**Executive Order - Unnumbered**

**Emancipation Proclamation**

**President: Abraham Lincoln**

**Year: 1863**

**Executive Order Summary**

The Emancipation Proclamation granted freedom to the slaves in the Confederate States if the States did not return to the Union by January 1, 1863. In addition, under this proclamation, freedom would only come to the slaves if the Union won the war. President Abraham Lincoln issued the Emancipation Proclamation on January 1, 1863, as the country entered the third year of the Civil War. It declared that "all persons held as slaves … shall be then, thenceforward, and forever free"—but it applied only to states designated as being in rebellion, not to the slave-holding border states of Delaware, Kentucky, Maryland, and Missouri or to areas of the Confederacy that had already come under Union control.

**Historical Background Information**

Lincoln first proposed the idea of the Emancipation Proclamation to his cabinet in the summer of 1862 as a war measure to cripple the Confederacy. Lincoln surmised that if the slaves in the Southern states were freed, then the Confederacy could no longer use them as laborers to support the army in the field, thus hindering the effectiveness of the Confederate war effort. As an astute politician, however, Lincoln needed to prove that the Union government could enforce the Proclamation and protect the freed slaves. On September 22, 1862, following the Union “victory” at the Battle of Antietam, the Preliminary Emancipation Proclamation was issued, this preliminary proclamation would go into effect three months later on January 1, 1863. The Emancipation had an immediate and profound effect on the course of the war. In addition to saving the Union, freeing the slaves now became an official war aim, garnering passionate reactions from both the North and the South. The measure was extremely popular in the north, giving a new focus for the war. The south was adamantly opposed. The Proclamation also allowed for African-Americans to join the Union’s armed forces, and by the end of the war nearly 200,000 would honorably serve. Initially the Proclamation applied just to the states in rebellion, but it paved the way for the 13th Amendment, adopted on December 6, 1865, which officially abolished slavery in the United States.

**Presidential Justification of Action**

President Lincoln justified the [Emancipation Proclamation](http://www.civilwar.org/150th-anniversary/emancipation-proclamation-150.html) as a war measure intended to cripple the Confederacy. Being careful to respect the limits of his authority, Lincoln applied the Emancipation Proclamation only to the Southern states in rebellion. The Southern states used slaves to support their armies on the field and to manage the home front so more men could go off to fight. In a display of his political genius, President Lincoln shrewdly justified the Emancipation Proclamation as a “fit and necessary war measure” in order to cripple the Confederacy’s use of slaves in the war effort. Lincoln also declared that the Proclamation would be enforced under his power as Commander-in-Chief, and that the freedom of the slaves would be maintained by the “Executive government of the United States.”

**Opposition to the Executive Order**

When President Lincoln first proposed the Emancipation Proclamation to his cabinet in the summer of 1862, many of the cabinet secretaries were apathetic, or worse, worried that the Proclamation was too radical. Despite his defense of the proclamation as a military measure, Lincoln retained lingering doubt about its constitutionality. While he felt the courts would sustain it as a war measure, he questioned its force once peace was proclaimed. "A question might be raised," he conceded, "whether the proclamation is legally valid. It might be urged that it only aided those that came into our lines, and that is was inoperative as to those who did not give themselves up." Moreover, the courts might decide that the terms of the proclamation did not extend to the children of slaves freed by it.