



# Lincoln Lore

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## JOHN TOURO TO ABRAHAM LINCOLN, JANUARY 7, 1865: NEW ORLEANS UNDER THE "BEAST" AND BANKS

### A Newly Acquired Letter to Lincoln

Washington City,  
January 7th, 1865.

To His Excellency  
Abraham Lincoln,  
President of the United States,  
Sir:

Various loyal citizens of New Orleans, La, feeling themselves aggrieved by the action of the military authorities at that point, have delegated me to lay their cause of complaint before your Excellency, and ask from you such relief as your wisdom, and sense of justice, may deem proper to extend to them.

The parties who I have the honor to represent, are loyal to the Government of the United States, having taken the required oath under the Amnesty proclamation, issued by you, and which fact, pursuant to your proclamation, if their status as to loyalty is satisfactorily established, relieves them from the effects of all military orders affecting their rights as loyal citizens, and more particularly, when by your proclamation of January 1st, 1863, you declare the City of New Orleans, and the Parish of Orleans, as not in a state of rebellion!

The cause of complaint of those whom I have the honor to represent, is as follows:

After the occupation of the City of New Orleans, by Genl B. F. Butler, he, by order No. 55, dated August 4, 1862, made an assessment upon certain of the citizens of that place who it was alleged had subscribed to the "Committee of Safety", for the advancement of the Rebel cause, and required them to pay the full amount in quarterly installments, and which fund was to be appropriated for the benefit of the poor of that City. See exhibit No. 1, Pages 17, and 18.

Agreeably to that order, the parties duly paid three installments, the last pursuant to order No. 144, of date October 3rd, 1864, by command of Major Genl Hurlburt, herewith submitted, marked No. 2: The parties were without remedy, being compelled to pay the same within 24 hours from the receipt [sic] of order, or else subjected to imprisonment, and seizure of

their property! This installment was paid, but under protest, the parties alleging with great force that they were in fact and in law relieved from the effect of the order of Genl Butler, No. 55, by your amnesty proclamation, and by their conforming to its provisions by taking the oath of allegiance prescribed, by recognizing the supremacy of the Government of the United States, and conforming to all the laws thereof!

The object of that proclamation was to induce parties to return to their allegiance, and when they have done so, and are living in a section declared by you not to be in rebellion, justice demands that they should not be held responsible for past offences after their pardon has been fully granted by you.

They therefore ask as loyal citizens of the Government of the United States, that, they may be relieved from the oppressiveness of this order, and that the last installment paid by them which was after the date of your amnesty proclamation, and their taking the required oath, and establishing their loyalty, be refunded to them by the proper authorities, upon satisfactory evidence establishing their loyalty, and that order No. 55, so far as the fourth, and last installment is concerned, may be rescinded!

Your petitioners cannot believe that the intent of the Government is to oppress them, by receiving, and considering them as loyal citizens of the United States, and at the same time punish them as enemies, which is in fact the effect of the continuance of this order of Genl Butler.

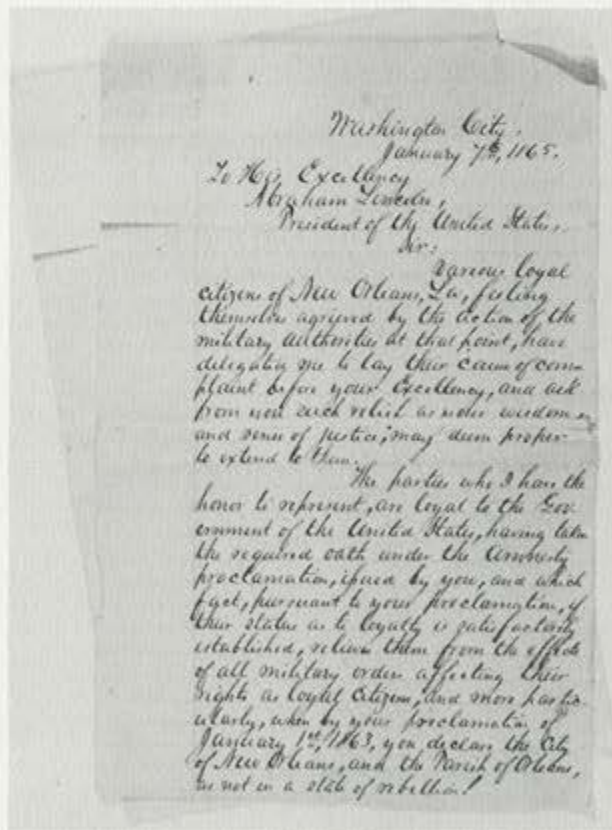
I present for your consideration the petition of E. Giquel, one of the parties in interest, see No. 3, with the accompanying papers, which will fully show the facts of the case presented for your consideration.

Feeling satisfied that your Excellency desires to do ample justice to all parties, I submit the cause of my friends to your determination, with every assurance that you will extend to them the relief which in justice, and in law, they are entitled to.

I have the honor to be,  
Your very Obedt Servt,

John Touro

of New Orleans  
at Willards Hotel  
Washington City  
D. C.



From the Lincoln National Life Foundation

John Touro's letter to Abraham Lincoln is written on the front and back of two ruled pages. A third page is blank on the front but bears on the back the remarks, "Papers submitted By John Touro, of New Orleans La. Praying that order No. 55 issued by Gen'l B. F. Butler, may be rescinded." Below this appears an apparently forged Lincoln endorsement.



## New Orleans under Federal Control

On May 1, 1862, General Benjamin F. Butler assumed control of the city of New Orleans, Louisiana. In his autobiography, entitled simply *Butler's Book*, the former Democratic politician from Massachusetts who, as a delegate to the Charleston convention in 1860, had voted fifty-seven times for Jefferson Davis to be the Democratic nominee for president, explained the situation he occupied in a city removed by federal forces from Jefferson Davis's Confederate domain: "Having supreme power, I used it in the manner I have set forth."

Butler took his job seriously, attempting not only to maintain the city's functions in some minimal way until Louisiana assumed more normal relations with the United States but also to improve the city. The New Englander was appalled at the conditions in the Southern city. Touring New Orleans with his wife early in May, Butler "came upon the 'basin,' a broad opening or pond for the reception of canal boats." *Butler's Book* describes the experience this way:

As we approached the "basin," the air seemed filled with the most noxious and offensive stenches possible,—so noxious as almost to take away the power of breathing. The whole surface of the canal and the pond was covered with a thick growth of green vegetable scum, variegated with dead cats and dogs or the remains of dead mules on the banking. The sun shone excessively hot, and the thermometer might have been 120°. We turned to the right and went down along the canal as far as Lake Pontchartrain, finding it all in the same condition until within a few rods of the lake. We drove back by a very different route.

Butler summoned the city superintendent of streets and canals and asked him what was the matter with the canal.

"Nothing, that I know of, General."

"Have you been up lately to the head of it?"

"Yes; there yesterday."

"Didn't you observe anything special when you were there?"

"No, General."

"Not an enormous stink?"

"No more than usual, General; no more than there always is."

"Do you mean to tell me that the canal always looks and stinks like that?"

"In hot weather, General."

"When was it cleaned out last?"

"Never, to my knowledge, General."

"Well, it must be cleaned out at once, and that nuisance abated."

"I cannot do it, General."

"Why not?"

"I don't know how."

"Very well, your services are no longer required by the government for the city. I will find somebody who does know how. Good-morning, sir."

Fearing that the Confederates were "relying largely upon the yellow fever to clear out the Northern troops," Butler obtained a history of the yellow fever epidemic that struck New Orleans in 1853, he found a map shaded to indicate the areas of the city heaviest hit by the epidemic, and he inspected those areas. "I thought I detected why it raged in those spots," said Butler, "they were simply astonishingly filthy with rotting matter."

Butler instituted a program to fight the fever. First, he established "a very strict quarantine," stopping vessels entering the port for inspection by a health officer. Any ship found with sickness on board was required to stay away for forty days and then undergo reinspection. No ship coming from a port where yellow fever was raging was allowed to come in for forty days.

The second part of his program was more ingenious, it being the solution to two problems at once. Butler explained the second prong of his attack this way:

New Orleans, June 4, 1862.

To the Military Commandant and City Council of New Orleans:

General Shepley and Gentlemen:—Painful necessity

compels some action in relation to the unemployed and starving poor of New Orleans. Men willing to labor cannot get work by which to support themselves and families, and are suffering for food.

Because of the sins of their betrayers, a worse than the primal curse seems to have fallen upon them: "In the sweat of thy face shalt thou eat bread until thou return unto the ground."

The condition of the streets of the city calls for the promptest action for a greater cleanliness and more perfect sanitary preparations.

To relieve, as far as I may be able to do, both difficulties, I propose to the city government as follows:

... The city shall employ upon the streets, squares, and unoccupied lands in the city, a force of men, with proper implements, and under competent direction, to the number of two thousand, for at least thirty working days, in putting those places in such condition as, with the blessing of Providence, shall insure the health as well of the citizens as of the troops.

The necessities of military operations will detain in the city a larger number of those who commonly leave it during the summer, especially women and children, than are usually resident here during the hot months. Their health must be cared for by you; I will care for my troops. The miasma which sickens the one will harm the other. The epidemic so earnestly prayed for by the wicked will hardly sweep away the strong man, although he may be armed, and leave the weaker woman and child untouched.

Thus General Butler planned his clean-up campaign in New Orleans as a form of poverty relief. He would put men, unable to find work in this commercial city brought to stagnation by war and blockade, on public-works jobs provided by the government. There is a consistent strand in Butler's otherwise varied career leading from his serving as counsel for the factory girls in Lowell, Massachusetts to his public-works program in New Orleans and perhaps even to his later association with the Greenback party.

"To do these things required much money," Butler pointed out needlessly. "The poor had to be fed, the streets had to be cleaned, the protection from yellow fever had to be made sure, and able-bodied, idle men had to have employment to keep them from mischief and maintain their families. There was power enough to do all this, but in what manner could it be paid?" He also had to find funds to support the Charity Hospital and other hospitals in the city.



From the Lincoln National Life Foundation

Benjamin Franklin Butler (1818-1893), though he came from a family of modest economic circumstances, graduated from college and became a lawyer. He acquired considerable wealth through his law practice, but he was always identified as a friend of labor and the Catholic immigrants in his home State of Massachusetts. Butler's rule of New Orleans was but one in a series of controversial events in his political life, which saw him move from the Democratic to the Republican party and eventually become a candidate of the Greenback party before returning to Democratic ranks in 1879.



Butler's solution—embodied in Order No. 55 which ultimately occasioned the letter to Lincoln reprinted in this *Lincoln Lore*—he explained this way in *Butler's Book*:

I had the documents to show me that not long before we came, there had been a "city defence fund" committee organized to receive subscriptions and issue bonds to the amount of a million dollars to the subscribers to that fund, which bonds were to bear quite a rate of interest. These subscriptions had been paid.

A large portion of them were those of rich foreign-born men, some of whom had taken the oath of allegiance to the United States, but almost all of whom had taken the oath of allegiance to the Confederacy. And there was another class of citizens, cotton planters, who had issued a paper advising that no cotton should be brought to the city as a matter of merchandise.

I assumed that I should need for my expenditure a sum between \$500,000 and \$700,000, and I ordered that an assessment equal to one half of the subscriptions to the "fund," and a sum equal to one hundred dollars for each of the offenders of the other class should be paid to my financial agent forthwith, with which to pay for this work that had been and was being done. I held that these men had made the expenditure necessary and therefore these men should pay for it. That order, it is needless to say, was enforced, and it is also needless to say, was the cause of protests of the foreign consuls in behalf of "neutral" forsworn rebels.

Butler justified his means of funding in several ways. One justification came from the standpoint of retributive justice: "There seemed to me no such fit subjects for . . . taxation as the cotton brokers who had brought the distress upon the city, by thus paralyzing commerce, and the subscribers to this loan, who had money to invest for purposes of war, so advertised and known as above described." It had been unofficial Confederate diplomatic policy to bring European intervention on the side of the South by cutting off Europe's cotton supplies, forcing European nations to end the Civil War in order to re-

store the flow of "King Cotton" to their textile mills. The cotton factors were thus aiding the cause of Southern independence by requesting that planters not bring their cotton to the city for export to Europe. This also served to paralyze trade and induce the economic depression in the city Butler was attempting to relieve.

To the protests of foreign ministers that he was levying a tax upon foreigners, Butler replied that much of the economic relief—perhaps as much as ninety per cent—went to poor foreigners in New Orleans. Moreover, Butler complained, foreigners played both ends against the middle by taking oaths of allegiance to the Confederacy and then claiming neutrality when United States authorities assumed command. Some apparently claimed they subscribed funds merely as an investment for the sake of the profit to be derived from the venture rather than for the political purpose of aiding the Confederacy. Replied Butler: ". . . is the profitability of the investment to be permitted to be alleged as a sufficient apology for aiding the rebellion . . . ?" Throughout the discussion in *Butler's Book*, the tone of the remarks is that the foreign residents of New Orleans were hypocrites and secessionist sympathizers.

Finally, there was the obvious point of Butler's welfare measures: "Further, in order to have a contribution effective, it must be upon those who have wealth to answer it." If the poor were starving, only the rich could afford relief.

Butler seems not to have known what happened in New Orleans after he was relieved as commander of the Department of the Gulf by General Nathaniel P. Banks in December, 1862. Order No. 55 was sustained by Butler's superiors on December 9, 1862, on which date he renewed the assessment, the fund having been exhausted. However, as Butler related it,

I was relieved by General Banks six days after. As the time this assessment was to be paid was at the expiration of seven days [i.e., December 16], and I was relieved before that time, of course nobody paid the assessment according to the order. Within thirty days General Banks found himself under the necessity of renewing the order and did so. But nobody paid the slightest attention to it and nobody paid anything afterwards on that order, and it stands to-day unrepealed, uncancelled, and unexecuted. But the necessities of the poor remained the same, and if they were relieved it must have been from some other source.

If the letter from Mr. Touro is correct, then Butler was in error on this point, for the letter asserts the assessment was made and paid at least two times after Butler's departure from New Orleans. Still, Butler's own testimony in *Butler's Book* is rarely heard, though we often hear of the "Beast," as he was called by Southerners. William B. Hesseltine's claim, for example, that Butler "soon had the destitute poor, white and black, of the city working on public works and supported by the fines extracted from the Secessionists" completely ignores the account in *Butler's Book*. General Butler apparently budgeted "fifty thousand dollars a month" to feed "the poor whites of New Orleans." He fed "the negroes at a cost" which he "never knew, because they received their provisions from the supplies of the soldiers." Thus despite his reputation as a daring humanitarian (gained by claiming that Negroes who escaped to his lines were "contraband of war" not to be returned to their masters), Butler claimed he used the controversial fund provided for in Order No. 55 to feed only the white citizens of New Orleans. Historians have been quick to listen to Butler's detractors, but have hardly heeded his own testimony at all. *Butler's Book* reveals a man engaged in pioneering efforts in public health and in relief through public works who is less well known than the "Beast." Also lost in the recriminations over Butler's harshness or corruption is the fact that his reputation for dealing with civilians and escaped slaves was already well established before Lincoln appointed him head of the Department of the Gulf with the responsibility of ruling New Orleans.

Touro's letter bears more on the administration of Butler's successors (notably, it does not protest the pay-



From the Lincoln National Life Foundation

Nathaniel Prentiss Banks (1816-1894) was, like Benjamin Butler, a one-time Massachusetts Democrat, and not a professional soldier. He succeeded Butler as commander in New Orleans in December, 1862, and at first initiated a policy apparently meant to be more moderate than Butler's. After a brief period Banks returned to Butler's policies, including taxation of supporters of the Confederacy to provide relief for the poor of the city. In 1864, Banks initiated elections for Louisiana State offices and for a constitutional convention and lobbied unsuccessfully in Washington for acceptance of this government as the legal government of Louisiana. Unlike Butler, Banks went from the Democratic party to the Republican party via the anti-Catholic and anti-foreign Know-Nothing or American party. Like Butler, Banks would eventually return to Democratic ranks.



ment made under Butler's original order) and on the legal effect of Abraham Lincoln's proclamation of amnesty than on Butler's own administration. Despite Butler's belief that the assessment was not collected after his departure, this letter and others indicate that Order No. 55 was renewed. Historians seem to be in doubt, however, about how much was actually collected.

It is also true that Major-General Hurlbut's (his name was misspelled by Mr. Touro) General Order No. 144 can be found in the *Official Records of the War of the Rebellion*. This order renewed Butler's assessment against those who had subscribed to the committee of safety. Attached to the order was a schedule of names of contributors, the amount they contributed to aid the defense of New Orleans before the Federal take-over, and the amount they were assessed for the fund for the relief of the poor (the latter was a certain percentage of the former). Gone from Hurlbut's order, however, was the schedule of names of cotton factors who requested planters not to bring their cotton to New Orleans. There is no explanation given in the order for the exclusion of this group, but doubtless the ability of the cotton factors to pay anything was much diminished by 1864 because of the strangulation of commerce caused by the naval blockade and the Federal occupation of New Orleans. It would no longer have been a case of taxing those ablest to pay. At the time, Butler had been replaced by General Banks, but Banks was temporarily away from the Department and General Hurlbut had been left in command by Banks. The name Giquel appears in the schedule of contributors to the committee of safety in both General Orders No. 55 and No. 144. It appears as "Giquel and Jamison," a firm, apparently, which had contributed \$7,500 to the committee of safety and which was assessed \$1,875 for the poor-relief fund. The name of John Touro appears once in Roy P. Basler, *The Collected Works of Abraham Lincoln* (New Brunswick: Rutgers University Press, 1953). Governor Michael Hahn of Louisiana sent a letter to Secretary of War Edwin M. Stanton on August 9, 1864. This letter introduced Touro, who was presenting claims for supplies taken from New Orleans citizens by the United States Army. Lincoln begged off dealing with the problem on August 12. Apparently Touro stayed around Washington to press other claims made by Louisiana citizens.

The claim referred to in the letter to Lincoln acquired by the Library and Museum is based on the contention that taking the oath of amnesty exempted residents of former Confederate territory from Federal martial law and thus from Hurlbut's Order No. 144. Lincoln's Proclamation of Amnesty and Reconstruction of December 8, 1863 offered a pardon to participants in rebellion and restoration of their property rights (with the exception of slave property) if they subscribed to an oath to the Constitution and the Union. They also had to swear to obey Congressional acts and Presidential proclamations affecting slaves. Seemingly, this would exempt oath-takers from arbitrary martial law, but since Congress controlled the recognition of their own membership, a State could gain no recognition in Congress without Congress's approval. The question of what laws governing property the oath-taker would be under was simply a chaos. The United States Constitution did not anticipate a civil war, and the question of what conditions had to be met for a state to resume its normal relations with the federal government would vex the President and Congress until 1877. The outcome of this petition (it is not endorsed by Lincoln) is as yet unknown, and the fate of Mr. Giquel and Touro's other petitioners was just one part of the complex legal and political problems that constituted the era of Reconstruction.

### A FURTHER NOTE ON WHITING'S WAR POWERS

In the May, 1973 issue of *Lincoln Lore* (Number 1623), space did not permit discussion of two questions that bear on the article entitled "I like Mr. Whiting very much..." The first is a problem suggested by David Donald in his article "Abraham Lincoln: Whig in the White House" (in Donald's *Lincoln Reconsidered: Essays on the Civil War Era* [New York: Random House,

1956]). Donald contends that Lincoln's rather expansive view of the war powers of the President of the United States was a legacy of his twenty-year identification with the Whig party in politics. His arguments rests on two points, both of which are relevant to the previous discussion of Lincoln and Solicitor Whiting: (1) Whiting was a former Whig, and (2) the President's power to abolish slavery as a war measure had been enunciated by John Quincy Adams, who had been an opponent of Andrew Jackson and the Democratic party.

Whereas a powerful case can be made for the influence of the Whig party's ideology on Lincoln's economic ideas, Donald's case for its influence on Lincoln's constitutional view of the war powers of the executive is unconvincing. If William Whiting was a former Whig, so also was Lincoln's Attorney General, Edward Bates of Missouri. Bates was as persistent a Whig as Lincoln, remaining impervious to the beckoning of the new Republican party at least as late as 1856, when he served as president of the Whig national convention held in Baltimore. Yet his constitutional views fell a good deal short of Whiting's and Lincoln's. Bates differed with Lincoln on the question of admitting West Virginia to the Union, equating its removal from Virginia as itself a form of secession. Although he at first upheld the President's suspension of *habeas corpus*, by 1863 he feared "a general and growing disposition of the military, wherever stationed, to engross all power." Likewise, Bates never questioned the President's power to emancipate slaves as a war measure, but the following observation made by Bates during the war was precisely opposite in spirit to William Whiting's work:

Surely Cicero was right when he said that "in every Civil war, Success is dangerous, because it is sure to beget arrogance and a disregard of the laws of the Government—" (i.e. the Constitution) [.]

These men, flattered with a little success, have opened up to themselves a boundless source [sic] of power. When the constitution fails them, they have only to say "this is a time of war—and war gives all needed powers"!

I am afraid that this Congress is becoming perfectly Radical and revolutionary.

Whiggery by no means led Bates to Whiting's views.

Moreover, as Donald himself admits, John Quincy Adams was not a Whig. When he was elected to Congress in 1831 and returned for eight successive terms, former President Adams ran without specific support from any party in Massachusetts.

More illuminating is some of the information provided by Donald W. Riddle's study of Lincoln's single term in the House of Representatives (*Congressman Abraham Lincoln* [Urbana: University of Illinois Press, 1957]). While serving in Congress, Lincoln had a chance to express an opinion on two of the precedents cited by William Whiting as proof that war even in the United States had meant extraordinary governmental powers over property in slaves.

Lincoln acted differently in each case. When a private bill came up to provide compensation to the owner of a slave abducted by the British during the War of 1812, Lincoln voted for it. Later a bill was proposed to pay compensation to the heirs of one Antonio Pacheco. Pacheco's slave had been hired by the United States Army as a guide and interpreter in the interminable Seminole wars. The slave was captured by the Indians. When Pacheco claimed him later, the Army said that the slave had cooperated with the Indians after he was captured by them and that therefore he must be transported out of the state with the vanquished Indians. Pacheco then sought compensation for the loss of his slave. Anti-slavery Congressmen contended that no compensation should be voted on the grounds that there was no such thing as property in another man. Lincoln voted that payment should not be made to Pacheco, voting with the majority and taking the floor to make sure his vote was properly recorded. Later the bill was reconsidered. Lincoln voted against the move to reconsider, and he voted against the bill again when it was reconsidered (although this time he was in the minority).