

Horace Greeley, founder of the New York Tribune in 1841 and editor of the influential newspaper for more than thirty years.

On August 19, 1862, the newspaper carried an open letter from Greeley to Lincoln. In the letter, excerpted here, Greeley excoriates Lincoln for timidity and inaction on the slavery issue. He urges Lincoln to actively enforce the Confiscation Act, a law passed by Congress in August 1861 and revised in July 1862, which authorized the confiscation of Confederate property—including slaves—and their use in the war effort.

How have some slaves who have escaped behind Union lines been treated, according to Greeley? What connection does Greeley make emancipation and prospects for Northern victory?

Dear Sir:

I do not intrude to tell you—for you must know already—that a great proportion of those who triumphed in your election, and of all who desire the unqualified suppression of the rebellion now desolating our country, are sorely disappointed and deeply pained by the policy you seem to be pursuing with regard to the slaves of Rebels. I write only to set succinctly and unmistakably before you what we require, what we think we have a right to expect, and of what we complain.

I. We require of you, as the first servant of the republic, charged especially and pre-eminently with this duty, that you EXECUTE THE LAWS. Most emphatically do we demand that such laws as have been recently enacted, which therefore may fairly be presumed to embody the public will and to be dictated by the present needs of the republic, and which, after due consideration, have received your personal sanction, shall by you be carried into full effect and that you publicly and decisively instruct your subordinates that such laws exist, that they are binding on all functionaries and citizens, and that they are to be obeyed to the letter.

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The Union cause has suffered and is not suffering immensely from mistaken deference to Rebel slavery.
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II. We think you are strangely and disastrously remiss in the discharge of your official and imperative duty with regard to the emancipating provisions of the new Confiscation Act. Those provisions were designed to fight slavery

"The Prayer of Twenty Millions" by Horace Greeley, *New York Tribune*, August 19, 1862. Reprinted in *The Rebellion Record*, Supplement, vol. 1, edited by Frank Moore (New York: Putnam, 1866).

with liberty. They prescribe that men loyal to the Union, and willing to shed their blood in her behalf, shall no longer be held, with the nation's consent, in bondage to persistent, malignant traitors, who for twenty years have been plotting and for sixteen months have been fighting to divide and destroy our country. Why these traitors should be treated with tenderness by you, to the prejudice of the dearest rights of loyal men, we cannot conceive.

SLAVERY THE CAUSE OF TREASON

III. We think you rare unduly influenced by the councils, the representations, the menaces, of certain fossil politicians hailing from the border Slave states. Knowing well that the heartily, unconditionally loyal portion of the white citizens of those states do not expect nor desire that slavery shall be upheld to the prejudice of the Union—we ask you to consider that slavery is everywhere the inciting cause and sustaining base of treason: the most slaveholding sections of Maryland and Delaware being this day, though under the Union flag, in full sympathy with the rebellion, while the free labor portions of Tennessee and of Texas, though writhing under the bloody heel of treason, are unconquerably loyal to the Union. . . .

DEFERENCE TO SLAVERY

V. We complain that the Union cause has suffered and is now suffering immensely from mistaken deference to Rebel slavery. Had you, sir, in your inaugural address, unmistakably given notice that in case the rebellion already commenced were persisted in and your efforts to preserve the Union and enforce the laws should be resisted by armed force, *you would recognize no loyal person as rightfully held in slavery by a traitor*, we believe the rebellion would therein have received a staggering if not fatal blow. At that moment, according to the returns of the most recent elections, the Unionists were a large majority of the voters of the Slave states. But they were composed in good part of the aged, the feeble, the wealthy, the timid—the young, the reckless, the aspiring, the adventurous had already been largely lured by the gamblers and Negro traders, the politicians by trade and the conspirators by instinct, into the toils of treason. Had you then proclaimed that rebellion would strike the shackles from the slaves of every traitor, the wealthy and the cautious would have been supplied with a powerful inducement to remain loyal. . . .

VI. We complain that the Confiscation Act which you approved is habitually disregarded by your generals, and that no word of rebuke for them from you has yet reached the public ear. . . .

We complain that the officers of your armies have habitually repelled rather than invited the approach of

slaves who would have gladly taken the risks of escaping from their Rebel masters to our camps, bringing intelligence often of inestimable value to the Union cause. We complain that those who *have* thus escaped to us, avowing a willingness to do for us whatever might be required, have been brutally and madly repulsed, and often surrendered to be scourged, maimed, and tortured by the ruffian traitors who pretend to own them. We complain that a large proportion of our regular Army officers, with many of the volunteers, evince far more solicitude to uphold slavery than to put down the rebellion.

And, finally, we complain that you, Mr. President, elected as a Republican, knowing well what an abomination slavery is and how emphatically it is the core and essence of this atrocious rebellion, seem never to interfere with these atrocities and never give a direction to your military subordinates, which does not appear to have been conceived in the interest of slavery rather than of freedom. . . .

EXECUTE THE LAWS

IX. I close as I began with the statement that what an immense majority of the loyal millions of your countrymen require of you is a frank, declared unqualified, ungrudging execution of the laws of the land, more especially of the Confiscation Act. That act gives freedom to the slaves of Rebels coming within our lines, or whom those lines may at any time enclose—we ask you to render it due obedience by publicly requiring all your subordinates to recognize and obey it. The Rebels are everywhere using the late anti-Negro riots in the North, as they have long used your officers' treatment of Negroes in the South, to convince the slaves that they have nothing to hope from a Union success, that we mean in that case to sell them into a bitter bondage to defray the cost of the war.

Let them impress this as a truth on the great mass of their ignorant and credulous bondmen, and the Union will never be restored—never. We cannot conquer 10 million people united in solid phalanx against us, powerfully aided by Northern sympathizers and European allies. We must have scouts, guides, spies, cooks, teamsters, diggers, and choppers from the blacks of the South, whether we allow them to fight for us or not, or we shall be baffled and repelled.

As one of the millions who would gladly have avoided this struggle at any sacrifice but that of principle and honor, but who now feel that the triumph of the Union is indispensable, not only to the existence of our country but to the well-being of mankind, I entreat you to render a hearty and unequivocal obedience to the law of the land.

THE CIVIL WAR

Viewpoint 32A *Freeing the Slaves Should Be the Primary War Aim (1862)*

Horace Greeley (1811–1872)

INTRODUCTION *During the first half of the Civil War the issue of slave emancipation divided the North. Abolitionists called for President Abraham Lincoln to use his powers as commander in chief to issue a legal edict freeing the slaves. Lincoln—mindful of the importance of keeping Kentucky and other border slave states out of the Confederacy—resisted such a step. Lincoln also rescinded orders some Union generals had made freeing slaves within their military jurisdiction. Among the antislavery leaders angered by Lincoln's actions was*

Viewpoint 32B
*Preserving the Union Should Be
 the Primary War Aim (1862)*

Abraham Lincoln (1809–1865)

INTRODUCTION *Abraham Lincoln, president of the United States from 1861 to 1865, was noted for his single-minded devotion to preserving the Union. During the Civil War Lincoln was continually challenged, both by abolitionists who attacked his unwillingness to end slavery and by those who advocated an end to the Civil War by negotiating a settlement with the Confederacy. During the first part of his term Lincoln tried to persuade the leaders of the Southern states that did not secede to plan for the gradual and compensated emancipation of slaves. But he hesitated to issue a general proclamation abolishing slavery, believing that preserving the Union should take highest priority. Lincoln succinctly expressed his views in the following viewpoint, a letter he wrote in response to New York Tribune editor Horace Greeley's criticism of his policies (see the previous viewpoint). Lincoln's reply, dated August 22, 1862, was published in the Tribune and elsewhere.*

How does Lincoln respond to Greeley's criticisms? Is his message solely aimed at abolitionists? Lincoln had in July 1862 discussed with his cabinet his intention of issuing an emancipation proclamation, had prepared a draft of such a proclamation, and was waiting for the right moment to announce his decision. How does this affect your understanding of this letter written and published in August of that year?

Dear Sir:

My paramount object in this struggle is to save the Union, and is not either to save or destroy slavery.

I have just read yours of the 19th, addressed to myself through the *New York Tribune*. If there be in it any statements or assumptions of fact which I may know to be erroneous, I do not now and here controvert them. If there be in it any inferences which I may believe to be falsely drawn, I do not now and here argue against them. If there be perceptible in it an impatient and dictatorial tone, I waive it in deference to an old friend, whose heart I have always supposed to be right.

As to the policy I "seem to be pursuing," as you say, I have not meant to leave any one in doubt.

From *The Rebellion Record*, Supplement, vol. 1, edited by Frank Moore (New York: Putnam, 1866).

THE UNION MUST BE SAVED

I would save the Union. I would save it 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 those 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 in this struggle is to save the Union, and is *not* either to save or to destroy slavery. If I could save the Union without freeing *any* slave, I would do it, and 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 what I am doing hurts the cause, and I shall do *more* whenever I shall believe doing more will help the cause. I shall try to correct errors when shown to be errors; and I shall adopt new views so fast as they shall appear to be true views.

I have here stated my purpose according to my view of official duty, and I intend no modification of my oft-expressed *personal* wish that all men, everywhere, could be free.

FOR FURTHER READING

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Viewpoint 33A
*The Emancipation Proclamation
 Is a Significant Achievement (1862)*

Frederick Douglass (1817–1895)

INTRODUCTION *Abraham Lincoln issued a preliminary Emancipation Proclamation on September 22, 1863, shortly after Union forces scored a partial victory in the Battle of Antietam. The proclamation stated that on January 1, 1863, all slaves residing in every part of the*

South still in rebellion would be declared "then, thenceforward, and forever free." The following viewpoint features the reaction of Frederick Douglass, an escaped slave who had gained national and international fame as an abolitionist, lecturer, and writer. Douglass was a strong and early advocate of both emancipation of slaves and the enlistment of black soldiers for the Union. In the October 1862 issue of Douglass' Monthly, a newspaper he edited and published, Douglass criticizes Lincoln for not acting sooner to free the slaves, but praises Lincoln for finally issuing the proclamation. He predicts freeing the slaves will help defeat the Confederacy.

What comments does Douglass make about the character of Abraham Lincoln? What reasons does he give for his confidence that the Confederacy will be defeated?

Common sense, the necessities of the war, to say nothing of the dictation of justice and humanity have at last prevailed. We shout for joy that we live to record this righteous decree. *Abraham Lincoln*, President of the United States, Commander-in-Chief of the army and navy, in his own peculiar, cautious, forbearing and hesitating way, slow, but we hope sure, has, while the loyal heart was near breaking with despair, proclaimed and declared: "That on the First of January, in the Year of Our Lord One Thousand, Eight Hundred and Sixty-three, All Persons Held as Slaves Within Any State or Any Designated Part of a State, The People Whereof Shall Then be in Rebellion Against the United States, Shall be Thenceforward and Forever Free." "Free forever" oh! long enslaved millions, whose cries have so vexed the air and sky, suffer on a few more days in sorrow, the hour of your deliverance draws nigh! Oh! Ye millions of free and loyal men who have earnestly sought to free your bleeding country from the dreadful ravages of revolution and anarchy, lift up now your voices with joy and thanksgiving for with freedom to the slave will come peace and safety to your country. . . .

REACTIONS

Opinions will widely differ as to the practical effect of this measure upon the war. All that class at the North who have not lost their affection for slavery will regard the measure as the very worst that could be devised, and as likely to lead to endless mischief. All their plans for the future have been projected with a view to a reconstruction of the American Government upon the basis of compromise between slaveholding and non-slaveholding States. The thought of a country unified in sentiments, objects and ideas, has not entered into their political calculations, and hence this newly declared policy of the Government, which contemplates one glorious homogeneous people, doing away at a blow with the whole

From an editorial of Frederick Douglass, *Douglass' Monthly*, October 1862.

class of compromisers and corrupters, will meet their stern opposition. Will that opposition prevail? Will it lead the President to reconsider and retract? Not a word of it. Abraham Lincoln may be slow, Abraham Lincoln may desire peace even at the price of leaving our terrible national sore untouched, to fester on for generations, but Abraham Lincoln is not the man to reconsider, retract and contradict words and purposes solemnly proclaimed over his official signature. . . .

The effect of this paper upon the disposition of Europe will be great and increasing. It changes the character of the war in European eyes and gives it an important principle as an object, instead of national pride and interest. It recognizes and declares the real nature of the contest, and places the North on the side of justice and civilization, and the rebels on the side of robbery and barbarism. It will disarm all purpose on the part of European Government to intervene in favor of the rebels and thus cast off at a blow one source of rebel power. All through the war thus far, the rebel ambassadors in foreign countries have been able to silence all expression of sympathy with the North as to slavery. With much more than a show of truth, they said that the Federal Government, no more than the Confederate Government, contemplated the abolition of slavery.

*The Star Spangled Banner is now the
 harbinger of Liberty and the millions in
 bondage . . . will rally under that banner.*

But will not this measure be frowned upon by our officers and men in the field? We have heard of many thousands who have resolved that they will throw up their commissions and lay down their arms, just so soon as they are required to carry on a war against slavery. Making all allowances for exaggeration there are doubtless far too many of this sort in the loyal army. Putting this kind of loyalty and patriotism to the test, will be one of the best collateral effects of the measure. Any man who leaves the field on such a ground will be an argument in favor of the proclamation, and will prove that his heart has been more with slavery than with his country. Let the army be cleansed from all such pro-slavery vermin, and its health and strength will be greatly improved. But there can be no reason to fear the loss of many officers or men by resignation or desertion. We have no doubt that the measure was brought to the attention of most of our leading Generals, and blind as some of them have seemed to be in the earlier part of the war, most of them have seen enough to convince them that

there can be no end to this war that does not end slavery. At any rate, we may hope that for every pro-slavery man that shall start from the ranks of our loyal army, there will be two anti-slavery men to fill up the vacancy, and in this war one truly devoted to the cause of Emancipation is worth two of the opposite sort.

TWO NECESSARY CONDITIONS

Whether slavery will be abolished in the manner now proposed by President Lincoln, depends of course upon two conditions, the first specified and the second implied. The first is that the slave States shall be in rebellion on and after the first day of January 1863 and the second is we must have the ability to put down that rebellion. About the first there can be very little doubt. The South is thoroughly in earnest and confident. It has staked everything upon the rebellion. Its experience thus far in the field has rather increased its hopes of final success than diminished them. Its armies now hold us at bay at all points, and the war is confined to the border States slave and free. If Richmond were in our hands and Virginia at our mercy, the vast regions beyond would still remain to be subdued. But the rebels confront us on the Potomac, the Ohio, and the Mississippi. Kentucky, Maryland, Missouri, and Virginia are in debate on the battlefields and their people are divided by the line which separates treason from loyalty. In short we are yet, after eighteen months of war, confined to the outer margin of the rebellion. We have scarcely more than touched the surface of the terrible evil. It has been raising large quantities of food during the past summer. While the masters have been fighting abroad, the slaves have been busy working at home to supply them with the means of continuing the straggle. They will not [back] down at the bidding of this Proclamation, but may be safely relied upon till January and long after January. A month or two will put an end to general fighting for the winter. When the leaves fall we shall hear again of bad roads, winter quarters and spring campaigns. The South which has thus far withstood our arms will not fall at once before our pens. All fears for the abolition of slavery arising from this apprehension may be dismissed. Whoever, therefore, lives to see the first day of next January, should Abraham Lincoln be then alive and President of the United States, may confidently look in the morning papers for the final proclamation, granting freedom, and freedom forever, to all slaves within the rebel States. On the next point nothing need be said. We have full power to put down the rebellion. Unless one man is more than a match for four, unless the South breeds braver and better men than the North, unless slavery is more precious than liberty, unless a just cause kindles a feebler enthusiasm than a wicked and villainous one, the men of the loyal States will put down this

rebellion and slavery, and all the sooner will they put down that rebellion by coupling slavery with that object. Tenderness towards slavery has been the loyal weakness during the war. Fighting the slaveholders with one hand and holding the slaves with the other, has been fairly tried and has failed. We have now inaugurated a wiser and better policy, a policy which is better for the loyal cause than an hundred thousand armed men. The Star Spangled Banner is now the harbinger of Liberty and the millions in bondage, inured to hardships, accustomed to toil, ready to suffer, ready to fight, to dare and to die, will rally under that banner wherever they see it gloriously unfolded to the breeze. Now let the Government go forward in its mission of Liberty as the only condition of peace and union, by weeding out the army and navy of all such officers as the late Col. [Dixon] Miles, whose sympathies are now known to have been with the rebels. Let only the men who assent heartily to the wisdom and the justice of the anti-slavery policy of the Government be lifted into command; let the black man have an arm as well as a heart in this war, and the tide of battle which has thus far only waved backward and forward, will steadily set in our favor. The rebellion suppressed, slavery abolished, and America will, higher than ever, sit as a queen among the nations of the earth.

Viewpoint 33B *The Emancipation Proclamation Is a Worthless Act (1863)*

Clement L. Vallandigham (1820–1871)

INTRODUCTION *Abraham Lincoln's Emancipation Proclamation on January 1, 1863, (following a preliminary proclamation on September 22, 1862) declared all the slaves in areas of rebelling states to be free. The proclamation provoked criticism, not only from Confederate leaders, but also from political opponents in the North. One of the most prominent of the Northern dissenters was Clement L. Vallandigham, a Democratic representative from Ohio. Vallandigham was a leader of the "Peace Democrats" or "Copperheads" who opposed many of Lincoln's policies and who denounced the Civil War as an unjust and unnecessary conflict.*

The following viewpoint is taken from a speech delivered on January 14, 1863, in the House of Representatives. Vallandigham argues that Lincoln's September 1862 proclamation, which warned of pending emancipation in January 1863 for the slaves in any state "in rebellion" had failed to persuade any Confederate state to return to the Union. The Emancipation Proclamation will not end slavery, he predicts, but instead will scuttle any effort to end the Civil War by peaceful compromise with the South—something Vallandigham had long advocated.

Why does Vallandigham consider the Emancipation Proclamation an admission of defeat for the North? What opinions does he express about the morality of slavery?

Now, sir, on the 14th of April [1861], I believed that coercion would bring on war, and war disunion. More than that, I believed, what you all in your hearts believe to-day, that the South could never be conquered—never. And not that only, but I was satisfied—and you of the abolition party have now proved it to the world—that the secret but real purpose of the war was to abolish slavery in the States. In any event, I did not doubt that whatever might be the momentary impulses of those in power, and whatever pledges they might make in the midst of the fury for the Constitution, the Union, and the flag, yet the natural and inexorable logic of revolutions would, sooner or later, drive them into that policy, and with it to its final but inevitable result, the change of our present democratical form of government into an imperial despotism. . . .

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*You cannot abolish slavery by the sword;
still less by proclamations.*
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And now, sir, I recur to the state of the Union to-day. . . .

You have not conquered the South. You never will. It is not in the nature of things possible; much less under your auspices. But money you have expended without limit, and blood poured out like water. Defeat, debt, taxation, sepulchers, these are your trophies. In vain the people gave you treasure and the soldier yielded up his life. "Fight, tax, emancipate, let these," said the gentleman from Maine, (Mr. Pike,) at the last session, "be the trinity of our salvation." Sir, they have become the trinity of your deep damnation. The war for the Union is, in your hands, a most bloody and costly failure. The President confessed it on the 22d of September [1862], solemnly, officially, and under the broad seal of the United States. And he has now repeated the confession. The priests and rabbis of abolition taught him that God would not prosper such a cause. War for the Union was abandoned; war for the negro openly begun, and with stronger battalions than before. With what success? Let the dead at Fredericksburg and Vicksburg [sites of Civil War battles] answer. . . .

THE GREAT QUESTION

And now, sir, I come to the great and controlling question within which the whole issue of union or disunion

From Clement L. Vallandigham's speech before Congress, January 14, 1863, in Appendix to the *Congressional Globe*, 1863.

is bound up: is there "an irrepressible conflict" between the slaveholding and non-slaveholding States? . . . If so, then there is an end of all union and forever. You cannot abolish slavery by the sword; still less by proclamations, though the President were to "proclaim" every month. Of what possible avail was his proclamation of September? Did the South submit? Was she even alarmed? And yet he has now fulminated another "bull against the comet"—*brutum fulmen* [irrational threat]—and, threatening servile insurrection with all its horrors, has yet coolly appealed to the judgment of mankind, and invoked the blessing of the God of peace and love! But declaring it a military necessity, an essential measure of war to subdue the rebels, yet, with admirable wisdom, he expressly exempts from its operation the only States and parts of States in the South where he has the military power to execute it.

Neither, sir, can you abolish slavery by argument. As well attempt to abolish marriage or the relation of paternity. The South is resolved to maintain it at every hazard and by every sacrifice; and if "this Union cannot endure part slave and part free," then it is already and finally dissolved. . . .

AGAINST DISUNION

But I deny the doctrine. It is full of disunion and civil war. It is disunion itself. Whoever first taught it ought to be dealt with as not only hostile to the Union, but an enemy of the human race. Sir, the fundamental idea of the Constitution is the perfect and eternal compatibility of a union of States "part slave and part free;" else the Constitution never would have been framed, nor the Union founded; and seventy years of successful experiment have approved the wisdom of the plan. In my deliberate judgment, a confederacy made up of slaveholding and non-slaveholding States is, in the nature of things, the strongest of all popular governments. African slavery has been, and is, eminently conservative. It makes the absolute political equality of the white race everywhere practicable. It dispenses with the English Order of nobility, and leaves every white man, North and South, owning slaves or owning none, the equal of every other white man. It has reconciled universal suffrage throughout the free States with the stability of government. I speak not now of its material benefits to the North and West, which are many and more obvious. But the South, too, has profited many ways by a union with the non-slaveholding States. Enterprise, industry, self-reliance, perseverance, and the other hardy virtues of a people living in a higher latitude and without hereditary servants, she has learned or received from the North. Sir, it is easy, I know, to denounce all this, and to revile him who utters it. Be it so. The English is, of all languages, the most

copious in words of bitterness and reproach. "Pour on: I will endure." . . .

Whoever hates negro slavery more than he loves the Union, must demand separation at last. I think that you can never abolish slavery by fighting. Certainly you never can till you have first destroyed the South, and then . . . converted this Government into an imperial despotism. And, sir, whenever I am forced to a choice between the loss to my own country and race, of personal and political liberty with all its blessings, and the involuntary domestic servitude of the negro, I shall not hesitate one moment to choose the latter alternative. The sole question to-day is between the Union with slavery, or final disunion, and, I think, anarchy and despotism. I am for the Union. It was good enough for my fathers. It is good enough for us and our children after us.

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Viewpoint 34A War Justifies the Restriction of Civil Liberties (1863)

Abraham Lincoln (1809–1865)

INTRODUCTION *The question of whether and how to maintain civil liberties while conducting a war faced leaders of both sides of the Civil War. Abraham Lincoln, the sixteenth president of the United States, and Jefferson Davis, the first and only president of the Confederacy, took contrasting approaches. Davis maintained civil liberties for most Southerners (excluding slaves). Lincoln, however, issued several proclamations suspending the writ of habeas corpus, a constitutional right forbidding unlawful detention. Union military forces arrested and detained thousands of suspected Confederate sympathizers.*

In 1863 a group of Democrats from Albany, New York, wrote to Lincoln complaining of what they saw as serious violations of the Constitution and the Bill of Rights. High among their concerns was the fate of Clement L. Vallandigham, a Democratic congressman from Ohio who had actively opposed conscription and denounced Lincoln and other leaders (see viewpoint

33B). In May 1863 he was arrested and tried by the army for treason. After being found guilty of "weakening the power of the Government" in putting down "an unlawful rebellion," he was sentenced to imprisonment—a sentence commuted by Lincoln to banishment to the Confederacy.

Lincoln replied to the group's plea with a June 12, 1863, letter that was widely reprinted in pamphlet form and is excerpted here. Defending his war policies, he argues that the "inherent power" of the executive justifies using whatever measures are necessary to protect the American people, and cites the dangers of spies and traitors to the Union cause.

Why are civil liberties not accorded as much protection during a rebellion as during peaceful times, according to Lincoln? How does he justify the detention of Clement L. Vallandigham?

Gentlemen:

Your letter of May 19, inclosing the resolutions of a public meeting held at Albany, New York, on the 16th of the same month, was received several days ago. . . .

CRITICAL RESOLUTIONS

The resolutions promise to support me in every constitutional and lawful measure to suppress the rebellion; and I have not knowingly employed, nor shall knowingly employ, any other. But the meeting, by their resolutions, assert and argue that certain military arrests and proceedings following them, for which I am ultimately responsible, are unconstitutional. I think they are not. The resolutions quote from the Constitution the definition of treason, and also the limiting safeguards and guarantees therein provided for the citizen on trials for treason, and on his being held to answer for capital or otherwise infamous crimes, and in criminal prosecutions his right to a speedy and public trial by an impartial jury. They proceed to resolve "that these safeguards of the rights of the citizen against the pretensions of arbitrary power were intended more especially for his protection in times of civil commotion." And, apparently to demonstrate the proposition, the resolutions proceed: "They were secured substantially to the English people after years of protracted civil war, and were adopted into our Constitution at the close of the revolution." Would not the demonstration have been better if it could have been truly said that these safeguards had been adopted and applied during the civil wars and during our revolution, instead of after the one and at the close of the other? I, too, am devotedly for them after civil war and before civil war, and at all times, "except when, in cases of rebellion or invasion, the public safety may require" their suspension. . . .

Reprinted from *The Complete Works of Lincoln*, edited by J. Nicolay and J. Hay (New York: F.D. Tandy, 1905).

[The rebel] sympathizers pervaded all departments of the government and nearly all communities of the people. From this material, under cover of "liberty of speech," "liberty of the press," and "*habeas corpus*," they hoped to keep on foot amongst us a most efficient corps of spies, informers, suppliers and aiders and abettors of their cause in a thousand ways. They knew that in times such as they were inaugurating, by the Constitution itself the "*habeas corpus*" might be suspended; but they also knew they had friends who would make a question as to who was to suspend it; meanwhile their spies and others might remain at large to help on their cause. Or if, as has happened, the Executive should suspend the writ without ruinous waste of time, instances of arresting innocent persons might occur, as are always likely to occur in such cases; and then a clamor could be raised in regard to this. . . . Yet . . . I was slow to adopt the strong measures which [are] . . . indispensable to the public safety. Nothing is better known to history than that courts of justice are utterly incompetent to such cases. Civil courts are organized chiefly for trials of individuals, or, at most, a few individuals acting in concert—and this in quiet times, and on charges of crimes well defined in the law. Even in times of peace hands of horse-thieves and robbers frequently grow too numerous and powerful for the ordinary courts of justice. But what comparison, in numbers, have such bands ever borne to the insurgent sympathizers even in many of the loyal States? Again, a jury too frequently has at least one member more ready to hang the panel than to hang the traitor. And yet again, he who dissuades one man from volunteering, or induces one soldier to desert, weakens the Union cause as much as he who kills a Union soldier in battle. Yet this dissuasion or inducement may be so conducted as to be no defined crime of which any civil court would take cognizance.

A CASE OF REBELLION

Ours is a case of rebellion. . . . [The Suspension Clause from Section 9 of Article I of the Constitution] plainly attests the understanding of those who made the Constitution that ordinary courts of justice are inadequate to "cases of rebellion"—attests their purpose that, in such cases, men may be held in custody whom the courts, acting on ordinary rules, would discharge. *Habeas corpus* does not discharge men who are proved to be guilty of defined crime; and its suspension is allowed by the Constitution on purpose that men may be arrested and held who can not be proved to be guilty of defined crime, "when, in cases of rebellion or invasion, the public safety may require it."

This is precisely our present case—a case of rebellion wherein the public safety does require the suspension. . . .

Arrests in cases of rebellion do not proceed altogether upon the same basis. In the latter case arrests are made not so much for what has been done, as for what probably would be done. The latter is more for the preventive and less for the vindictive than the former. In such cases the purposes of men are much more easily understood than in cases of ordinary crime. The man who stands by and says nothing when the peril of his government is discussed, cannot be misunderstood. If not hindered, he is sure to help the enemy; much more if he talks ambiguously—talks for his country with "buts," and "ifs" and "ands." [Several Confederate leaders] were all within the power of the government since the rebellion began, and were nearly as well known to be traitors then as now. Unquestionably if we had seized and held them, the insurgent cause would be much weaker. But no one of them had then committed any crime defined in the law. Every one of them, if arrested, would have been discharged on *habeas corpus* were the writ allowed to operate. In view of these and similar cases, I think the time not unlikely to come when I shall be blamed for having made too few arrests rather than too many. . . .

— ■ —
*The Constitution is not in its
Application . . . the same in cases of
rebellion . . . as it is in times
of profound peace.*
— ■ —

CLEMENT L. VALLANDIGHAM

Take the particular case mentioned by the meeting. It is asserted in substance, that Mr. Vallandigham was, by a military commander, seized and tried "for no other reason than words addressed to a public meeting in criticism of the course of the administration, and in condemnation of the military orders of the general." Now, if there be no mistake about this, if this assertion is the truth and the whole truth, if there was no other reason for the arrest, then I concede that the arrest was wrong. But the arrest, as I understand, was made for a very different reason. Mr. Vallandigham avows his hostility to the war on the part of the Union; and his arrest was made because he was laboring, with some effect, to prevent the raising of troops, to encourage desertions from the army, and to leave the rebellion without an adequate military force to suppress it. He was not arrested because he was damaging the political prospects of the administration or the personal interests of the commanding general but because he was damaging the army, upon the existence and vigor of which the life of the nation depends. He was warring upon the military, and this gave the military constitutional jurisdiction to lay hands upon him. . . . Long

experience has shown that armies cannot be maintained unless desertion shall be punished by the severe penalty of death. . . . Must I shoot a simple-minded soldier boy who deserts, while I must not touch a hair of a wily agitator who induces him to desert? This is none the less injurious when effected by getting a father, or brother, or friend into a public meeting, and there working upon his feelings till he is persuaded to write the soldier boy that he is fighting in a bad cause, for a wicked administration of a contemptible government, too weak to arrest and punish him if he shall desert. I think that, in such a case, to silence the agitator and save the boy is not only constitutional, but withal a great mercy.

If I be wrong . . . my error lies in believing . . . that the Constitution is not in its application in all respects the same in cases of rebellion or invasion involving the public safety, as it is in times of profound peace and public security. The Constitution itself makes the distinction, and I can no more be persuaded that the government can constitutionally take no strong measures in times of rebellion, because it can be shown that the same could not be lawfully taken in time of peace, than I can be persuaded that a particular drug is not good medicine for a sick man because it can be shown to not be good food for a well one. Nor am I able to appreciate the danger apprehended by the meeting, that the American people will by means of military arrests during the rebellion lose the right of public discussion, the liberty of speech and the press, the law of evidence, trial by jury, and *habeas corpus* throughout the indefinite peaceful future which I trust lies before them, any more than I am able to believe that a man could contract so strong an appetite for emetics during temporary illness as to persist in feeding upon them during the remainder of his healthful life. . . .

I am specifically called on to discharge Mr. Vallandigham. . . . In response to such appeal I have to say . . . it will afford me great pleasure to discharge him so soon as I can by any means believe the public safety will not suffer by it.

Viewpoint 34B
*War Does Not Justify the Violation
of Civil Liberties (1863)*

Ohio Democratic Convention

INTRODUCTION *During the Civil War President Abraham Lincoln was accused by some political opponents of violating the U.S. Constitution. One action that attracted such criticism was the arrest of Clement L. Vallandigham, a Democratic member of Congress from Ohio who was perhaps the most prominent of Northern political dissenters (known as "Copperheads") during the Civil War. His case provoked much political controversy and at least two petitions to the president.*

Lincoln responded to the first petition, sent by a group of New York Democrats, by issuing a June 12, 1863, letter defending his actions given the national crisis America was facing (see viewpoint 34A).

Many people remained unconvinced—including the group of Ohio Democrats who sent Lincoln a second petition and letter excerpted in this viewpoint. In their June 26, 1863, letter, the Ohio politicians argue that the arrest of Vallandigham, whom they had just nominated for governor, was unjustifiable. They contend that freedom of speech and of the press are just as important during war as during peacetime. The petitioners also criticize Lincoln for his suspension of the writ of habeas corpus (which outlaws government detention without showing just cause to the courts), arguing that under the Constitution only Congress, not the President, has the power to make such a decision.

What constitutional liberties are being threatened by Lincoln, according to the Ohio petitioners? How do they characterize Vallandigham?

The arrest, unusual trial, and banishment of Mr. Vallandigham, have created wide-spread and alarming disaffection among the people of the State, not only endangering the harmony of the friends of the Constitution and the Union, and tending to disturb the peace and tranquility of the State, but also impairing that confidence in the fidelity of your Administration to the great landmarks of free government essential to a peaceful and successful enforcement of the laws of Ohio.

You are reported to have used, in a public communication on this subject, the following language:

It gave me pain when I learned that Mr. Vallandigham had been arrested—that is, I was pained that there should have seemed to be a necessity for arresting him; and that it will afford me great pleasure to discharge him so soon as I can by any means believe the public safety will not suffer by it.

The undersigned assure your Excellency, from our personal knowledge of the feelings of the people of Ohio, that the public safety will be far more endangered by continuing Mr. Vallandigham in exile than by releasing him. It may be true that persons differing from him in political views may be found in Ohio; and elsewhere, who will express a different opinion; but they are certainly mistaken.

Mr. Vallandigham may differ with the President, and even with some of his own political party, as to the true and most effectual means of maintaining the Constitution and restoring the Union; but this difference of

Reprinted from *A Life of Clement L. Vallandigham* by James L. Vallandigham (Baltimore: Turnbull Bros., 1872).

opinion does not prove him to be unfaithful to his duties as an American citizen. If a man, devotedly attached to the Constitution and the Union, conscientiously believes that, from the inherent nature of the Federal compact, the war, in the present condition of things in this country, can not be used as a means of restoring the Union; or that a war to subjugate a part of the States, or a war to revolutionise the social system in a part of the States, could not restore, but would inevitably result in the final destruction of both the Constitution and the Union—is he not to be allowed the right of an American citizen to appeal to the judgment of the people for a change of policy by the constitutional remedy of the ballot-box?

— ■ —
*The undersigned are unable to
agree . . . that the Constitution is different
in time of insurrection or invasion from
what it is in time of peace.*
— ■ —

FREEDOM OF SPEECH
INDISPENSABLE

During the war with Mexico many of the political opponents of the Administration then in power thought it their duty to oppose and denounce the war, and to urge before the people of the country that it was unjust and prosecuted for unholy purposes. With equal reason it might have been said of them that their discussions before the people were calculated to "discourage enlistments," "to prevent the raising of troops," and to "induce desertions from the army," and "leave the Government without an adequate military force to carry on the war."

If the freedom of speech and of the press are to be suspended in time of war, then the essential element of popular government to effect a change of policy in the constitutional mode is at an end. The freedom of speech and of the press is indispensable, and necessarily, incident to the nature of popular government itself. If any inconvenience or evils arise from its exercise, they are unavoidable. . . .

EXAMINING THE CONSTITUTION

The undersigned are unable to agree with you in the opinion you have expressed, that the Constitution is different in time of insurrection or invasion from what it is in time of peace and public security. The Constitution provides for no limitation upon, or exceptions to, the guarantees of personal liberty, except as to the writ of *habeas corpus*. Has the President, at the time of invasion or

insurrection, the right to engraft limitations or exceptions upon these constitutional guarantees whenever, in his judgement, the public safety requires it?

True it is, the article of the Constitution which defines the various powers delegated to Congress, declares that the "privilege of the writ of *habeas corpus* shall not be suspended unless where, in case of rebellion or invasion, the public safety may require it." But this qualification or limitation upon this restriction upon the powers of Congress has no reference to, or connection with, the other constitutional guarantees of personal liberty. Expunge from the Constitution this limitation upon the power of Congress to suspend the writ of *habeas corpus*, and yet the other guarantees of personal liberty would remain unchanged.

Although a man might not have a constitutional right to have an immediate investigation made as to the legality of his arrest upon *habeas corpus*, yet his "right to a speedy and public trial by an impartial jury of the State and District wherein the crime shall have been committed," will not be altered; neither will his right to the exemption from "cruel and unusual punishments;" nor his right to be secure in his person, houses, papers and effects against any unreasonable seizures and searches; nor his right [not] to be deprived of life, liberty or property, without due process of law; nor his right not to be held to answer for a capital or otherwise infamous offence unless on presentment or indictment of a grand jury, be in anywise changed.

And certainly the restriction upon the power of Congress to suspend the writ of *habeas corpus* in time of insurrection or invasion, could not affect the guarantee that the freedom of speech and of the press shall not be abridged. It is sometimes urged that the proceedings in the civil tribunals are too tardy and ineffective for cases arising in times of insurrection or invasion. It is a full reply to this to say, that arrests by civil process may be equally as expeditious and effective as arrests by military orders.

True, a summary trial and punishment are not allowed in the civil courts. But if the offender be under arrest and imprisoned, and not entitled to a discharge under a writ of *habeas corpus*, before trial, what more can be required for the purposes of the Government? The idea that all the constitutional guarantees of personal liberty are suspended throughout the country at a time of insurrection or invasion in any part of it, places us upon a sea of uncertainty, and subjects the life, liberty and property of every citizen to the mere will of a military commander, or what he may say he considers the public safety requires. Does your Excellency wish to have it understood that you hold that the rights of every man throughout this vast country are subject to be annulled

Part 4: Civil War and Reconstruction (1850–1877)

whenever you may say that you consider the public safety requires it, in time of invasion or insurrection? . . .

IMPORTANT QUESTIONS

Did the Constitution intend to throw the shield of its securities around the man liable to be charged with treason as defined by it, and yet leave the man not liable to any such charge unprotected by the safeguard of personal liberty and personal security? Can a man not in the military or naval service, nor within the field of the operations of the army; be arrested and imprisoned without any law of the land to authorise it? Can a man thus in civil life be punished without any law defining the offence and prescribing the punishment? If the President or a court-martial may prescribe one kind of punishment unauthorised by law, why not any other kind? Banishment is an unusual punishment, and unknown to our laws. If the President has the right to prescribe the punishment of banishment, why not that of death and confiscation of property? If the President has the right to change the punishment prescribed by the court-martial from imprisonment to banishment, why not from imprisonment to torture upon the rack, or execution upon the gibbet?

If an indefinable kind of constructive treason is to be introduced and engrafted upon the Constitution, unknown to the laws of the land, and subject to the will of the President whenever an insurrection or invasion shall occur in any part of this vast country, what safety or security will be left for the liberties of the people?

The “constructive treason” that gave the friends of freedom so many years of toil and trouble in England, was inconsiderable compared to this. The precedents which you make will become a part of the Constitution for your successors, if sanctioned and acquiesced in by the people now.

The people of Ohio are willing to co-operate zealously with you in every effort warranted by the Constitution to restore the Union of the States, but they cannot consent to abandon those fundamental principles of civil liberty which are essential to their existence as a free people.

In their name we ask that, by a revocation of the order of his Banishment, Mr. Vallandigham may be restored to the enjoyment of those rights of which they believe he has been unconstitutionally deprived.

FOR FURTHER READING

- Frank L. Klement, *Dark Lanterns: Secret Political Societies, Conspiracies, and Treason Trials in the Civil War*. Baton Rouge: Louisiana State University Press, 1984.
- Michael Linfield, *Freedom Under Fire: U.S. Civil Liberties in Times of War*. Boston: South End Press, 1990.
- Mark E. Neely, *The Fate of Liberty*. New York: Oxford University Press, 1991.