

Lincoln's Dilemma: Emancipation—When?

by Susan Welsh

Act of Justice: Lincoln's Emancipation Proclamation and the Law of War

by Burrus M. Carnahan

Lexington: The University Press of Kentucky, 2007
171 pages, hardbound, \$40

It remains popular in certain circles to bash Abraham Lincoln as a racist, because he did not free the slaves on Day 1 of the Civil War. Carnahan's book sheds some new light on why he acted as he did.

Lincoln's Emancipation Proclamation was issued in draft form in September 1862, more than a year after the Confederate firing on Fort Sumter in April 1861; the final proclamation was signed in January 1863. Both were argued on the basis of military necessity. The most immediate result was to enable the enlistment of blacks in the Union army, fighting for their own freedom and joining with Lincoln to end slavery by force.

The Union's victory against the Confederacy—Britain's project to destroy the United States—has never been forgiven by the world's feudalists and free-traders. The 16th President was assassinated by a Confederate-British gang based in Canada. And the modern-day followers of those who relied on chattel slavery to supply cotton for British textile mills, are today sitting atop a collapsing free-trade system, and have launched renewed attacks on Lincoln's legacy and the U.S.A.

The idea of a military basis for emancipation was not new, and indeed, there were people who had urged that emancipation be proclaimed sooner, as Carnahan reports.

- Sen. Charles Sumner, a leading anti-slavery spokesman, urged Lincoln, in April 1861, to use his Constitutional power as commander in chief of the armed forces, to free the slaves in the rebellious states.

- Orville Hickman Browning, Lincoln's friend from Illinois, wrote to the President at the same time, urging him to be ready to march an army into the South and free the slaves ("The time is not yet, but it will come...")

- John Quincy Adams (who had died in 1848), the former President, Secretary of State, and Congressman, studied the matter of military emancipation intensively throughout his career. In 1842, during his famous battles in Congress to break the "gag rule" against even *discussing* slavery, he argued for emancipation as a justified military measure, under the laws of war: "... when a country is invaded, and two hostile armies are set in

martial array, the commanders of both armies have power to emancipate all the slaves in the invaded territory.” He believed that a civil war would come, and it did.

So, why did Lincoln wait?

The reasons, in general, are obvious to anyone who has but the slightest acquaintance with history:

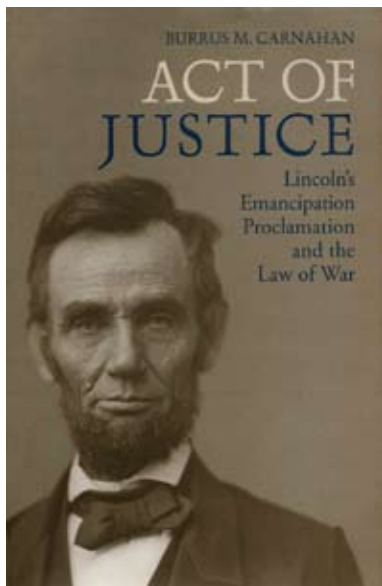
1. President Lincoln, under the Constitution, ruled with the consent of the governed. Had he violated that trust, he would have been a king, not an American President. Northern whites were, by a vast majority, not ready to fight to end slavery in 1861.

2. The Constitutional Convention of 1787 relegated the issue of slavery mainly to the states, as part of the deal that forged the Union. The way to amend the Constitution is clearly enunciated in that document; under the conditions of 1861, such an effort would have failed. And the wartime Chief Justice of the Supreme Court was Roger Taney, author of the infamous *Dred Scott* decision of 1856, which avowed that Negroes were “so far inferior that they had no rights which the white man was bound to respect.” It was easy to predict what would happen, before the Taney Court, to any measure to free the slaves in 1861—even had it been practically possible to free them, which it was not.

3. Lincoln was desperately trying to keep the slave-holding border states in the Union. Had they seceded, the Union cause would have been lost; neither the abolition of slavery nor the unification of the country could have been achieved.

Carnahan’s book, although limited in scope and seemingly intended for specialists (to judge by its lawyerly writing style), provides a useful service by presenting the *legal* background to the Proclamation, from the evolution of American thinking on the “law of war,” to issues of the rights of prisoners and civilians in wartime. Among the complicating issues he elucidates: Under existing law, Union soldiers could be held *personally liable* for damages, should they seize the “property” of a slaveholder. Also, it took the Administration time to affirm that this was a *war*, rather than a *domestic insurgency*, like the Whiskey Rebellion of 1794. A declaration of war would have rendered the Union blockade of Southern ports illegal under international law, which required that neutral ships be given access to the ports of belligerents. Equally important, a declaration of war would imply recognition of the Confederacy as a “country,” and therefore make more likely its diplomatic recognition by Britain and other European powers—which Lincoln keenly hoped to avoid.

As one Union defeat followed another through 1861 and 1862, Lincoln realized that he had to deliver a powerful political and strategic flanking attack, to turn the tide of demoralization in the North. His choice of weapon was the Emanci-



pation Proclamation, which he could by then justify to his more reluctant constituents (including those within the armed forces) on military grounds.

Carnahan cites Lincoln’s famous Aug. 26, 1863 letter to James Conkling of Illinois, as his most definitive defense of the Emancipation Proclamation. The letter was read to a mass meeting of Republicans, many of whom were dubious about ending slavery and permitting the enlistment of black soldiers. But Carnahan omits one of its most poignant passages:

“Peace does not appear so distant as it did. I hope it will come soon and come to stay, and so come as to be worth the keeping in all future time. It will then have been proved that, among free men, there can be no successful appeal from the ballot to the bullet; and that they who take such appeal

are sure to lose their case and pay the cost. And then there will be some black men who can remember that, with silent tongue, and clenched teeth, and steady eye, and well-poised bayonet, they have helped mankind on to this great consummation; while I fear there will be some white ones, unable to forget that, with malignant heart and deceitful speech, they have strove to hinder it.”

One would think that ringing statement alone would have put to rest any slanders about the “racist” Abraham Lincoln. But not so. As *EIR* reported (July 28, 2000), that year began a new barrage of anti-Lincoln propaganda in the British press (the *Guardian*, the *Sunday Telegraph*), as well as from the Cato Institute in Washington, the *Washington Times*, and *Atlantic Monthly*. Taking aim at the African-American community, *Ebony* magazine executive editor Lerone Bennett, Jr. wrote a book-length tirade, *Forced Into Glory: Abraham Lincoln’s White Dream*, which distorted Lincoln’s record beyond recognition, to make the lying case that the President was an unreconstructed racist.

And today, it is widely believed in the black community that the Emancipation Proclamation reflected racism, because—as Barack Obama wrote in *Time* magazine on June 27, 2005—“it was more a military document than a clarion call for justice.” Obama’s article is otherwise highly appreciative of Lincoln. How could he forget about two of the most eloquent “clarion calls for justice” in all history: the Gettysburg Address and the Second Inaugural?

Skeptical African-Americans should listen to the great Frederick Douglass, who has the last word on Lincoln and “racism,” in my book: “Viewed from the genuine abolition ground, Mr. Lincoln seemed tardy, cold, dull, and indifferent; but measuring him by the sentiment of his country, a sentiment he was bound as a statesman to consult, he was swift, zealous, radical, and determined.”