

Abraham Lincoln on the Admission of West Virginia into the Union

December 31, 1862

[After Virginia seceded from the Union, the Northwest counties of that state, where slavery was weaker and where secession had been opposed, refused to secede. Throughout the period, war raged within parts of these Northwestern counties, both due to the area's strategic importance to both the Union and the Confederacy (so that armies of both sides continued to clash in the area), and due to internal divisions within the population (leading to ongoing guerilla warfare).

The leaders of these counties initially organized themselves as the Restored or Reconstituted State of Virginia. As such, those counties held elections, created a state government, and sent representatives to Congress, where they were recognized as the official representatives of Virginia.

However, because these Northwest counties had long felt discontented living under the rule of a state government that had always been dominated by the richer planters of the Eastern and Tidewater parts of the State, a movement arose to forever separate these counties from the rest of Virginia, to create a new state – originally to be called Kanawha and eventually called West Virginia – and to seek admission to the Union on that basis.

A constitutional issue was presented by this effort, as the Constitution prohibits the carving out of a new state from the territory of an existing state without the consent of that existing state. To satisfy this requirement, the government of the Restored State of Virginia – which was elected almost entirely by the residents of the Northwestern counties – officially consented to the creation of the new state. A congressional majority was willing to accept the new state for admission on the condition that it submit a constitution abolishing slavery, which it did. The Lincoln Administration's cabinet was divided, however, as to whether this was constitutional. In this written opinion, Lincoln states his view that the new state of West Virginia should be admitted despite the irregular way that "the consent" of Virginia "had been obtained.]

The consent of the Legislature of Virginia is constitutionally necessary to the bill for the admission of West-Virginia becoming a law. A body claiming to be such Legislature has given its consent. We cannot well deny that it is such, unless we do so upon the outside knowledge that the body

was chosen at elections, in which a majority of the qualified voters of Virginia did not participate.

But it is a universal practice in the popular elections in all these states, to give no legal consideration whatever to those who do not choose to vote, as against the effect of the votes of those, who do choose to vote. Hence it is not the qualified voters, but the qualified voters, *who choose to vote*, that constitute the political power of the state. Much less than to non-voters, should any consideration be given to those who did not vote, *in this case*: because it is also matter of outside knowledge, that they were not merely neglectful of their rights under, and duty to, this government, but were also engaged in open rebellion against it. Doubtless among these non-voters were some Union men whose voices were smothered by the more numerous secessionists; but we know too little of their number to assign them any appreciable value. Can this government stand, if it indulges constitutional constructions by which men in open rebellion against it, are to be accounted, man for man, the equals of those who maintain their loyalty to it? Are they to be accounted even better citizens, and more worthy of consideration, than those who merely neglect to vote? If so, their treason against the constitution, enhances their constitutional value! Without braving these absurd conclusions, we cannot deny that the body which consents to the admission of West-Virginia, is the Legislature of Virginia. . . .

But is the admission into the Union, of West-Virginia, expedient. This, in my general view, is more a question for Congress, than for the Executive. Still I do not evade it. More than on anything else, it depends on whether the admission or rejection of the new state would under all the circumstances tend the more strongly to the restoration of the national authority throughout the Union. That which helps most in this direction is the most expedient at this time. Doubtless those in remaining Virginia would return to the Union, so to speak, less reluctantly without the division of the old state than with it; but I think we could not save as much in this quarter by rejecting the new state, as we should lose by it in West-Virginia. We can scarcely dispense with the aid of West-Virginia in this struggle; much less can we afford to have her against us, in congress and in the field. Her brave and good men regard her admission into the Union as a matter of life and death. They have been true to the Union under very severe trials. We have so acted as to justify their hopes; and we cannot fully retain their confidence, and co-operation, if we seem to break faith with them. In fact, they could not do so much for us, if they would.

Again, the admission of the new state, turns that much slave soil to free; and thus, is a certain, and irrevocable encroachment upon the cause of the rebellion.

The division of a State is dreaded as a precedent. But a measure made expedient by a war, is no precedent for times of peace. It is said that the admission of West-Virginia, is secession, and tolerated only because it is our secession. Well, if we call it by that name, there is still difference enough between secession against the constitution, and secession in favor of the constitution.

I believe the admission of West-Virginia into the Union is expedient.

Crittenden-Johnson War Aims Resolution

Passed on July 25, 1861; repealed December, 1861

[At the outset of the war, border state legislators Congressman John Crittenden (KY) and Senator Andrew Johnson (TN) sponsored this resolution to make clear that the war had the limited objectives of suppressing the South's rebellion and reuniting the Union, and that the war should cease when those objectives were attained. It made clear that the war did not have any aim of "overthrowing or interfering with the rights or established institutions of those States" engaged in the rebellion. Initially the only opponents of the resolution were those sympathetic to the rebellion, who subsequently left or were expelled from the Congress. A number of abolitionist oriented Members abstained at the time of the resolution's passage. Despite the resolution, Congress passed the First Confiscation Act later that year, calling for the "seizure" of any property of secessionists (including the freeing of slaves) held by secessionists and used to support the rebellion. By December, the mood and the military situation had changed sufficiently so that more militant anti-slavery congressional figures -- such as Thaddeus Stevens (PA), who had abstained in the vote adopting this resolution -- were able to gain this resolution's repeal.]

Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.

Kentucky Proclamation of Neutrality Issued by Governor Beriah Magoffin

May 20, 1861

FRANKFORT, Ky.,

Gov. MAGOFFIN has issued a proclamation appended to a preamble, declaring:

Whereas, Many good citizens requested him to forbid the march of any forces over Kentucky to attack Cairo, or otherwise disturb the peaceful attitude of Kentucky with reference to the deplorable war now waging between the United and Confederate States; also, stating that the same citizens requested him to forbid the march of any United States force over Kentucky soil for the occupation of any post or place within Kentucky;

And whereas, every indication of public sentiment shows a determined purpose of the people to maintain a fixed position of self-defense, proposing and intending no invasion or aggression towards any other State or States, forbidding the quartering of troops upon her soil by either hostile section, but simply standing aloof from an unnatural, horrid and lamentable strife, for the existence whereof, Kentucky, neither by thought, word nor act, is in anywise responsible;

And whereas, this policy is, in judgment, wise, peaceful, safe and honorable, and most likely to preserve the peace and amity between the neighboring Border States on both shores of the Ohio, and protect Kentucky from deplorable civil war;

And whereas the arms distributed to the Home Guard are not to be used against the Federal or Confederate States, but to resist and prevent encroachment on her soil, lights, honor and sovereignty, by either of the belligerent parties, and hoping Kentucky may become a successful mediator between them, and in order to remove a founded distrust and suspicion of purposes to force Kentucky out of the Union at the point of the bayonet, which may have been strongly and wickedly engendered in the public mind in regard to my own position and that of the State Guard.

Now, therefore, I hereby notify and warn all other States, separate or united, especially the United and Confederate States, that I solemnly forbid any movement upon Kentucky soil, or occupation of any post or place therein for any purpose

whatever, until authorized by invitation or permission of the legislative and executive authorities.

I especially forbid all citizens of Kentucky, whether incorporated in the State Guard or otherwise, making any hostile demonstrations against any of the aforesaid sovereignties, to be obedient to the orders of lawful authorities, to remain quietly and peaceably at home, when off military duty, and refrain from all words and acts likely to provoke a collision, and so otherwise conduct that the deplorable calamity of invasion may be averted; but meanwhile make prompt and efficient preparation to assume to the paramount and supreme law of self-defense, and strictly of self-defense alone.

Lincoln Letter to Orville Browning

September 22, 1861

[Missouri's population was fiercely divided between pro-Union and pro-secessionist factions, and few border states had the level of internal violence as did Missouri. Early in the war, Lincoln appointed John C. Fremont (the 1852 Republican presidential candidate), as military commander of the Union army in Missouri. As a war measure, Fremont issued a proclamation that declared martial law, imposed the death penalty on all pro-secession guerillas captured, and seized all property (including slave property) of any Missourians actively supporting the rebellion.]

In August, 1861, Congress passed (and Lincoln signed) the First Confiscation Act, which allowed the federal government to seize property, including slave property, if it were used to support the rebellion. This would allow the federal government to free slaves whose labor was being used to assist the southern military. (It was the first measure designed to undermine slavery as a war measure, and increasingly aggressive measures would follow.)

Fremont's proclamation had gone substantially beyond the Act's bounds, as it required no proof that the freed slaves had been used in aid of the rebellion. Although Fremont's action was celebrated by many in the North (who hungered for bold actions), and was especially supported by pro-abolition groups, Lincoln ordered Fremont to rescind the proclamation. Fremont rescinded the order, after initially refusing to do so in the absence of a formal and public presidential order, which Lincoln then issued. Lincoln's order generated great controversy in the North, including a letter of protest by Orville Browning, a conservative Republican senator from Illinois who had known Lincoln for many years (and had always been far more moderate on slavery issues than Lincoln).

In this letter to Browning, Lincoln explains his reasoning, focusing both on the inappropriateness for policies on slavery's future to be set by individual military officers, and on the need to conduct the war in a manner that would not alienate the border slave states which had not seceded. Lincoln particularly emphasizes the crucial nature of keeping Kentucky loyal to the Union, lest the effort to put down the rebellion fail.

In many ways, Lincoln's letter illustrates the importance of keeping the loyalty of the border slave states to the early war effort, and how that influenced federal policy on slavery-related matters. Of course, Lincoln would later issue the Emancipation Proclamation freeing slaves in all areas still under rebellion, as a purported exercise of "military necessity." The Proclamation, however, was only issued after the military situation had changed radically, including militarily securing the border states. Moreover, the Proclamation would not apply to the Border states and many still feared that it would prompt desertions among border state Union troops.]

Private & confidential.
Executive Mansion, Washington
Sept 22d 1861.

My dear Sir,

Yours of the 17th is just received; and coming from you, I confess it astonishes me. That you should object to my adhering to a law, which you had assisted in making, and presenting to me, less than a month before, is odd enough. But this is a very small part. Genl. Fremont's proclamation, as to confiscation of property, and the liberation of slaves, is purely political, and not within the range of military law, or necessity. If a commanding General finds a necessity to seize the farm of a private owner, for a pasture, an encampment, or a fortification, he has the right to do so, and to so hold it, as long as the necessity lasts; and this is within military law, because within military necessity. But to say the farm shall no longer belong to the owner, or his heirs forever; and this as well when the farm is not needed for military purposes as when it is, is purely political, without the savor of military law about it. And the same is true of slaves. If the General needs them, he can seize them, and use them; but when the need is past, it is not for him to fix their permanent future condition. That must be settled according to laws made by law-makers, and not by military proclamations. The proclamation in the point in question, is simply "dictatorship." It assumes that the general may do anything he pleases—confiscate the lands and free the slaves of loyal people, as well as of disloyal ones. And going the whole figure I have no doubt would be more popular with some thoughtless people, than that which has been done! But I cannot assume this reckless position; nor allow others to assume it on my responsibility. You speak of it as being the only means of saving the government. On the contrary it is itself the surrender of the government. Can it be pretended that it is any longer the government of the U.S.—any government of Constitution and laws, —wherein a General, or a President, may make permanent rules of property by proclamation?

I do not say Congress might not with propriety pass a law, on the point, just such as General Fremont proclaimed. I do not say I might not, as a member of Congress, vote for it. What I object to, is, that I as President, shall expressly or impliedly seize and exercise the permanent legislative functions of the government.

So much as to principle. Now as to policy. No doubt the thing was popular in some quarters, and would have been more so if it had been a general declaration of emancipation. The Kentucky Legislature would not budge till that proclamation was modified; and Gen. Anderson [Union commander in Kentucky] telegraphed

me that on the news of Gen. Fremont having actually issued deeds of manumission, a whole company of our Volunteers threw down their arms and disbanded. I was so assured, as to think it probable, that the very arms we had furnished Kentucky would be turned against us. I think to lose Kentucky is nearly the same as to lose the whole game. Kentucky gone, we can not hold Missouri, nor, as I think, Maryland. These all against us, and the job on our hands is too large for us. We would as well consent to separation at once, including the surrender of this capitol. On the contrary, if you will give up your restlessness for new positions, and back me manfully on the grounds upon which you and other kind friends gave me the election, and have approved in my public documents, we shall go through triumphantly.

You must not understand I took my course on the proclamation because of Kentucky. I took the same ground in a private letter to General Fremont before I heard from Kentucky.

You think I am inconsistent because I did not also forbid Gen. Fremont to shoot men under the proclamation. I understand that part to be within military law; but I also think, and so privately wrote Gen. Fremont, that it is impolitic in this, that our adversaries have the power, and will certainly exercise it, to shoot as many of our men as we shoot of theirs. I did not say this in the public letter, because it is a subject I prefer not to discuss in the hearing of our enemies.

There has been no thought of removing Gen. Fremont on any ground connected with his proclamation . . . I hope no real necessity for it exists on any ground....

Your friend as ever
A. LINCOLN

President Lincoln's Call for Troops following Fort Sumter

April 15, 1861

By the President of the United States

[Following the Confederate attack on Fort Sumter, President Lincoln issued a "Call for Troops" from the various states, acting under the authority of the Militia Act of 1795, which allowed the president to issue such a call to suppress domestic insurrections. The call for 75,000 men to serve for 90 days was the maximum call then permitted under that Act. (Such limits were soon after altered.) An additional call for 42,000 more would be made in the coming weeks, and in July the Congress would authorize raising 500,000 additional volunteers for the regular U.S. Army.

The text of the Call and the official communique sent to state governors by Secretary of War Simon Cameron are reproduced below.

The reactions of the various state governors were radically different from state to state, with most slave state governors rejecting the call. The states of Virginia, North Carolina, Tennessee, and Arkansas would soon secede in response to the federal government's efforts to suppress the rebellion. Various border state governors also refused to send troops, but their states did not secede, although in some of these states the secession-sympathetic governors tried to lead their states out of the Union. Particular Governor's responses included:

Several northern states communicated enthusiasm, with states such as Indiana offering twice as many volunteers as requested. Massachusetts volunteers reached Washington D.C. as early as April 19.

Governor Henry Rector of Arkansas stated, "The people of this Commonwealth are freemen, not slaves, and will defend to the last extremity their honor, lives, and property, against Northern mendacity and usurpation."

Governor Beriah Magoffin of Kentucky declared that they would not send volunteers to a Northern army intent on subjugating their Southern brethren.

Governor Claiborne Jackson of Missouri responded that, "Not one man will the state of Missouri furnish to carry on any such unholy crusade"^[6]

Governor John Ellis of North Carolina replied in a telegram to Secretary of War Simon Cameron, "I can be no party to this wicked violation of the laws of the country, and to this war upon the liberties of a free people. You can get no troops from North Carolina".

Governor Isham Harris of Tennessee stated in a telegram to Lincoln, "Tennessee will furnish not a single man for the purpose of coercion, but fifty thousand if necessary for the defense of our rights and those of our Southern brothers."

Governor John Letcher of Virginia, whose state had been requested to furnish three regiments totaling 5,340 men and officers, had stated in the past his intent for his state to remain neutral. In a letter to Lincoln, he declared that since the president had "chosen to inaugurate civil war, he would be sent no troops from the Old Dominion."]

A Proclamation

WHEREAS the laws of the United States have been, for some time past, and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law.

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government; and to redress wrongs already long enough endured. I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of, or interference with, property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse, and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers, at twelve o'clock noon, on Thursday, the fourth day of July next, then and there to consider and determine such measures as, in their wisdom, the public safety and interest may seem to demand.

By the President: ABRAHAM LINCOLN

Secretary of State WILLIAM H. SEWARD

Secretary of War Simon Cameron's Communique to the Various State Governors:

CALL TO ARMS!!

75,000 VOLUNTEERS WANTED

Washington, April 15.

The following is the form of call on the respective state Governors for troops, issued to-day:

Sir: —Under the act of Congress for calling out the militia to execute the laws of the Union to suppress insurrection, repel invasion, &c., approved February 28th, 1795, I have the honor to request your Excellency to cause to be immediately detached from the militia of your state, the quota designated in the table below to serve as infantry or riflemen for three months, or sooner, if discharged.

Your Excellency will please communicate to me the time about which your quota will be expected at its rendezvous, as it will be met as soon as possible by an officer or officers to muster it into the service and pay of the United States; at the same time the oath of fidelity to the United States will be administered to every officer and man. The mustering officers will be instructed to receive no man under the rank of commissioned officer who is apparently over 45 or under 18 years, or who is not in physical strength and vigor. The quota to each state is as follows:

Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Delaware, Arkansas, Michigan, Wisconsin, Iowa, and Minnesota, one regiment each;

New York 17 regiments;

Pennsylvania, 15 regiments;

Ohio, 13;

New Jersey, Maryland, Kentucky, Missouri, four regiments each;

Illinois and Indiana, six regiments each;

Virginia, three regiments,

Massachusetts, North Carolina, and Tennessee, two regiments each.

It is ordered that each regiment shall consist of an aggregate of officers and men of 780 men.

The total thus to be called out is 73,910 men, the remainder, which constitutes the 75,000 under the President's proclamation will be composed of troops in the District of Columbia.^[3]

Secretary of War Simon Cameron

Proclamation of Virginia Governor John Letcher in response to Lincoln's call for troops:

April 17, 1861

Whereas, Seven of the States formerly composing a part of the United States have, by authority of their people, solemnly resumed the powers granted by them to the United States, and have framed a Constitution and organized a Government for themselves, to which the people of those States are yielding willing obedience, and have so notified the President of the United States by all the formalities incident to such action, and thereby become to the United States a separate, independent and foreign power;

And whereas, the Constitution of the United States has invested Congress with the sole power "to declare war," and until such declaration is made, the President has no authority to call for an extraordinary force to wage offensive war against any foreign Power;

And whereas, on the 15th inst., the President of the United States, in plain violation of the Constitution, issued a proclamation calling for a force of seventy-five thousand men, to cause the laws of the United states to be duly executed over a people who are no longer a part of the Union, and in said proclamation threatens to exert this unusual force to compel obedience to his mandates;

And whereas, the General Assembly of Virginia, by a majority approaching to entire unanimity, declared at its last session that the State of Virginia would consider such an exertion of force as a virtual declaration of war, to be resisted by all the power at the command of Virginia; and subsequently the Convention now in session, representing the sovereignty of this State, has reaffirmed in substance the same policy, with almost equal unanimity;

And whereas, the State of Virginia deeply sympathizes with the Southern States in the wrongs they have suffered, and in the position they have assumed; and having made earnest efforts peaceably to compose the differences which have severed the Union, and having failed in that attempt, through this unwarranted act on the part of the President; and it is believed that the influences which operate to produce this proclamation against the seceded States will be brought to bear upon this commonwealth, if she should exercise her undoubted right to resume the powers granted by her people, and it is due to the honor of Virginia that an improper exercise of force against her people should be repelled.

Therefore I, JOHN LETCHER, Governor of the Commonwealth of Virginia, have thought proper to order all armed volunteer regiments or companies within this State forthwith to hold themselves in readiness for immediate orders, and upon the reception of this proclamation to report to the Adjutant-General of the State their organization and numbers, and prepare themselves for efficient service. Such companies as are not armed and equipped will report that fact, that they may be properly supplied.

In witness whereof, I have hereunto set my hand and caused the seal of the Commonwealth to be affixed, this 17th day of April, 1861, and in the eighty-fifth year of the Commonwealth.

JOHN LETCHER.

Response of Virginia Governor John Letcher to War Department's Communique:

April 16, 1861

HON. SIMON CAMERON, Secretary of War:

SIR: I received your telegram of the 15th, the genuineness of which I doubted. Since that time (have received your communication, mailed the same day, in which I am requested to detach from the militia of the State of Virginia "the quota designated in a table," which you append, "to serve as infantry or riflemen for the period of three months, unless sooner discharged."

In reply to this communication, I have only to say that the militia of Virginia will not be furnished to the powers at Washington for any such use or purpose as they have in view. Your object is to subjugate the Southern States, and a requisition made upon me for such an object -- an object, in my judgment, not within the purview of the Constitution or the act of 1795 -- will not be complied with. You have chosen to inaugurate civil war, and having done so, we will meet it in a spirit as determined as the Administration has exhibited towards the South.

Respectfully,

JOHN LETCHER