

## **LINCOLN, GREAT EMANCIPATOR OR SIMPLY GREAT POLITICIAN?**

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I recently completed Team of Rivals, Doris Kearns Goodwin's biography of the lives of Abraham Lincoln and three principal members of his cabinet. I found it to be a riveting historical biography...to the extent that any historical biography can, in fact, be riveting. I must admit that I have always had a fascination with the life of Abraham Lincoln. I think that some part of my fascination arises from the fact that Lincoln chose law as a career prior to entering the political arena.

Goodwin's account details Lincoln's difficult childhood and upbringing and contrasts it to the privileged upbringing of his "rivals". His mother died very young, and his uneducated father provided him little opportunity for any type of education, let alone a formal education. His stepmother, Sarah Bush Lincoln, recognized that Abraham was a boy of uncommon natural talents; and though uneducated herself, she did all she could to encourage him to read, learn and grow. And read, learn and grow he did. Lincoln read voraciously. Books became his academy, his college. At a time when

ownership of books remained a luxury for many Americans, gaining access to reading material proved difficult. He read and re-read the Bible; John Bunyon's Pilgrim's Progress; Aesop's Fables; and William Scott's Lessons in Elocution so many times that years later he'd recite whole passages and entire stories from memory. Eventually, Lincoln would "read" for the law and would pass the Bar in the state of Illinois. By all accounts, Lincoln was an avid litigator and a respected attorney. However, the lure of politics attracted him more than his love of the law.

Goodwin's book, Team of Rivals, couples the account of the life of Abraham Lincoln with the stories of the remarkable men who were his rivals for the 1860 Republican Presidential nomination: New York Senator William H. Seward, Ohio Governor Salmon P. Chase, and Missouri's distinguished elder statesman Edward Bates.

Taken together, the lives of these four men give us a picture of the path taken by many ambitious young men in the North who came of age in the early decades of the 19<sup>th</sup> Century. All four studied law, became distinguished orators, entered politics and opposed the spread of slavery.

When Abraham Lincoln sought the nomination of the Republican party in 1860, he was hardly the front-runner. In fact, he was hardly given any

chance at all to win the nomination. Amazingly, because of the strong differences of his rivals, Seward, Chase and Bates, Lincoln was seen as a "compromise" candidate.

When Lincoln won the nomination, each of his rivals believed that the wrong man had been chosen. In fact, Lincoln seemed to have come from nowhere. A backwoods lawyer who had served one undistinguished term in the House of Representatives and lost two consecutive contests for the U.S. Senate. Contemporaries and historians alike have attributed his surprising nomination to chance. The facts that he came from the battleground state of Illinois and stood in the center of his party were critical elements in winning the Republican nomination. In truth, when viewed against the failed efforts of his rivals, I believe it is clear that Lincoln won the nomination because he was shrewdest and canniest of them all.

Lincoln, after winning the Presidency, made the unprecedented decision to incorporate his clear rivals into his Cabinet, his political family if you will. It was evidence of a profound self-confidence and a first indication of what would prove to others a most unexpected greatness. William Seward became Secretary of State, Salmon P. Chase became Secretary of the Treasury, and Edward Bates became Attorney General. The remaining top posts in his

Cabinet were offered to three former Democrats, Gideon Wells, Secretary of the Navy, Montgomery Blair, Postmaster General, and Edwin M. Stanton became Secretary of War. It has been recorded that every member of this administration was better known, better educated and more experienced in public life than Abraham Lincoln. In fact, their very presence in the Cabinet threatened to eclipse the obscure lawyer from Springfield, Illinois.

As you read Goodwin's account in Team of Rivals, however, it soon becomes clear that Abraham Lincoln emerges the undisputed captain of this most unusual Cabinet. However, members of the Society, this paper is not about Goodwin's book, Team of Rivals, or merely about the life of Abraham Lincoln. Rather, as I read Goodwin's account, I became intrigued about Lincoln's views on slavery, and in particular on abolition.

Lincoln has been called the "great emancipator", but was he really? Or was he simply a great politician? There can be no doubt that Lincoln has been immortalized in American history by the role he played in abolishing the institution of slavery, but he arrived at this distinction only after a long career of opposition to abolitionism. This struck me as being paradoxical. By every account, Lincoln always actively disliked slavery. In April of 1864, Lincoln wrote to Albert G. Hodges the following:

"I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I cannot remember when I did not so think, and feel. And yet I have never understood that the presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling....I did understand however that my oath to preserve the Constitution to the best of my ability, imposed upon me the duty of preserving, by every indispensable means, the government 'that nation' of which that Constitution was the organic law."

In 1850, after the breakup of the Whig party, Lincoln parted ways with some of his oldest political associates by deciding to make common cause with anti-slavery activists in the newly-formed Republican party. But he was never an abolitionist, and the question then inevitably presents itself: If he hated slavery so much, why did Lincoln not become an abolitionist? As I read Goodwin's account, Team of Rivals, that question occurred to me frequently. My curiosity with regard to this question caused me to examine Lincoln's attitudes towards slavery and what he, as a politician, proposed to do about it. Though the historical record has always been reasonably clear, the "great emancipator" legend has had a decidedly distorting effect on our understanding of Lincoln's position. In fact, Lincoln was keenly aware that slavery, though morally wrong in his eyes, was sanctioned by law and he frequently acknowledged that the rights of slave owners, both to retain slaves and to have slaves returned, were clearly guaranteed in the Constitution.

Before the outbreak of the Civil War, he advocated that nothing would

directly challenge those rights. This position sharply distinguished him from abolitionists, many of whom were actively involved in supporting runaway slaves.

Lincoln, by contrast, never put his antipathy for slavery ahead of his allegiance to the Constitution. In fact, his public support of the Fugitive Slave Law of 1850 moved a noted Boston abolitionist, Wendell Phillips, to label Lincoln as "the slavehound of Illinois." While the common goal of abolitionists was to put an end to slavery everywhere, Lincoln ran for President in 1860 on a platform that promised to leave slavery undisturbed in the states where it already existed.

Perhaps in even starker contrast to most abolitionists, Lincoln did not believe slaveholders were inherently evil. He argued, rather, that they were, like their northern counterparts, merely products of their environment.

For Lincoln, the agitation and posturing of the abolitionists constituted the wrong approach in a democratic society, because it was ultimately incompatible with the majority rule. Though slavery was morally wrong, he believed it would ultimately suffer from a natural extinction. Rather than abdicate for its speedy removal, Lincoln thought a more prudent plan would be to prevent slavery from spreading so that it would eventually die.

Once elected President, confronted by the secession of several southern states, Lincoln again found himself in disagreement with many abolitionists who were merely content to let the disaffected states to part in peace. Only with the firing on Fort Sumpter did the abolitionists and Lincoln find common ground in resisting the rebellion. But their differences on what to do about slavery soon drove them apart again. Abolitionists argued that the government was justified in divesting rebels of their slaves, but Lincoln insisted on delaying such a measure until sufficient public support could be mustered, and then he would only consent to emancipation as a strictly military measure, justified by his constitutional war powers as Commander in Chief.

Shrewdly, Lincoln had laid aside his proclamation waiting for a military victory. After Lee's invasion had been foiled at Antietam, he issued a preliminary proclamation. This proclamation was far from an abolition document. Lincoln began by reiterating that the purpose of the war was the restoration of the Union, and in fact, reaffirmed his intention still to work toward compensated emancipation. In fact, the proclamation was issued in two parts. The first part, issued on September 22, 1862, was a preliminary announcement outlining the intent of the second part, which officially went

into effect January 1, 1863 during the second year of the American Civil War. Lincoln declared that all slaves in all states which has seceded from the Union and which had not returned to federal control by January 1, 1863 would be emancipated. Not included were Tennessee (already under Union control) and the Union slave states of Maryland, Delaware, Missouri and Kentucky. Lincoln first discussed the proclamation with his Cabinet in July 1862, but because of the political implications of this Act, including the presence of slave states within the Union, he felt that he needed a Union victory in the Civil War before he could issue it. After the battle of Antietam, in which Union troops turned about a Confederate invasion of Maryland, he issued his preliminary proclamation on September 22, 1862. Not all of Lincoln's "team of rivals" were pleased with the proclamation. Secretary of State, William Seward, commented by remarking, "We show our sympathy with slavery by emancipating slaves where we cannot reach them and holding them in bondage where we can set them free." Under the proclamation, had any seceding state rejoined the Union, or simply returned its congressmen to Washington before it took effect, it would have been in the same position as the border states and could have kept slavery, at least until the ratification in 1865 of the Constitution's Thirteenth Amendment which outlawed slavery



uniformly throughout the entire nation. Despite the limited immediate affect on the slaves, the proclamation represented a shift in the war objectives of the north. Merely reuniting the Union would no longer become the sole outcome. It represented a major step toward the ultimate abolition of slavery in the United States and the formation of a "more perfect Union". However, there were only a limited number of slaves who were freed immediately by the proclamation. Runaway slaves who made it to Union lines had been held by the Union army as "contraband of war" in contraband camps. When the proclamation took effect, they were told at midnight that they were free to leave. In reality, slaves were a part of the "engine of war" for the Confederacy. They produced and prepared food; sewed uniforms; repaired railways; worked on farms and in factories, shipping yards and mines; built fortifications; and served as hospital workers and common laborers. To encourage discontent among slaves in the Confederacy, a million copies of the Emancipation Proclamation were distributed in the Union-occupied south and, as hoped, news of it spread rapidly by word of mouth, arousing hopes of freedom and encouraging many to escape.

Of all the speeches, letters and papers he had written, Abraham Lincoln believed the greatest of them was his Emancipation Proclamation of January

1, 1863. In one document of only 713 words, Lincoln declared over 3 million slaves in the states of the Confederacy to be “thenceforward and forever free” and took the first of many long steps to the final abolition of slavery.

Despite Lincoln’s thoughts, the Emancipation Proclamation remains a document that is shrouded in misunderstanding, and may be, from a literary standpoint, Lincoln’s least admired Presidential paper. Much of the misunderstanding centers around three nagging questions. One, why did Lincoln take so long? Two, why was the proclamation incomplete? And, three, why is the proclamation such a bland document? Clearly, these questions hint to the fact that Lincoln issued the proclamation, at best, reluctantly and, at worst, insincerely.

To begin with, the complaint about the long delay between the start of the war in 1861 and the issue date of the proclamation in 1863 is, in part, incorrect. The fact is that Lincoln was already drafting emancipation plans as early as 1861. In the fall of 1861, Lincoln composed an experimental emancipation plan for the state of Delaware. Under this proposal, the Delaware legislature would pass a bill immediately freeing all of Delaware’s slaves over the age of 35 and gradually free all others until they reached that age. In return, Congress would pay the state of Delaware just over

\$700,000.00 in United States bonds, which would then be used by the Delaware legislature to finance compensation for Delaware slave owners who would lose their slave property in emancipation.

A "buyout program", while not as dramatic as a proclamation, would eventually have the same result, and in fact, Lincoln had good reason for thinking that his plan would have the effect of making the extinction of slavery legally permanent. After all, American slavery was a creation of state, not federal, enactments. And in this era before the Fourteenth Amendment and the "incorporation" doctrine, a constitutional firewall separated state and federal governments. Good lawyer that he was, Lincoln had no reason to believe that proclamations, presidential or otherwise, would penetrate that wall, and if anything, a presidential emancipation decree would be followed by a procession of slave owners into federal courts the next morning, complaining of unconstitutional interference by the President in state matters.

An additional consideration was that the federal court system had been stocked for 60 years with pro-southern judicial appointees and that the Chief Justice of the Supreme Court, Roger B. Taney, was the man who had written the decision in the Dred Scott case barring the federal government from interfering with slaveholding in the federal territories. Therefore, there was no

reason to suppose that the slave owners wouldn't use such cases as the means for hammering a stake through the heart of emancipation for good and for all.

Lincoln wrote to Horace Greeley that successful emancipation must have three main features: gradual compensation and the vote of the people, or at least the voluntary action of their legislatures. It would cost money to be sure, however, less money than a civil war was costing.

Lincoln's notion of gradual, voluntary and compensated emancipation avoided legal problems because it essentially bribed slaveholding states, through the promise of compensation, to begin emancipating slaves through their own statutes, and therefore, took the entire process beyond the reach of the federal courts. It became clear, however, after Delaware's attempted emancipation stalled, that a change of tactics was in order. But why, once Lincoln did decide to reach for the proclamation option, did he leave the border states in the occupied districts in the Confederacy off the table? It seems reasonable to conclude that he excluded the border and occupation zones because he did not want to face the responsibility of actually implementing emancipation there.

However, there appears to be a much simpler answer, and once again, it

grew out of the legal and constitutional situation that Lincoln was facing. No matter how much Lincoln might have wanted to emancipate the slaves in the border states, the fact was that the border states were not in rebellion. They had broken no laws and committed no act of resistance to the authority of the United States. And so long that this was the case, Lincoln had no more authority as President to emancipate slaves in those states than he did to fix prices on tomatoes. If he had any authority to proclaim emancipation anywhere, it would be only by virtue of his constitutional designation as Commander in Chief and only in situations of military need or exigency in which he could demonstrate such freeing of slaves served a military purpose. And that could only be in places where the rebels were still in power.

The issuance of the Emancipation Proclamation was characterized as an act "warranted by the Constitution upon military necessity". This interpretation took the proclamation out of the pattern of normal constitutional procedure and gave it a certain irregularity for which the justification was to be found in the existing state of war, and more especially, in Lincoln's interpretation of measures appropriate for such state of war. It is pertinent therefore to remember that Lincoln's view of his war powers gave wide latitude to the President's choice of means for destroying enemy resistance.

Interpreting his powers as wartime leader, he once said, "I think the Constitution invests its Commander in Chief with the law of war, in time of war....armies, the world over, destroy enemies' property when they cannot use it; and even destroy their own to keep it from the enemy."

Curiously, this placing of the proclamation on the basis of military necessity had some embarrassing aspects. It seemed a confession that the proclamation lacked "law-worthiness". Further, the appeal to military necessity as the legal justification of the proclamation, caused many to view Lincoln's act as an irresponsible dictatorial act.

Indeed, Lincoln himself had doubts as to the legal validity of the document. Late in the war, he spoke of its legal inadequacy saying, "A question might be raised whether the proclamation was legally valid. It might be urged that it only aided those that came into our lines, and that it was inoperative to those who did not give themselves up; or that it would have no effect upon the children of slaves born hereafter; and in fact, it would be urged that it did not meet the evil."

In the south, when the proclamation was issued, there was a reaction of indignant hostility. To the Richmond Examiner, it seemed the "most startling political crime yet known in American history". Slave insurrection seemed to

the Examiner the sole purpose of the proclamation.

Referring to the proclamation in his message to the Confederate Congress on January 12, 1863, President Jefferson Davis declared that "a restitution of the Union has been rendered forever impossible by the adoption of a such measure..."

In the north, there was no general unanimity of feeling. Sentiment varied from unqualified endorsement to dissatisfaction, doubt and resentment. Many northern individuals either opposed the proclamation or expressed disappointment in it. As to the effect of the proclamation abroad, it is not easy to generalize. While in Europe and in England there was an overwhelmingly anti-slavery sentiment, many Europeans did not believe that it was a humanitarian motive which had moved Lincoln to issue the proclamation.

In truth, the eventual consummation of freedom in American law and practice was less a matter of President proclamation than of state action and Constitutional amendment. In West Virginia, a clause providing gradual emancipation was included in the new state Constitution of 1863 in order to fulfill one of the requirements of admission to the Union. Immediate abolition was provided by Constitutional amendment in Tennessee in February 1865. In

Maryland, liberation was provided by an ordinary law which merely "repealed" the slave code of the state concerning negroes, this code being but an enactment of the legislature. A still different method was adopted in Missouri, where slavery was abolished by ordinance passed by state convention in January of 1865. Two of the border states, however, Delaware and Kentucky, clung tenaciously to the dying institution; and the war ended with slavery still a state matter, though seriously interfered with by national authority.

For the final disposition of a problem which had been handled piecemeal by the President, the states, and Congress, and which in consequence was left in considerable confusion, it came to be recognized that a Constitutional amendment was a legal necessity. Such an amendment was therefore reported from the senate committee on the judiciary. It was the first example of the use of the amending process to accomplish a specific reform on a nationwide scale, outside what may be called the strictly constitutional function of determining the composition and functions of government. In fact, there were grave doubts as to such use of the Constitution. Some felt that domestic institutions were so thoroughly a matter of state jurisdiction, that a change such as the proposed Thirteenth Amendment should be resisted as revolutionary alteration of the basic American federal system. There was also



considerable doubt whether the national constitution could be legally amended during the Civil War.

The story of the ratification of the Thirteenth Amendment is bound up with the early stages of the post-war reconstruction under President Andrew Johnson. Of the 36 states in 1865,  $\frac{3}{4}$  of which were necessary for ratification, more than  $\frac{1}{4}$  (11) had been seceded states of the Confederacy, while two of the Union States, Delaware and Kentucky, refused to ratify. It was thus necessary to count in some of the seceded states in order to obtain ratification that eight southern states should be considered competent to ratify the anti-slavery amendment, such ratification being essential to its enactment, and yet be rejected by Congress and not considered states in the Union, is but one of the many anomalies of reconstruction.

Lincoln did not live to see emancipation legally consummated. Moreover, an important part of his emancipation policy was doomed to failure, that of compensation of slaveholders. For years, Lincoln had labored valiantly for compensation to southern owners, and in fact, he believed that people of the north were as responsible for slavery as the people of the south. He believed the government should pay a fair indemnity for the loss to the owners.

After the war, however, compensation for slaveholders not only received little thought, but was opposed by the prevailing view. When, at the end of the war, a new policy, abolition by Constitutional amendment, had been put forth, the idea of compensation for slaveholders was lost. Finally, the matter was settled by the Fourteenth Amendment to the Constitution, which declared that "neither the United States nor any state shall assume or pay....any claim for the loss of emancipation of any slave."

So, to return to my question, was Lincoln the "Great Emancipator" or simply a great politician who used emancipation as another tool to restore the union? I think he was more the latter than the former. Abolishing slavery at the national level clearly troubled Lincoln from a constitutional standpoint. He used his "war powers" to effect change in an area he was otherwise powerless to act. Yes, he wanted to end slavery, but only by legal means. He did not actively campaign for a constitutional amendment to end slavery, because it would not have been politically expedient. Such a position would have likely caused the border slave holding states to secede and he would have lost a great deal of support in the Union states.

I believe Lincoln would have done whatever was necessary to reunite the nation. His belief that our nation could only achieve its true greatness

through unity was always his guiding principle. However, do not misconstrue my admiration for his political skills and acumen. I believe that Lincoln truly abhorred slavery. He clearly thought it morally wrong and economically bad for the nation. But those that ultimately pushed through the Thirteenth Amendment, and subsequently the Fourteenth Amendment to the United States Constitution were the true "emancipators" of America's slaves. Had Lincoln lived to serve his full second term, I have no doubt he would have been at the forefront of the efforts to ratify both amendments. For he believed they were the right things to do...but it would have also been politically expedient.