him. It is worthy of note that the first Republican candidate for the presidency was a native of a slave state, and his opponent of a free state; while the second Republican candidate was born in a slave state, and his principal opponent in a free state.

The Republican party came into power pledged by their formal declaration of principles against any interference by the general government with slavery in the states where it existed. This doctrine was avowed by all parties and sections; but the Republicans were also pledged to prevent, by the action of the general government, the introduction of slavery into the territories. The Northern Democrats, in nominating Mr. Douglas, endorsed his doctrine of popular sovereignty, that the general government had no authority to decide the question of slavery in the territories, but that it belonged exclusively to the people of each territory, acting each for itself through its lawfully appointed Legislature. The Southern Democrats affirmed that by the Constitution slavery had a legal existence in the territories; denied that Congress or a territorial Legislature had any power to annul or impair that right; and demanded that the general government should, if necessary, protect slavery in the territories. The Union party took no definite position upon the disputed question, though a majority of its members would have been content with the non-intervention doctrine of Mr. Douglas. If they had nominated him, it is probable that he would have been elected.

Mr. Lincoln, in his inaugural address, explicitly avowed his adherence to the principle that the general government could not interfere with slavery in the states. "Apprehension seems to exist," he said, "among the people of the Southern states that, by the accession of a Republican administration, their property, and their peace and personal security, are to be endangered. There never has been any reasonable cause for such an apprehension. Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the states where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.' Those who nominated and elected me did so with the full knowledge that I had made this and many similar declarations, and that I had never recanted them. And more than this, they placed in the platform for my acceptance, and as a law to themselves and to me, this clear and emphatic resolution, 'That the maintenance inviolate of the rights of the states, and especially the right of each state to order and control its own domestic institutions according to its own judgment exclusively, is essential to the balance of power on which the perfection and endurance of our political fabric depend.' I now reiterate these sentiments." He also, in effect, pledged himself to enforce the execution of the Fugitive Slave Law. There was no question that the provision of the Constitution requiring the delivery of persons held to service or labor was intended to secure the surrender of fugitive slaves. The intention of the lawgiver was the law. There was some difference of opinion as to whether this constitutional provision should be enforced by national or state authority; but, if the slave was to be delivered up, it was of little consequence to him or others by what authority it was done. Every member of Congress had sworn to maintain this provision of the Constitution, and there could be no difficulty in framing a law by means of which to keep that oath. Such a law ought to embody adequate safeguards that no free person should be surrendered as a slave.

This emphatic declaration in favor of the maintenance of the constitutional right of each state to regulate and control slavery within its limits, presupposed, of course, that the states recognized the authority of the Constitution. If they attempted to set it aside by force and violence, they could not claim its protection. But, even after the war broke out, the President was anxious that the question of slavery should not be involved. But it soon became apparent that this was impossible. Slavery became involved from the moment when the national forces began to act in a slave state. On the 26th of May General McClellan issued an address to the people of Western Virginia assuring them that not only would the Federal troops abstain from all interference with their slaves, but that they would crush any attempt at servile insurrection. General Butler had hardly taken command at Fortress Monroe when three slaves came in, saying that they belonged to a Colonel Mallory, who had gone off to the enemy, and was about to send them to North Carolina to work on the fortifications. Butler needed laborers, and set them at work. Colonel Carey, of the Virginia Volunteers, soon presented himself, claiming to be the agent of Mallory, and demanded that the slaves should be given up. Butler refused. "Do you mean to set aside



BENJAMIN F. BUTLER.

your constitutional obligations?" asked Carey. "Virginia passed an ordinance of secession two days ago," was the reply, "and claims to be a foreign country. I am under no constitutional obligations to a foreign country." "You say we can not secede, and so you can not consistently detain them." "But you say you have seceded, and so you can not consistently claim them," rejoined Butler, one of the shrewdest of Massachusetts lawyers, never at a loss for finding law to sustain any position. "You are using negroes upon your batteries. I shall detain these as contraband of war."

It would be hard to find in Puffendorf or Vattell warrant for this extension of the definition of the term "contraband." It was an epigram, but an epigram which, in the end, pledged the United States to the abolition of slavery. This was on Friday, the 24th of May. From that day "contraband" became a synonym for slave. On Sunday eight more slaves came in, on Monday sixty, and so on from day to day, in families and by squads, until in a few weeks there were nine hundred, men, women, and children, in camp. Butler informed the War Department of his proceedings. They were sanctioned, and he was directed not to seize upon any slaves, and not to surrender any who came into his lines of their own accord. Two months later he again asked for instructions. There were in his camps three hundred able-bodied slaves, liable to be used in aid of the insurrection, who might fairly be detained as contraband; but what should he do with the six hundred old or infirm men, and women, and children, the fathers and mothers, wives and children of the contrabands? They were legally property, but property which had been abandoned by its owners, like a vessel adrift upon the ocean. The United States were the salvors, but salvors who would not hold such property. It seemed to him that all ownership of them had virtually ceased, and that they had resumed their natural condition of human beings. But General McDowell had issued an order forbidding fugitive slaves from coming into or being harbored within his lines. Was this order to be enforced in all the departments? If so, who were to be considered fugitives? Was a slave a fugitive whose master had run away from him? Must the army refuse food and shelter to slaves whose masters had run away or been driven off? Moreover, it was understood that slaves who had actually labored upon rebel intrenchments should be harbored and fed; but why should this favor be shown to those who had thus wrought against us and be denied to those who had, by escaping, avoided such hostility? "In a loyal state," said Butler, in conclusion, "I would put down a servile insurrection. In a state in rebellion, I would confiscate that which was used to oppose my arms, and take all the property which constituted the wealth of that state, and furnished the means by which the war is prosecuted, besides being the cause of the war; and if it should be objected that, in so doing, human beings were brought to the free enjoyment of life, liberty, and the pursuit of happiness, such objection might not require much consideration."

To a case thus keenly put there could be but one substantial reply. The question as to fugitives in the states which adhered to the Union was not involved. There the ordinary forms of judicial procedure could be observed. But these could not be enforced in the insurrectionary states; and the rights dependent on the laws of these states must be subordinated to military exigencies, if not wholly forfeited by treason on the part of those claiming them. Meanwhile the Confiscation Act of August 6, 1861, had provided for the case of slaves actually employed by their masters in aid of the rebellion. They were to be treated like other property; the rights of their owners

STAMPEDE OF SLAVES TO FORTRESS MONROE.

FEEDING NEGRO CHILDREN AT HILTON HEAD, SOUTH CAROLINA.

were forfeited; and forfeiture of the claim of their owners was equivalent to enfranchisement. The laws under which all slaves in these states were held had been superseded by the rebellion, and the enforcement of these claims, in the case of loyal owners, would be inconvenient and injurious. The rights of these men would be best secured by receiving the fugitives and giving them employment, leaving the question of indemnifying the masters to be settled after tranquillity had been restored. Butler was therefore directed to receive all fugitives who came to him, but he must not interfere with the servants of peaceful citizens, nor encourage any to leave their masters, nor prevent the voluntary return of any.

The Confiscation Act of August 6 was the only measure of the extra session bearing directly upon the question of slavery. This related solely to the case of slaves employed by their masters in the naval or military service of the enemy. Until, subsequently, other laws were enacted, the administration was careful not to transcend the provisions of that act. On the 31st of August, General Fremont, then commanding the Western Department, issued an order extending martial law throughout the State of Missouri, confiscating the property of all persons who should take up arms against the United States, or be proved to have taken an active part with their enemies in the field, and declaring their slaves to be free men. The President directed this order to be so modified as to conform to and not to transcend the provisions of the act of Congress. In May, 1862, General Hunter, commanding the Department of the South, issued an order putting the states of Georgia, South Carolina, and Florida under martial law, declaring that, as slavery and martial law were incompatible, the slaves in those states were forever free. The President set aside this declaration. He said that it belonged to him to decide whether, as commander-in-chief, he had the right to declare the slaves in any state to be free; and if he had the right, whether and when it should be exercised. This question was wholly distinct from that of police regulations in armies or camps. These were left to the discretion of the different commanders. Thus, while Butler, at Fortress Monroe, received fugitive slaves, Dix, in another part of Virginia, and Halleck, who had succeeded Fremont in Missouri, prohibited them from entering their lines. The same general principle was involved in instructions given in October, 1861, by the Secretary of War to General Sherman, who commanded the expedition to Port Royal. He was directed to avail himself of the services of any persons, whether fugitives from labor or not, who should offer themselves, organizing them into squads or companies, as he should find advisable, but not, as a general thing, to arm them for military service. Loyal masters were to be assured that compensation would be made to them for the loss of the services of persons so employed. These measures brought into the lines a large number of women and children, who were fed by the government, and earnest attempts were made to instruct the fugitives, and to employ their labor usefully in the cultivation of abandoned plantations. It was many months before the plan of arming the slaves was adopted.

Mr. Lincoln's cardinal idea was that he was in law and right the chief magistrate of an undivided and indivisible nation, and that it was his duty to restore the Union by bringing back the disaffected portions to the dominion of the Constitution and the laws. Every military and political measure should be directed to this end. Eighteen months after his inauguration, when ample authority had been conferred upon him by Congress, he thus defined his policy: "As to my policy I have not meant to leave any one in doubt. I would save the Union. I would save it in the shortest way under the Constitution. The sooner the national authority can be restored, the nearer the Union will be—the Union as it was. If there be any who would not save the Union unless they could, at the same time, save slavery, I do not agree with them. If there be those who would not save the Union unless they could, at the same time, destroy slavery, I do not agree with them. My paramount object is to save the Union, and not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; if I could save it by freeing all the slaves, I would do it; and if I could do 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 this 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 that what I am doing hurts the cause; and I shall do more whenever I believe that doing more will help the cause. I shall try to correct errors when shown to be errors, and shall adopt new views as fast as they shall appear to be true views."[1] In his message of December 2, 1862, he reiterated all that he had said upon this subject in his inaugural address and in his message at the special session. "Nothing now occurs," he said, "to add to or to subtract from the principles or general purposes expressed in those documents." The reference to the Confiscation Act of the special session was cautious and guarded. He had strictly adhered to its provisions. If a new law on the same subject should be proposed, its propriety would be duly considered. But he threw out a hint against hasty and inconsiderate measures. "The Union," he said, "must be preserved, and hence all indispensable means must be employed; but we should not be in haste to determine that radical and extreme measures, which may reach the loyal as well as the disloyal, are indispensable."

Of hardly less importance than the vigorous prosecution of the war against the armed insurgents was the retention of the border slaveholding states. These states held peculiar relations to the two sections of the country. Slavery existed in them in law and in fact, but it was not their one great in-

[1] Letter to Horace Greeley, August 22, 1862.

stitution entwined with every fibre of their political, social, and domestic life. Slaveholders formed a small, and, in many parts, a numerically insignificant portion of the people. In Delaware there was but one slave to sixty free persons, and more than three fourths of these were in the least populous of the three counties, with but one fourth of the free inhabitants; in the other two counties there was only one slave to 180 free. It was fast becoming a free state. In ten years the free population had increased twenty-three per cent., and the slaves had decreased twenty-one per cent. In Maryland there was one slave to seven free. Half of the slaves were in counties with but one sixth of the free population. In Baltimore, with a population of 212,000, there were but 2500 slaves, a little more than one in a hundred. In ten years the free whites had increased twenty-four per cent., the free colored twenty, and the slaves only three and a half per cent. In Kentucky there was one slave to four whites; but half of the slaves were in counties with only a fourth of the population. The whites had in ten years increased twenty-one per cent., the slaves seven. In Missouri there was one slave to ten whites. There were a score of counties having each less than a hundred slaves. In St. Louis there were but 1500 slaves in a population of 160,000; less than one to a hundred. In ten years the whites had increased eighty per cent., the slaves thirty-two per cent. In that part of Virginia soon to be known as the State of West Virginia there was one slave to eighteen free persons. Three fourths of the slaves were in counties having only one fourth of the whites. There were whole counties with only three or four slaves. Of the fifty-one counties there were twenty each having less than a hundred slaves. In half the counties the ratio of slaves to whites was less than one to a hundred; in the most populous county it was one to 220. These Union slave states contained, in 1860, three fifths as many whites as the Confederacy, and a little less than one eighth as many slaves. Taken collectively, the population of whites to slaves was then about seven to one. But, during the first year of the war, a considerable portion of the slaves in Missouri and Kentucky had been taken South, so that now the ratio of slave to free was not more than one to ten, and of these the majority were owned by men notoriously disloyal.

There are no reliable statistics showing the number of slaveholders; but, considering that most men who owned slaves owned several, and many of them a large number, while there were considerable portions in which slavery had only a nominal existence, it may be assumed that in the border states not one citizen in fifty, and not one loyal man in a hundred, had any direct pecuniary interest in the perpetuation of slavery. It was almost universally acknowledged that the institution was injurious to the non-slaveholding citizens, and, consequently, to the general welfare of the state. It seemed, therefore, entirely feasible to detach these states from any complicity with the strictly slaveholding Confederacy. If they remained loyal, the Union would have 22,000,000 whites, and the Confederacy but 5,000,000. If they joined the secession, the Union would have 18,000,000 whites and the Confederacy 8,000,000, besides four and a quarter millions of slaves and free persons of color.[1]

Geographically and commercially the border states were connected as intimately with one section as with the other. The great highway of the Mississippi bound Kentucky and Missouri to New Orleans; the great lakes, and railways, and canals bound them equally to New York. If the Union was broken up, no matter to which fragment they adhered, they would be border states, and exposed to all the evils of that position. In either case they would hold one of their great avenues of communication at the mercy of a foreign power. If they went with the Confederacy they would lose the lakes; if they adhered to the Union they would lose the Mississippi. Their interest, more than that of any other section, lay in the maintenance of the Union, and few of the people had any interest in the maintenance of slavery. But the slaveholders exercised a power altogether disproportionate to their numbers. Public officers and leaders of opinion belonged almost exclusively to this class. Slavery was, moreover, a state institution, and attachment to the state took precedence over attachment to the nation, though less decidedly than in the Far South. The sentiment of the civilized world had gradually arrayed itself against slavery. This, by the law of antagonism, forced all slaveholding states into closer sympathy with each other, and so the institution of slavery formed a strong bond of union between all the states which maintained it. If the border states could be induced voluntarily to abandon slavery, this tie between them and the South would be destroyed.

To bring about the voluntary abandonment of slavery in the border states was a leading object in the policy of the President. To this end, in his message of December 2, 1862, he recommended that measures should be taken to compensate states which should undertake the gradual emancipation of their slaves. Three months later he sent in a special message recommending that Congress should pass a joint resolution declaring that "the United States, in order to co-operate with any state which may adopt gradual abolition of slavery, will give to such state pecuniary aid, to be used by such state in its discretion, to compensate it for the inconvenience, public and private, produced by such change of system." This proposition, he said, set up no claim of right on the part of the general government to interfere with slavery within the states. Whether they should accept it was left to their choice; but, he argued, the leaders of the rebellion hoped that the independence of some part of the disaffected region must be acknowledged, and then that the remaining part of the slaveholding section, finding the Union destroyed, would go with the South. To deprive them of this hope would substantially end the rebellion; and any state, by initiating emancipation, would in effect declare that in no case would it ever join the Confederacy.

Congress had hardly met in December when it became evident that the legislation upon the subject of slavery would assume a new aspect. The dominant party had come to the conclusion that slavery had not only furnished the occasion for the war, but supplied the means of carrying it on, and that, in order to put it down, it would be necessary to interfere directly with the institution in the insurrectionary states. A wide difference of opinion soon developed itself as to the extent and manner of this interference. Notices of bills and resolutions upon this subject were offered, and the debates upon these served to elicit the views of the members. The prevailing feeling was embodied in a series of acts, the debates upon which occupied a considerable part of the session. We shall describe these, keeping as nearly as possible to the order of time at which they became laws by receiving the approval of the President.

Naval and military officers were prohibited, by an additional article of war, under penalty of dismissal from the service, from employing the forces under their command for the purpose of returning fugitive slaves.[1]

In accordance with the recommendation of the President, a joint resolution was passed, declaring that the United States ought to co-operate with any state which may adopt the gradual abolition of slavery, by giving pecuniary aid to such state.[2] This resolution was denounced by the extreme opposition as an unconstitutional interference with the subject of slavery in the states. In the House, Mr. Wickliffe, of Kentucky, denied that the Constitution gave Congress any power to appropriate money to carry out the purposes of the resolution. In the Senate, Mr. Saulsbury, of Delaware, said that the resolution was extraordinary in its origin, source, and object; it was mischievous in tendency and unpatriotic in design; it was an attempt to induce some states to commence the work of abolition by holding out a pecuniary bribe to them. The states had never asked Congress for aid for any such purpose, and the offer was ill-timed and indelicate. In the House, Mr. Fisher, from the same state, said that he saw in the resolution a promise of a final settlement of the question of slavery. It was an olive-branch held out by the Northern states to the border states and to the whole South. In the Senate, Mr. Davis, of Kentucky, the successor of Mr. Breckinridge, who had been expelled, wished to amend the resolution so that it should affirm that although the whole subject of slavery within the states lay beyond the jurisdiction of the general government, yet when any state should determine to emancipate its slaves, the United States would pay a reasonable price for those emancipated, and the cost of their colonization in some other country. This amendment was rejected, receiving but four votes. The resolution received a lukewarm support from a large portion of the Republican members. That Congress had a right to pass the resolution, and to make the appropriations required by it, in case any state should avail itself of its provisions, was assumed, but it appeared to most of them to have no practical value. However, if it produced no good it could do no harm, and the resolution passed in the Senate by 32 to 10, and in the House by 89 to 31. It was looked upon as a means of testing the feeling of the border states, the only ones which would, in any case, accept the offer of compensation.

A far more important act was that by which slavery was abolished in the District of Columbia.[3] By this act all persons held to service or labor within the district, by reason of African descent, were freed from all claim for such service or labor; and no involuntary servitude, except for crime, and after due conviction, should hereafter exist in the district. A board of commissioners was appointed, to which all loyal persons might present claims against slaves discharged by this act. These commissioners might award a sum not exceeding $300 for each person thus discharged. These claims must be presented within ninety days from the passage of the act. No claims should be allowed for any slave brought into the district after the passage of the act, and none in any case from persons who had in any way aided or sustained the rebellion. The number of slaves in the district was about 3000. A million of dollars was appropriated for the indemnification of the owners of slaves thus freed, and $100,000 for the colonization of such as wished to emigrate to Hayti, Liberia, or any other country beyond the limits of the United States. Other acts, closely connected with this, provided that colored persons in the district should be amenable to the same laws, and liable to the same punishments as whites;[4] that any slave employed by the consent of his owner in the district after the passage of the Emancipation Act should be free, and that in judicial proceedings there should be no exclusion of any witness on account of color;[5] that ten per cent. of the taxes received from persons of color should be set apart to maintain schools for educating their children; and a special board of trustees was appointed for these schools.[6]

[1] The statements in the preceding paragraphs are expressed approximately in round numbers. The following table exhibits the numerical relations of the Border States to the Union and the Confederacy, according to the census of 1860, West Virginia being included among the Border States:

BORDER STATES.	Whites.	Free Colored.	Slaves.	Total.
Delaware	90,697	19,723	1,798	112,218
Maryland	516,128	83,718	87,188	687,034
West Virginia	368,623	3,981	20,630	393,234
Kentucky	920,077	10,146	225,490	1,155,713
Missouri	1,064,369	2,983	114,965	1,182,317
	2,958,594	120,551	450,071	3,530,216
THE UNION.				
With Border States	21,925,370	354,702	453,315	22,634,010
Without Border States	18,966,776	234,151	3,244	18,104,794
THE CONFEDERACY.				
Without Border States	5,082,088	127,420	3,070,831	8,709,780
With Border States	8,040,682	247,971	3,520,902	12,239,996

[1] Laws of 37th Congress, 2d Sess., chap. xl., March 13, 1862. [2] Ibid., Joint Resolution, No. 26, April 10, 1862. [3] Ibid., chap. liv., April 16, 1862. [4] Ibid., chap. lxxxiii., May 21, 1862. [5] Ibid., chap. cl., July 12, 1862. [6] Ibid., chaps. lxxxiii., cli., May 21, July 11, 1862.

The main bill for emancipating the slaves in the district passed in the Senate by 29 to 14; in the House by 92 to 13. The debate in the Senate was long and earnest. Mr. Davis, of Kentucky, said that the liberation of slaves where they were numerous would cause a conflict of races which would result in the exile or extermination of one or the other. If slavery were abolished by the general government in any of the states, the moment the white inhabitants were again reorganized they would either reduce the freedmen again to slavery or expel them, or would hunt them down like beasts and exterminate them. He affirmed that slavery and the slave-trade existed by public national law, based upon the usage of the civilized world, and not by positive enactment. This general national law existed in every country wherein it was not repealed by positive enactment, so that slavery was general, and the abolition of it local. He and the entire body of senators from the border states denied the right of Congress to emancipate the slaves in the district. Government might, if public necessity required it, take and use slaves like any other property, by making due compensation to the owners; but it could take property only for the purpose of employing it in the public use; and setting slaves free was not thus employing them. In the House, Mr. Crittenden said that this was a most unwise time to adopt such a measure. It would be looked upon only as the commencement of a series of measures for the entire abolition of slavery. It would give to the rebels the strength of desperation, by inspiring them with the belief that peace would bring the spoliation of their property of all descriptions.

The President, in signing the bill, merely suggested that the time for the presentation of claims should be extended in certain cases, and expressed his gratification that the two principles of compensation and colonization were recognized and applied in the act. The scheme of colonization was for a while a favorite one with the government. An act for the collection of taxes in the insurrectionary districts provided that lands, the taxes upon which should not be paid, might be sold or leased, one quarter of the proceeds to constitute a fund to aid in the colonization of persons of African descent in Hayti, Liberia, or any other tropical country.[1] A provision for the "transportation, colonization, and settlement in some tropical country, beyond the limits of the United States, of persons of African descent," made free by the Confiscation Act, who should be willing to emigrate, was appended to that important law.[2] The President was also authorized to make an arrangement with governments having possessions in the West India Islands to receive, employ, clothe, feed, and instruct, for a period of five years, all Africans taken from slavers captured by United States vessels.[3] In all these schemes of colonization it was assumed that arrangements would be made with the governments of the countries by which the rights of freemen should be secured to the colonists. Negotiations were informally attempted for this purpose with Hayti and the states of Central America. A small colony was dispatched to Hayti, but the experiment proved a failure. The Central American states were wholly averse to any such colonization, and the scheme was finally abandoned.

The distinctive principle of the Republican party, as formally enunciated in its conventions of 1856 and 1860, was that slavery should be prohibited in every part of the country over which the Federal government had the right of exclusive jurisdiction. This had been partially put into effect by the law emancipating the slaves in the District of Columbia. It was carried out to completion by the passage of an act "to secure freedom to all persons within the territories of the United States." This law enacted, in brief but expressive terms, that "from and after the passage of this act there shall be neither slavery nor involuntary servitude in any of the territories of the United States now existing, or which may be hereafter formed or acquired by the United States, otherwise than in punishment of crimes whereof the party shall have been duly convicted."[4] The bill passed with little debate. There was an important distinction between these two measures. It was tacitly admitted that slavery had a legal existence in the district, and therefore loyal owners were compensated for the loss of their slaves; it was assumed that slavery had no legal existence in the territories, and there it was merely prohibited. Except as a question of principle, this act was of little importance, for there were but sixty-three slaves in all the territories out of a population of 220,000; and the climate, physical nature of the country, and the character of the emigration, rendered it certain that no large number of slaves would ever be taken thither, and that when the territories came to be admitted into the Union as states, their Constitutions would prohibit slavery.

The government was slow to accept as soldiers persons of African descent, whether free by birth or enfranchised. The organization of negro regiments was discouraged until after the failure of the campaign before Richmond. It then became evident that all the force which the Union could by any means bring into the field would be required. The last important act of the session, which defined the power of the President in calling out the militia, empowered him to "receive into the service of the United States, for any military or naval service for which they may be found competent, persons of African descent, who shall be enrolled and organized under such regulations, not inconsistent with the Constitution and the laws, as he may prescribe." It was farther enacted that "any slave of a person in rebellion, rendering any such service, shall forever thereafter be free, together with his wife, mother, and children, if they also belong to persons in rebellion. The pay of these colored troops was fixed at ten dollars a month and one ration, being only a little more than half that given to white soldiers."[5]

[1] Laws of the Thirty-seventh Congress, Second Session, chap. xcviii., June 7, 1862. [2] Ibid., chap. cxcv., July 17, 1862. [3] Ibid., chap. cxcvii., July 17 1862. [4] Ibid., chap. cxi., June 18, 1862. [5] Ibid., chap. cci., July 17, 1862.

But by far the most important act relating to slavery passed during the session was that known as the Confiscation Act. The various phases which this bill went through, and the debates which ensued in relation to it, evinced that there was a wide difference of opinion among the members of the Republican party as to the manner in which slavery should be dealt with. Those who took the most extreme ground, prominent among whom were senators Hale, Sumner, Wilson, and Trumbull, wished to legalize the absolute and perpetual forfeiture of the property, including slaves, of all persons engaged in the rebellion. The Constitution expressly declares that "no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted;" but, as treason was punishable by death, the forfeiture of the life interest in the property of a condemned traitor would amount to very little. And as the persons of the rebels in the insurrectionary states could not be reached by judicial process, even this interest in their property could not be touched by attaint of treason. To reach this property absolutely was the design of a bill presented by Mr. Trumbull during the first week of the session. The bill came up for discussion on the 25th of February, when it was explained and defended by its author in a long and elaborate speech. The object of the bill, he said, was to operate upon property, and not to affect the person of the traitor, and applied only to cases where he was beyond the reach of judicial process. We had the right to take the property of our enemy and destroy it, if necessary. Again, the bill forfeited the claim of any person engaged in the rebellion to the service of any other person owing him service or labor, and declared the person free from any such claim. Congress had clearly the right to pass such a law. Government had the right to go to the farm or the work-shop, and take away and place in the army a man who by his own voluntary contract owed service to his employer. A parent had a right to the service of his son until he was twenty-one years of age; yet the government could take the son of eighteen and place him in the army. The claim of a master to the service of his slave was certainly not more sacred than that of an employer to the service of his workman, or of a parent to that of his son.

This sweeping measure for the universal confiscation of property and the general emancipation of slaves met with strenuous hostility not only from the opposition, including the members from the border states, but from some of the most earnest supporters of the administration. What would become of the loyal population of the South, asked Ten Eyck, of New Jersey, should all the slaves owned by rebels be set at liberty and allowed to roam the country at large? The policy involved in this measure, said McDougall, of California, would never secure peace, and would lead to a remorseless, relentless war, which would involve subjugation, if not extirpation. The bill, said Cowan, of Pennsylvania, proposed to strip fully 4,000,000 of whites of all their property, real, personal, and mixed, of every kind whatsoever, and reduce them to absolute poverty, and that at a time when they had in the field 400,000 men opposing us desperately. Should we, he asked, go back to the doctrine of forfeitures of the Middle Ages, and introduce feuds which centuries had not sufficed to quiet? The forfeitures of William the Conqueror sink into insignificance compared with those proposed by this bill. The act, said Browning, of Illinois, the successor of Douglas, sweeps away every thing, even the most ordinary comforts and necessaries of domestic life, and reduces all to absolute poverty and nakedness. It leaves them the ownership of nothing. They may repent of their past rebellion, and return to their allegiance, but they return bankrupts and beggars, with nothing on earth to render government desirable. The effect of the bill would be to make peace and reunion an impossible thing; it would fill the hearts of the entire Southern people with despair, and nerve their arms with the energy and desperation which despair inspires.

A special feature of the bill, which excited the strongest opposition of some of the most earnest Republicans, was that it freed the slaves of all persons who had been engaged in the rebellion, by the direct action of Congress, without the intervention of any judicial process. This, it was argued, was in direct violation of the most solemn pledges of the administration, and the repeated declarations of the Republican party. Mr. Collamer, of Vermont, perhaps the most thoroughly anti-slavery state in the Union, spoke at length upon these points, quoting from speeches by senators Sumner, Fessenden, and Sherman, expressly denying the right of Congress to interfere with slavery in a state, and maintaining that the pledges made to the country when Mr. Lincoln was elected should be religiously observed. He pointed out the distinction between this bill and the Confiscation Act of the last session forfeiting the property in slaves who had been actually employed in supporting the rebellion. The bill, he said, was, in his judgment, in direct violation of plighted faith, and of the provisions, prohibitions, and enactments of the Constitution. He did not think the people of his state wished him to aid in breaking any provision of the Constitution, and he would not do so if they wished it.

It was clear that Mr. Trumbull's bill could not pass the Senate. Several amendments were offered, and these were referred to a committee of nine, of which Mr. Clark, of New Hampshire, was chairman. They reported a bill designed to harmonize the various opinions, and thus to secure the adoption of some measure which should meet the pressing emergencies of the times. This bill differed from that of Mr. Trumbull in making the confiscation of property and the forfeiture of the right to slaves a punishment for treason, to be inflicted only after the trial and conviction of the offender. It also authorized the President to grant pardon and amnesty to all persons who had been engaged in the rebellion, at such time and upon such conditions as he should deem expedient for the public welfare.

This bill met with vehement opposition from the extremes on both sides. On the one hand it was said to be too lenient, and on the other hand too se-

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vere. Mr. Sumner offered a substitute, which he advocated in several elaborate orations. He denied that the slaves of rebels could be regarded as property, real or personal. Though claimed as property and recognized as chattels by local law, the Constitution knew them only as persons. Being men, they were bound to allegiance and entitled to protection. No claim on the part of their masters could supersede the right inherent in the general government to demand the services of all. By declaring the slaves free, we should take from the rebellion its main spring of activity and strength. God sometimes offered to nations as well as to individuals opportunity, which was of all things most to be desired. Never before had such an opportunity been presented. The blow which would smite the rebellion would scatter prosperity and happiness throughout the land. It would mark an epoch from barbarism to civilization. Congress, and not the President, had the supreme control over the operations of the war. By the old rights of war, freemen were made slaves; by those which he proposed, slaves were made freemen. The substitute was rejected. Mr. Trumbull opposed the bill because it made treason easy. On the other hand, amendments were proposed, striking out, one after another, every important section. These were all voted down; and the bill, as reported by the committee, passed the Senate by a vote of twenty-eight to thirteen; senators Trumbull and Sumner, notwithstanding their objections, voting for it, and several Republicans against it.

Meanwhile a bill similar to the one proposed by Mr. Sumner had passed the House. The Senate refused to accept it, adhering to its own. A committee of conference was appointed, and the House acceded to the Senate bill, with slight amendments, by a vote of eighty-two to forty-two.[1]

But the bill had hardly passed before it was known that the President would refuse to sanction it. He had prepared a message vetoing it. His main objections were against those parts of the first, second, seventh, and eighth sections which forfeited property beyond the life of the person attainted of treason. To obviate these objections and some others, a joint resolution was proposed limiting the class of state officers whose property was to be confiscated, and providing that real estate should be forfeited only during the life of the offender.[2] The President, considering this resolution to constitute a part of the bill, signed it, and it became a law.

The President was loth to change the avowed policy of the administration by exercising the great power thus placed in his hands. He clung to his favorite scheme of compensated emancipation. A week before the close of the session he sent a special message to Congress embodying the draft of an act providing that, in case any state should abolish slavery, bonds of the United States should be delivered to it of a certain sum for every slave, the whole to be paid at once if the emancipation was immediate, or in installments if it were gradual. The proposed bill was referred to committees, but no farther action was taken upon it. No border state, for whom it was especially intended, responded to the invitation.

On the same day, July 12, he requested all the members of Congress from the border states to meet him in conference. He laid before them his scheme, and urged them to favor it. If the war continued long, he said, slavery would be extinguished in those states. Much of its value had already gone, and all would soon be lost, with nothing to show for it. It would be better to take a step which would shorten the war, and secure substantial compensation for what would otherwise be wholly lost. How much better for these states as seller, and for the nation as buyer, to sell out and buy out that without which the war never could have been, than to sink both the thing to be sold and the price of it in cutting each other's throats. He hinted at the strong pressure exerted upon him to take stringent measures in regard to slavery.

A majority of those to whom this appeal was made presented a reply, dis-

[1] Laws of the Thirty-seventh Congress, Second Session, chap. cxcv., June 17, 1862.—The following is an abstract of the different sections of the bill, the title of which is, "An Act to suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other Purposes."

Section 1. Every person who shall hereafter be convicted of the crime of treason against the United States shall suffer death, or be imprisoned for not less than five years, and fined not less than $10,000, and his slaves, if any, shall be declared free; the fine to be levied and collected on any or all of the property, real and personal, except slaves, of which the person so convicted was the owner at the time of committing said crime, any sale or conveyance to the contrary notwithstanding.

Section 2. If any person shall hereafter incite, assist, or engage in any rebellion against the authority of the United States, or give aid and comfort thereto, and be convicted thereof, he shall be punished by imprisonment for a period of not more than ten years, or by a fine of not more than $10,000, or both, and his slaves, if any, be set free.

Section 3 disqualifies all persons who shall commit these crimes from holding office under the United States.

Section 4 provides that this act shall not affect the case of any person guilty of treason before its passage, unless convicted under it.

Section 5 makes it the duty of the President to cause to be seized and applied to the support of the army of the United States all the property of the following classes of persons: (1) Officers of the rebel army and navy; (2) High officers, executive, legislative, judicial, and diplomatic, of the Confederacy; (3) Similar officers of any one of the Confederate states; (4) Those who, having held offices under the United States, shall hereafter hold offices under the Confederacy; (5) Those who shall hereafter hold any office under the Confederacy or any one of the Confederate states; provided, however, that those described in the third, fourth, and fifth classes shall have accepted their appointment since the secession of their respective states, or have taken the oath of allegiance to the Confederacy; (6) Those owning property in the loyal states who shall aid the rebellion; all sales or transfers of such property to be null and void; and it shall be a valid bar to any suit for the possession of such property that the owner belonged to any one of these six classes.

Section 6 provides that if any person, other than those described, aiding or abetting the armed rebellion, shall not, within sixty days after public warning and proclamation by the President, cease from rebellion and return to his allegiance, his property shall be in like manner seized.

Sections 7 and 8 prescribe the manner of proceedings by the courts in these cases.

Section 9 enacts that all slaves of persons who shall hereafter be engaged in rebellion, escaping and taking refuge within the lines of the army, all slaves captured from or deserted by such persons, or coming in any way under control of the government, shall be considered prisoners of war, shall be forever free from servitude, and not be again held as slaves.

Section 10 enacts that no slave, escaping from one state into another, shall be delivered up, except on oath of the claimant that the owner or master of the slave has not borne arms against the United States, or given aid and comfort to the rebellion; and prohibits all persons in the military service of the United States, under pain of dismissal, from deciding on the validity of any claim to the services of any escaped slave.

Section 11 authorizes the President to employ as many persons of African descent as he may deem necessary and proper for the suppression of the rebellion, and to organize and use them as he may deem best for the public welfare.

Section 12 authorizes the President to provide for the colonization, with their own consent, beyond the limits of the United States, of persons freed by this act; the consent of the governments of the countries having been first obtained, with a guarantee of the rights of freemen to the colonists.

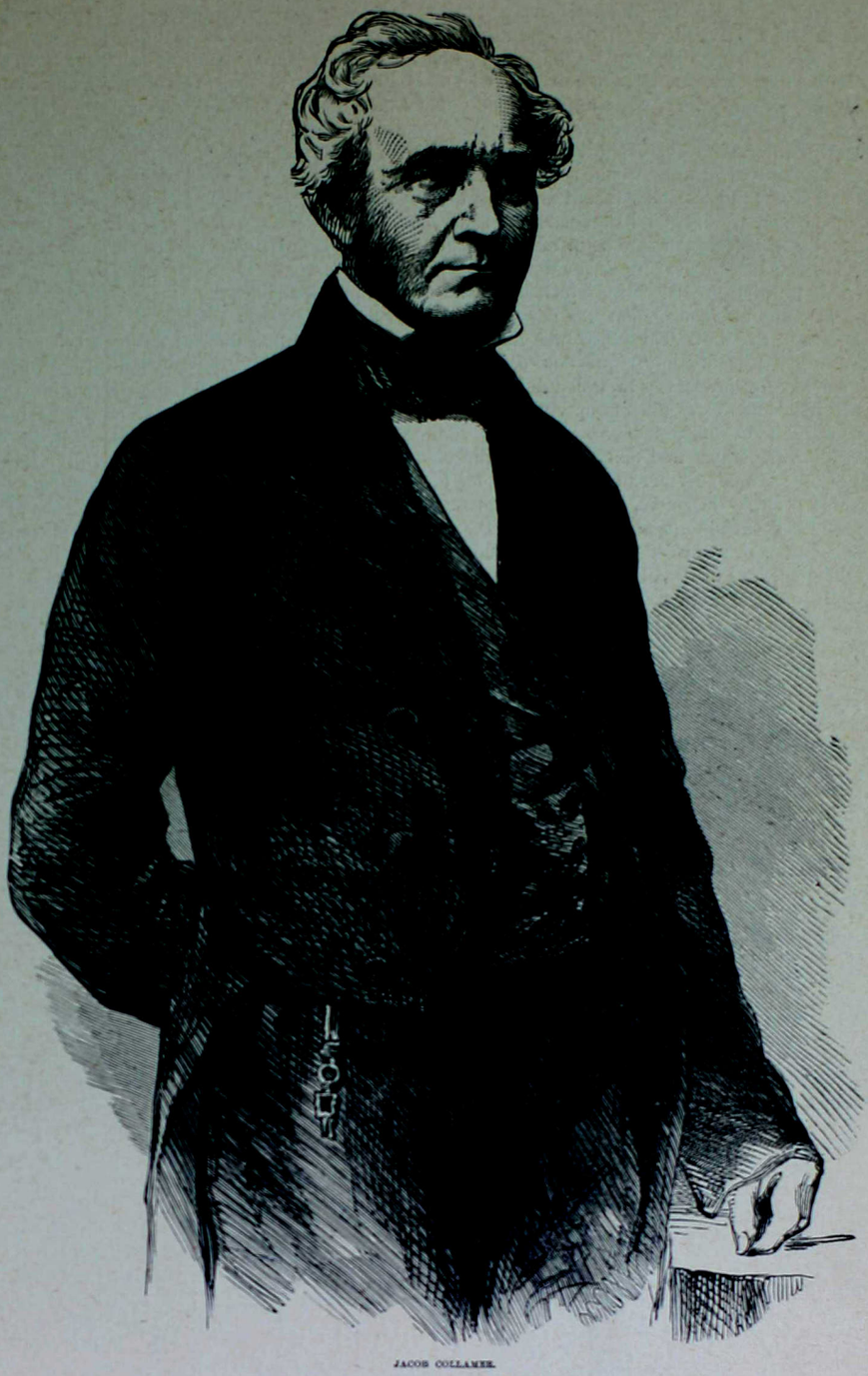
Section 13 authorizes the President, by proclamation, to extend pardon and amnesty to all persons who may have participated in the rebellion, at such time, on such conditions, and with such exceptions as he may deem expedient for the public welfare.

Section 14 gives the courts of the United States authority to institute such proceedings, and to issue such orders, as may be necessary to carry this act into effect.

The joint explanatory resolution passed by both houses, which is essentially a part of this act, provides that the clause relating to state officers in section 6 "shall be so construed as not to apply to any act or acts done prior to the passage thereof, nor to include any member of a state Legislature, or judge of any state court, who has not, in accepting or entering upon his office, taken an oath to support the Constitution of the so-called Confederate states; nor shall the real estate of any offender under said act be forfeited beyond his natural life."

[2] Laws of the Thirty-seventh Congress, Second Session, Joint Resolution, No. 63.

senting from his opinion that the adoption of this policy would terminate the war or serve the cause of the Union. Their states were loyal, and had manifested beyond a doubt that in no case would they join the rebellion or go with the Confederacy, even if its independence was recognized. But the right of holding slaves belonged to the states. They could not see that they were called upon to make the sacrifice which was required by the proposition. They were asked to give up a valuable right, with no security for even the small compensation proposed. If, however, Congress would make the necessary appropriation of funds, and place them at the disposal of the President, to pay for the emancipated slaves and for their colonization, their states would consider the project. This reply was signed by twenty senators and representatives, most of them from Maryland, Kentucky, and Missouri. Another answer, signed by seven members, three of whom were from Western Virginia, was a little more favorable. They would ask their states to take the subject into consideration, adding, "We are the more emboldened to assume this position from the fact, now become history, that the leaders of the Southern rebellion have offered to abolish slavery among them as a condition to foreign intervention in favor of their independence as a nation. If they can give up slavery to destroy the Union, we can surely ask our people to consider the question of emancipation to save the Union."



JACOB COLLAMER.

The Confiscation Act was an attempt to harmonize different shades of opinion. It contained some apparent inconsistencies. The punishment for treason or rebellion, whether by death, imprisonment, fine, or the liberation of slaves, could be inflicted only after formal trial and conviction. But the property of all persons engaged in rebellion was to be seized and confiscated to public use, and their slaves, coming in any way under the control of the Federal power, were to be set free without the intervention of any judicial process. But these discrepancies were apparent rather than real. Trial, conviction, and punishment for treason were judicial acts, to be performed according to legal forms. The seizure of the property of an enemy was a military measure authorized by the laws of war. Slaves were considered in their twofold character of property and persons. As property they could be seized, but the United States could not hold them as slaves; and, consequently, when the title of their former owners was annulled, there was no other to take its place, and they reverted to their natural condition of freemen.

But, beyond this right of seizure of enemies' property, it was held that, in time of war, government had the right to employ any means not contrary to the laws and usages of civilized warfare to weaken the enemy. This power was affirmed to be inherent in the very nature of our government, even though it were not expressly granted by the Constitution. Among these rights was that of emancipating the slaves of the enemy. Some conceived that this right pertained to Congress, and should be carried into effect by express enactment; others held it to be a military right pertaining to the President in virtue of his function as commander-in-chief of the army and navy. But those who were in favor of the measure cared little by whom it was effected, so that it was effected at all. The President assumed that the power, and the responsibility for its exercise, devolved upon him.

Congress had hardly adjourned when the President was strongly urged to issue a proclamation for the universal emancipation of the slaves. He hesitated, upon grounds of expediency, to take this decisive and irrevocable step. On the 13th of September he was waited upon by a committee from various religious denominations in Chicago. They urged him to issue a proclamation of emancipation for the reasons that it would enlist the sympathy of the civilized world, would promote harmony at the North, would give new soldiers to the Union, and would be in accordance with the will of God.

Mr. Lincoln set aside the last argument by saying that very good men, claiming to represent the divine will, urged him to adopt very different measures. He thought that, if a direct revelation was to be made upon a subject so intimately connected with his own duty, it would be vouchsafed to him. But he expected no direct revelation, and could only study the physical facts of the case, and learn what was right, wise, and possible. A proclamation of emancipation might produce a good effect in Europe; it might help somewhat at the North; it might weaken the enemy by drawing off some of his laborers. But he did not think it would add available soldiers to our army. If the blacks should be armed, he feared that in a few weeks the arms would be in the hands of the enemy; besides, we had not arms enough to equip our white troops. Moreover, there were 50,000 soldiers in the Union army from the border slaveholding states, and it would be a serious matter should such a proclamation drive them over to the enemy. But the main objection to issuing such a proclamation at that time was that it would be useless. "What good," he asked, "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 can not even enforce the Constitution in the rebel states?"

The state of affairs at that time afforded no reason to hope that such a proclamation would produce any good effect. The campaign on the Peninsula had disastrously failed; the Army of the Potomac had been defeated and driven back upon the capital; the Confederates, flushed with victory, had crossed the Potomac and were threatening Baltimore, and, not impossibly, Philadelphia. On the very day when this interview took place, the general-in-chief telegraphed to General McClellan that he believed the Confederates were about to march in force upon the capital. On that day they seemed more likely to be able to dictate terms than to be forced to receive them. A proclamation from the President of the United States decreeing the emancipation of the slaves in the Confederacy would then have appeared as idle as a papal Bull against the comet.

A single week wrought an entire change in the aspect of affairs. The battle of Antietam, fought on the 17th of September, had put an end to the triumphal march of the enemy. The Confederates were in full retreat. They had, indeed, got safely back across the Potomac; but it was believed that the army which had foiled McClellan at Richmond, and defeated Pope at Manassas, would be captured or annihilated. Men passed at a bound from the depths of depression to the heights of exultation. The speedy overthrow of the Confederacy was confidently anticipated. It seemed that this might be hastened by a warning proclamation, giving the insurgents the choice between prompt submission, and subjugation with the liberation of their slaves.

So judged the President of the United States; and accordingly, on the

22d of September, he issued a proclamation declaring that hereafter, as heretofore, the object of the war would be to restore the Union; that at the next meeting of Congress he should again propose a measure to compensate any slaveholding state, not then in rebellion, which should voluntarily undertake the abolition of slavery within its limits; that on the first day of January, 1863, all persons held as slaves in any state then in rebellion should be free; and that the executive government of the United States, including its military and naval force, would recognize the freedom of these slaves, and would do nothing to hinder them from acquiring the actual possession of it; that on this day he would designate the states, and parts of states, which should then be considered to be in rebellion, and to which this provision of the forthcoming proclamation should apply.

This warning proved entirely ineffectual, and, at the appointed time, the proclamation of emancipation was issued. It marked a new phase in the conduct of the war. The object was indeed unchanged, but entirely new measures were called into requisition to effect that object. Heretofore the claims of rebel masters to their slaves had been put upon the same footing as their claims to any other property. This claim might be annulled precisely like the claim to a horse. The slave coming into possession of the government became free simply because the claim of the master having lapsed, there was no other to take its place, for the United States could not assume property in slaves. Henceforth slavery in all the insurrectionary states was declared to be abolished, and all the military and naval power of the government was solemnly pledged to maintain the freedom of all slaves in these portions of the United States.[1]

Delaware, Maryland, Kentucky, and Missouri, having remained loyal, were not included in this proclamation. A portion of Virginia, including the forty-eight counties soon to be known as the State of West Virginia, and seven others, subsequently recognized as the loyal state of Virginia, were also exempt. Tennessee had all along been represented in the Federal Congress, and being in great part occupied by the national forces, was not held to be in insurrection. Thirteen parishes in Louisiana were held by our forces, and were not included in the insurrectionary districts. The number of slaves in these states and parts of states was 832,259. These remained, as before, slaves under the state laws. In the remaining slave states, Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Texas, thirty-five parishes in Louisiana, and ninety-three counties in Virginia, were 3,108,197 slaves. These were all declared to be free.

During the interval between the issue of these two proclamations, and at various subsequent periods, the President and members of the cabinet expressed their views in respect to this measure and its probable influence upon the war. Mr. Seward wrote to the American minister to France[1] that the great problem of domestic slavery in the United States presented itself for solution when the war began. The people were intensely engaged in the difficult task of its solution. The President's message would carry the public mind still more directly and earnestly on its great work. Mr. Chase said that slavery, having come out of its shelter under state Constitutions and laws to assail the national life, must surely die. Who cared how its end came? In the rebel slave states it would come "by military order, decree, or proclamation, not to be disregarded or set aside in any event as a nullity, but maintained and executed with perfect good faith to all the enfranchised." In the loyal slave states it would come by the voluntary action of the people, aided by the free states. Meanwhile the American blacks must be called into this conflict as men, no longer as mere contrabands. We must follow the example of Andrew Jackson, who did not hesitate to oppose colored regiments to British invasion. We needed the good will of these men, and must make them our friends by showing ourselves their friends.[2] He had at first been averse to any interference with slavery in the states; but, as the war went on, "we put greater and greater armies into the field; but the slave population of the South was the real prop of the rebellion, raising provisions for the army while it was fighting in the field, so that they could have nearly all their laboring population in the battle-field, and they had another laboring population behind them to feed and support them. It seemed perfectly clear that we had to strike at this under-prop of the rebellion. The proclamation was the right thing in the right place."[3]

That the proclamation was irrevocable was firmly maintained. The President had been urged to retract it by some who considered it unconstitutional. He replied: "I think the Constitution invests the commander-in-chief with the laws of war in time of war. But, as law, the proclamation is either valid or invalid. If it is not valid it needs no retraction; if it is valid it can not be retracted any more than the dead can be brought to life."[4] Mr. Blair, the Postmaster General, said, "That measure, which involves both life and freedom in its results, when proclaimed was beyond revocation by either the civil or military authority of the nation. The people once slaves in the rebel states can never again be recognized as such by the United States. No judicial decision, no legislative action, state or national, can be admitted to re-enslave a people who are associated in our destinies in this war of defense to save the government, and whose manumission was deemed essential to the restoration and preservation of the Union and to its permanent peace."[5] Mr. Chase said, "Either the proclamation was a sham and an imposition in the face of the whole world, or else it was an effectual thing, and there are no slaves to-day in the rebel states. They are all enfranchised by the proclamation; for what says it? All the slaves are declared now and forever free, and the executive power of the nation is pledged to the maintenance of this freedom."[6]

It had been anticipated that this proclamation of emancipation would enlist the sympathy of the European governments upon the side of the Union. All our ministers abroad had urged the adoption of such a measure. The result failed to justify this anticipation. Mr. Dayton warned the government that it might look for efforts from portions of the foreign press to misstate the motives of the proclamation and the consequences which would follow it. Another effort in favor of recognition would be made, ostensibly on the ground of humanity, but really because emancipation would weaken the South and interfere with the production of cotton. On the other hand it was urged, especially in Great Britain, that the measure did not go far enough. Earl Russell, in a dispatch to Lord Lyons,[7] said that the proclamation was of a very strange nature. It professed to emancipate all slaves in places where the United States could not make emancipation a reality, but emancipate no one where the decree could be carried into effect. In some places a master could still recover his fugitive slave by process of law; in the other places, a slave, if arrested, was authorized to resist, and his resistance would be sustained by the military force of the United States. Slavery was therefore legal or illegal according to locality. There was no declaration of a principle adverse to slavery in the proclamation. It was merely a measure of war, and of a very questionable kind. The dispatch concluded by saying, "As President Lincoln has twice appealed to the judgment of mankind in his proclamation, I venture to say that I do not think it can or ought to satisfy the friends of abolition, who look for total and impartial freedom for the slave, and not for vengeance on the slave owner."

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[1] The following is the text of the preamble and closing paragraph of the proclamation of 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 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, with their consent, upon this continent or elsewhere, with the previously obtained consent of the governments existing there, will be continued."

"And the Executive will in due time 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."

Attention was also called to the provisions of the acts of Congress which forbid the naval and military force from returning fugitives; which declare all slaves of persons engaged in the rebellion, who in any way come into the control of the government, to be free; and which forbid the return of fugitive slaves unless the claimant makes oath that he has not been engaged in the rebellion. The most important paragraphs of this proclamation were textually repeated in that of January 1, 1863, which we give in full:

"PROCLAMATION.

"Whereas, on the 22d 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 states or designated part of a state, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the executive government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

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

"Now, therefore, I, ABRAHAM LINCOLN, President of the United States, by virtue of the power in me vested as commander-in-chief of the army and navy of the United States in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the day first above-mentioned, order and designate as the states and parts of states wherein the people thereof respectively are this day in rebellion against the United States, the following, to wit:

"Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, Ste. Marie, St. Martin, and New 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 Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Anne, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts are for the present left precisely as if this proclamation were not issued.

"And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated states and parts of states are and henceforward shall be free; and that the executive government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

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

"And I farther 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 testimony whereof, I have hereunto set my name, and caused the seal of the United States to be affixed.

"Done at the City of Washington this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-seventh.

"By the President: ABRAHAM LINCOLN.

"WILLIAM H. SEWARD, Secretary of State."

[1] December 1, 1862. [2] Letter to Loyal League, April 9, 1863. [3] Speech at Cincinnati, October 15, 1863. [4] Letter to the Springfield Convention, August 26, 1863. [5] Speech at Cleveland, May, 1863. [6] Speech at Cincinnati, October 15, 1863. [7] January 17, 1863.