



THE COTTAGE COURIER

Vol. 16

www.lincolncottage.org

Summer 2012



View a Civil War encampment featuring the Bucktails at the 1st Annual Family Day on Saturday, Sept. 29th.

UPCOMING PROGRAMS

September 22: Launch of the *Emancipation Theme Tour*

Explore Lincoln's road to emancipation with the *Emancipation Theme Tour*, offered in conjunction with the display of the Emancipation Proclamation at the Cottage through February 2013.

For more information: www.lincolncottage.org

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From the Director



Dear Friends,

This month I have major homecomings and anniversaries on my mind. My husband and I recently welcomed our second child into the world. Many veteran parents have warned me that one word summarizes what we are about to experience: "chaos." Nevertheless, we look forward to bringing our new baby home, switching to zone-defense parenting - we're told man-to-man won't work - and doing everything we can to nurture well-rounded, selfless, responsible little citizens.

Parenthood might be chaotic, but for some perspective I can simply look out my office window at the Cottage, and contemplate what Lincoln was dealing with 150 years ago this month.

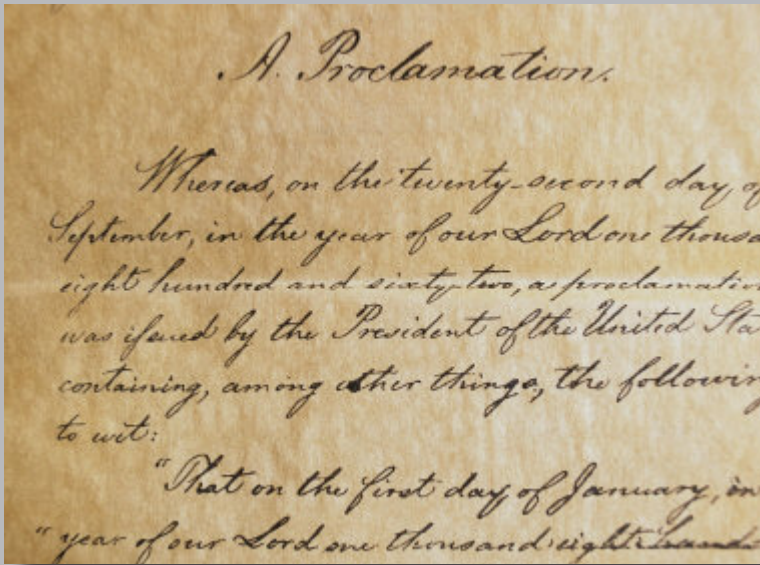
Dr. Allen Guelzo referred to the Cottage as the "Cradle" of Lincoln's Emancipation Proclamation in a piece he wrote for us years ago, and it has always struck me as the most appropriate explanation for why this place is singularly important to Lincoln's presidency and our national fight for freedom. Lincoln himself said if his name ever goes into history it will be for the act of issuing the Emancipation Proclamation. By contemporary accounts, he not only nurtured his ideas about emancipation here, he drafted pieces of the document here. Living here resulted in him making a regular commute through the city, during which time he passed Contraband Camps, caravans of wounded soldiers, and the many soldiers being buried in the first national cemetery for soldiers. Seeing all of these people each day and interacting with them influenced his thinking on the Civil War and freedom.

We have to remember that, as important and nation-changing as it was, the Emancipation Proclamation was just one of many things consuming Lincoln while he was living here in the summer of 1862. August 17th was the 150th anniversary of the start of the Dakota Conflict. Hundreds died in one of the largest Indian wars in American history, which took place in the midst of the Civil War - our bloodiest war in American history. All told, 1500 Dakota were put on trial by a U.S. military commission, and over 300 were sentenced to death. In this issue of the Cottage Courier, we feature an article by Burrus Carnahan, a George Washington University Professorial Lecturer in Law and one of our Scholarly Advisors, that focuses on the aftermath of the Dakota Conflict. Mr. Carnahan's research offers new insight into Lincoln's involvement in the review and ultimate commutation of nearly 90% of the death sentences. Please let us know what you think.

Lastly I want to share great news about the ultimate homecoming. President Lincoln's Cottage is buzzing over the honor of being the first public venue to display the rare, signed copy of the Emancipation Proclamation recently acquired by David M. Rubenstein. We look forward to welcoming the proclamation "home." It will be on display by September 22nd, the 150th anniversary of Lincoln issuing the preliminary proclamation and will remain on loan to us through the end of February 2013. We hope you can come see it, take our new Emancipation Tour launching the same day as the anniversary, and join in our tweeting and Facebook posting about the proclamation.

We hope to hear from you soon!

Erin Carlson Mast, Director
EMast@savingplaces.org



Join us as we welcome *The Emancipation Proclamation* to the Cottage

A rare, signed copy of the Emancipation Proclamation will be on display at the Robert H. Smith Visitor Education Center from September 22, 2012 through the end of February 2013.

In recognition of the Emancipation Proclamation's display, two themed tours will be available this autumn.

The 'Emancipation Theme Tour,' launching on September 22, 2012 and offered on Tuesdays and Thursdays at 3:00 pm, explores Lincoln's road to emancipation.

In the 'Running For Reelection' tour, launching on October 13, 2012 and offered on Sundays and Mondays at 3:00 pm, discover how the Cottage provided a unique setting for Lincoln as he strategized with allies and foes, articulated his vision for the nation, and stood firm in his commitment to liberty, union, and victory.

Special Event Packages



PRESIDENT LINCOLN'S COTTAGE
AT THE SOLDIERS' HOME

It is with great pleasure that we introduce to you for the first time, Rental Packages for private and corporate events, meetings, and retreats at President Lincoln's Cottage!

Our new packages reflect our most popular offerings and provide special savings for events of all sizes. Please take a look at these fabulous options and consider having a memorable gathering at this special place.

For more information, visit www.lincolncottage.org/visit/site-rental or contact Sahand Miraminy at 202-829-0436, x31232.

CAN YOU WALK AWAY?

MODERN SLAVERY & HUMAN TRAFFICKING IN THE UNITED STATES

OPEN THROUGH AUGUST 2013



“This is the ideal year to visit President Lincoln’s Cottage, the very place where Lincoln nurtured and developed the Emancipation Proclamation 150 years ago. The Cottage’s current exhibit, *Can You Walk Away?*, provides an invaluable lens through which the public can view our country’s ongoing struggle with slavery, both in the historical context and in present day trafficking. Exhibits like this are evidence of the way historic places can shape the way we live in the present.”

- Former First Lady Laura Bush

1st Annual Family Day! Saturday September 29, 10 am-3 pm

Bring your family and friends to enjoy the Lincolns’ Cottage as they once did through an array of activities and demonstrations. Perfect for family members of all ages!

In addition to regular tours of the Cottage, look forward to a petting zoo, live music from the Washington Revels’ Jubilee Voices, a reenactment of the Bucktail soldiers, DIY top hat activities, & fresh food from local vendors, all on the grounds of the Soldier’s Home.

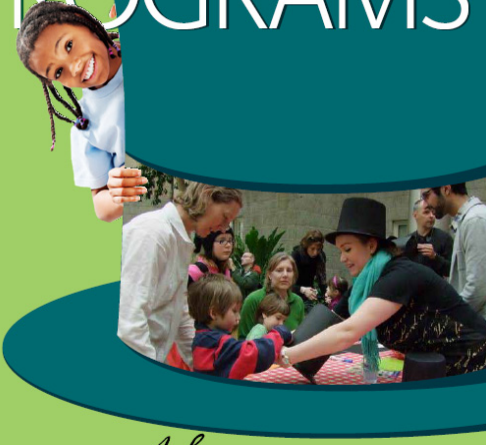
And while you’re on site, don’t forget to view the newly unveiled Emancipation Proclamation.



This is a FREE event!

[CLICK HERE](#) for more information and to register.

2012-2013
SCHOOL PROGRAMS



A Lincoln
 PRESIDENT LINCOLN'S COTTAGE
 AT THE SOLDIERS' HOME
 www.lincolncottage.org

Schedule your class trip to the Cottage!

To schedule your class field trip to President Lincoln's Cottage, please email LincolnEd@savingplaces.org or call (202)829-0436 x31232.

To receive your copy of the 2012-2013 school programs brochure, email LincolnEd@savingplaces.org.

Cottage Conversations

2012-2013 Season

Oct. 25, 2012: Walter Stahr.
Seward: Lincoln's Indispensable Man
 Dec. 13, 2012: Louis Masur.
Lincoln's Hundred Days: The Emancipation and the War for the Union
 Feb. 2013: TBA
 Mar. 21, 2013: James Oakes.
Freedom National: The Destruction of Slavery in the United States
 Apr. 25, 2013: Hon. Frank J. Williams.
The Mary Lincoln Enigma: Historians on America's Most Controversial First Lady



6:00 pm reception (\$10)

6:30 pm lecture (\$10)

Tickets: Call 202-829-0436 or email

SMiraminy@savingplaces.org

More info: www.lincolncottage.org

Ensuring a Sustainable Future for President Lincoln's Cottage

We are thrilled to announce that a \$1,500,000 challenge grant has been awarded to President Lincoln's Cottage by the Robert H. Smith Family Foundation. This five-year pledge will enhance our marketing and development efforts as we continue raise national awareness, substantially improve the character, impact, and sustainability of the Robert H. Smith Visitor Education Center, and upgrade the technology driving the Lincoln's Toughest Decisions program, among many other important initiatives. The Smith family played an integral role in the restoration of President Lincoln's Cottage and in developing the interactive visitor experience offered today. We are honored to continue this partnership with the family's foundation.

Recently President Lincoln's Cottage also secured a grant from the Institute of Library and Museum Sciences to launch a Visitor Experience Re-Vision (VERV) project. This support will help PLC solidify its place as a model of a 21st Century Historic Site by incorporating user-friendly methods that can adapt the Cottage tour for diverse audiences. PLC will deliver a seamless experience that responds to the interests and knowledge of the visitor and provides a way of recording and exchanging ideas amongst staff.

Coming Soon... Our New Website!

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AT THE SOLDIERS' HOME

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Today's Hours: 9:30am-4:30pm

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LincolnsCottage

Emancipation150
#CountdowntoEP 16: In signing me, Lincoln declared that over 3 million

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Website made possible by the National Endowment for the Humanities and the National Trust for Historic Preservation

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Lincoln and the 1862 Minnesota Sioux Trials

By Burrus M. Carnahan

One hundred and fifty years ago the Upper and Lower Sioux Reservations were located in southwestern Minnesota on a thin strip of land on the south side of the Minnesota River. After their traditional hunting grounds had been depleted by fur trapping and white settlement, the Dakota, or Sioux,¹ ceded the rest of southwestern Minnesota to the U.S. government via a series of treaties in exchange for annual monetary payments.

The government payment was usually distributed in June. In 1862, however, it was late in arriving.

On August 17, 1862, four young Dakota men from the Lower Sioux Reservation went hunting for game. One of them found some eggs in a hen's nest near a white settler's farm. When another warned that taking the eggs would cause trouble with the whites, he was accused of being a coward, afraid of the white men. Accusations

and denials flew back and forth, and tempers rose. In the end, to prove they were not afraid of the whites, the four hunters killed five white settlers at random, three men and two women.

When the young men returned to the Lower Reservation the next morning, the Dakota leaders realized that they would have to either turn them over to the U.S. and Minnesota authorities or go to war. The Minnesota Dakota had suffered years of dishonest treatment at the hands of white

traders and government agents. The money due them by the treaties was two months overdue with no guarantee — or faith — that it would ever arrive. Although several Dakota leaders pointed out their dismal odds of winning a war against the United States, and accurately predicted that their people would lose their remnant of land in Minnesota as a result of escalating the conflict, the contentious debate nevertheless resulted

soldiers from the 7th Regiment of Minnesota Volunteer Infantry camped at Birch Coulee. According to a contemporary historian, the brief war killed 42 Dakota, 93 Minnesota Volunteer soldiers and 644 white civilians.³

By Civil War standards the battles with Little Crow were small skirmishes, with fewer than a thousand men engaged on each side, but they terrified the people of Minnesota. On

August 21, Minnesota Governor Alexander Ramsey telegraphed Secretary of War Edwin Stanton that the "Sioux Indians on our western border have risen, and are murdering men, women, and children."⁴ When the uprising broke out, Lincoln's secretary John Nicolay and U.S. Commissioner of Indian Affairs William P. Dole were both in Minnesota to negotiate a treaty with the Chippewa. On August 27 they and Minnesota Senator Morton S. Wilkinson sent a joint telegram to President



"Massacre of Minnesota settlers." Western History Genealogy Department, Denver Public Library

in the final decision to go to war, under the leadership of a chief named Little Crow.²

Over the next week, Little Crow led the main body of Dakota warriors in attacks on the government Indian Agency at Redwood, the town of New Ulm and the Fort Ridgely army post. Smaller Dakota bands fanned out to attack homesteads and settlements. Adult men were generally killed, but women and children were often taken captive. Another battle occurred on September 2, when Little Crow's force attacked a detachment of

Lincoln asserting that they were "...in the midst of a most terrible and exciting Indian war. Thus far the massacre of innocent white settlers has been fearful. A wild panic prevails in nearly one-half of the State."⁵

In response, on August 19 Governor Ramsey appointed Henry H. Sibley as a colonel of Minnesota Volunteers and ordered him to lead an expedition against the Indians. Sibley, a wealthy fur trader, was also a popular Democratic politician who had represented the Minnesota Territory in Congress and

served as the state's first governor when it received statehood in 1858.⁶ On September 19, Sibley's command advanced north from Ft. Ridgely towards Little Crow's camp.

The decisive battle of the campaign came at Wood Lake on September 23, where Little Crow's forces were defeated. After Sibley told them that he only wanted to punish the guilty, anti-war Dakota leaders seized control of the captives and offered to surrender, while Little Crow and his followers fled. Two days later, the remaining Dakota surrendered 91 "pure white women and children," along with approximately 150 captives of mixed ancestry.⁷ On October 9, General John Pope, commander of the Department of the Northwest, reported to Washington that the "Sioux war may be considered at an end."⁸

After securing the captives, Sibley reported to General Pope that he immediately "issued an order appointing a military commission, consisting of ... Colonel [William] Crooks, Lieutenant-Colonel [William] Marshall, and Captain [Hiram] Grant, for the examination of all the men, half-breeds as well as Indians, in the camp near us, with instructions to sift the [background] of each, so that if there are guilty parties among them they can be arrested and properly dealt with."⁹ Rev. Stephen R. Riggs, who had been a missionary to the Dakota and accompanied Sibley's force as chaplain, was also involved in investigating possible charges. There was a general assumption in Minnesota that almost all the captured women had been raped, and the commission members appear to have believed that female captives would be more comfortable discussing sexual mistreatment with a man of the cloth rather than a panel of militia officers. One of the captives, Sarah Wakefield, described the process as follows:

"In the afternoon they had a sort of court of inquiry, and we [captives] were all questioned by Col. Crooks and [Lt. Col.] Marshal [sic], ... [Rev.] S.R. Riggs and others. I was the first one questioned. I related to them briefly what [happened] ..., after which, Col. Marshall said 'If you have anything of a more private nature to

*relate, you can communicate it to Mr. Riggs.' I did not understand until he explained himself more fully. I told them it was just as I related, it was all. They thought it very strange I had no complaints to make, but did not appear to believe me."*¹⁰

On September 28, Colonel Sibley issued an order converting the military commission from an investigating body to a trial court. Two additional members were added, Captain Hiram Bailey and First Lieutenant Rollin Olin, and the commission was directed to "try summarily" those brought before it and "pass judgment upon them, if found guilty of murders or other outrages." A local lawyer and volunteer militiaman, Isaac Heard, was detailed to record the trial proceedings, and the results were to be reported to Sibley for review. Finally, Sibley's order instructed the commission members to "be governed in their proceedings by Military Law and usage."¹¹ Unfortunately, none of the members knew very much about military law and usage. That included the senior member, or president, of the commission, Colonel Crooks. Although he was a West Point graduate (class of 1854), by 1857 he had left the Army to become a civil engineer for the first railroad in Minnesota.

The trials began on September 28 at Camp Release, the military post where the captives were first received. Initially the commission proceeded carefully. By October 4, twenty-nine trials had been held, but shortly thereafter Colonel Sibley made a decision that greatly expanded the commission's case load. According to Isaac Heard, as a result of the "evidence before the commission indicating that the whole [Dakota] nation was involved in the war," he ordered all the Dakota men who had surrendered to be disarmed, arrested and brought before the commission, which now had to deal with almost 400 defendants.¹² A standard form of charge was developed and reproduced, with a blank space for the name of the accused:

"In this that the said _____, Sioux Indian did join with and participate in the murders,



"Ka-ka-kel, Little Crow, a chief of the Mdewakanton Sioux"
Western History Genealogy Department, Denver Public Library

outrages and robberies committed on the Minnesota Frontier by the Sioux Tribe of Indians between the 18th day of August 1862 and the 28th day of September 1862 and particularly in the Battles at the Fort, Birch-Coulie [sic], New Ulm and Wood Lake."

This form gave the accused no effective notice of the real charges against him. Moreover, under this charge a Dakota man could be convicted and sentenced to death for simply participating in battles against white soldiers, such as the two attacks on Ft. Ridgely or the final battle at Wood Lake. As Isaac Heard explained, all that was required for conviction was evidence, or an admission by the accused, "that he had fired in the battles, or brought ammunition, or acted as commissary in supplying provisions to the combatants."¹³

By November 5, the commission had tried 397 persons and sentenced 307 to death. Sixteen, who had not participated in battles or raped or murdered civilians, were sentenced to prison for looting. The last 272 cases were tried in ten days. Sometimes 40 cases were disposed of in one day, and death sentences were imposed after trials lasting five minutes.¹⁴

Sibley, by now a Brigadier General, approved all but one of the death sentences. However, he had earlier told General Pope that he was “somewhat in doubt whether my authority extends quite so far” as to order the executions to be carried out, and therefore requested guidance from Pope.¹⁵ Sibley’s doubts were justified. In the summer of 1862 Congress had passed an act providing that in courts-martial and military commission trials, “no sentence of death, or imprisonment in the penitentiary, shall be carried into execution until the same shall have been approved by the President.”¹⁶ In the evening of November 7, General Pope telegraphed President Lincoln the names of 300 Dakota who had been condemned to hang. He began the telegram by informing the President that the “following named Indians have been condemned to be hung by the military commission assembled at the Lower Sioux Agency for the massacre [sic] of men & women & Brutal violating of women & young Girls in the late Indian outrages in Minn.”¹⁷ The lengthy telegram cost the U.S. government \$414.04.

The President read the telegram the next day and two days later directed Pope to “forward as soon as possible the full and complete record of their convictions; and if the record does not fully indicate the more guilty and influential of the culprits, please have a careful statement made on these points and forwarded to me.”¹⁸ Tweaking Pope for his long telegram, President Lincoln added, “Send all by mail.” The General, never known for his reticence, shot back the next day that “the only distinction between the culprits is as to which of them murdered most people or violated most young girls[:] all of them are guilty of these things in more or less degree.”¹⁹ Pope’s certainty on this point is remarkable, since the records of trial did not arrive at his headquarters in St. Paul until several days later, on November 15.

Lincoln’s decision to review the Dakota trial records has taken on a certain mythic quality. Historians stress the time and care the busy President personally devoted to the 300

records condemning to death members of a people despised by their white neighbors. For example, David Herbert Donald wrote that “... the President deliberately went through the record of each convicted man, seeking to identify those who had been guilty of the most atrocious crimes, especially murder of innocent farmers and rape.”²⁰ More recently, William Lee Miller described how Lincoln “personally – in the midst of Civil War pressures and woes – went through the records, one by one, of the convicted Sioux,” and “worked through the transcripts for a month.”²¹ Unfortunately, the chronology does not allow for the extensive examination by the President described by Lincoln’s biographers.

According to Chaplain Riggs, he delivered the 300 records of trial to Pope’s headquarters on November 15.²² The President reported to the Senate on December 11 that the records of trial were not received at the White House until “two or three days before the present meeting of Congress,” on December 1.²³ That would put the date of arrival at November 27 at the earliest. On November 26 and 27, Lincoln was visiting the Army of the Potomac to confer with its new commander, General Burnside,²⁴ so the earliest he would have seen the records was probably November 28. Lincoln’s telegram to General Sibley approving 39 executions was dated December 6, so at most Lincoln and his advisers had nine days to sift through 300 case files.

When he first glanced at the records of trial, the President was undoubtedly appalled. From years of legal practice before the Illinois courts, and his review of courts-martial and military commissions as president, he knew what a proper record of trial looked like. In contrast, the Minnesota records were a mess, hastily written on sheets of paper of different sizes and colors, even on half sheets torn in two. Some records had obvious defects, such a failure to record that witnesses had been sworn before testifying. Having requested the trial records, the

President found he did not have the time nor, perhaps, the desire to deal with the messy and politically divisive issues they raised. Minnesota had been a solidly Republican state, but when it was revealed that the President was even considering clemency for the Dakota, there was massive public outrage.²⁵ Governor Ramsey wired the President that if Lincoln didn’t want to approve the hangings, Ramsey was willing to do it for him.²⁶ General Sibley, who had ordered the trials and approved the sentences, was a Democrat and a local hero for having rescued the captives. The Republicans had already suffered electoral losses in the fall of 1862, following the Preliminary Emancipation Proclamation. Reviewing these records was the last thing the President needed as Congress reconvened and General Burnside prepared to attack Lee’s army at Fredericksburg. Lincoln asked his adviser on military law, Judge Advocate General Joseph Holt, whether he could delegate the task of approving the sentences to a subordinate; Holt replied that he could not.²⁷

Two subordinate officials, Francis A. Ruggles of the State Department and George C. Whiting of the Interior Department, were called to the White House to examine the records and ascertain which defendants had committed rape and to determine “those who were proven to have participated in massacres as distinguished from participation in battles.”²⁸ Applying these criteria, Ruggles and Whiting reported back on December 5 a list of 40 names, two of whom had been convicted of both rape and murder, and the rest of murder. The next day the President, having decided to accept the military commission’s recommendation to commute one prisoner’s death sentence to imprisonment, wrote a telegram to Sibley approving the execution of 39 Dakota. Another defendant later received executive clemency, and the remaining 38 were hanged at Mankato on December 26.²⁹

Lincoln did not refer the records to Judge Advocate General Holt for a legal review

November 27, 1862, Holt began prosecuting the court-martial of General Fitz John Porter, a task that would fully occupy him until the following January.³⁰ While both Ruggles and Whiting were lawyers, they were merely asked to determine whether any of the defendants merited executive clemency, based on the President's instructions, and not to determine the legality of the proceedings. However, the President's instructions to them embodied an important legal principle. In effect, Lincoln decided to treat the Dakota warriors the same way Confederate soldiers were treated. If captured, the latter were not punished for treason or murdering Union soldiers in battle, but held as prisoners of war. Similarly, the Dakota who had merely participated in battles would be kept in custody, but not punished for combat against armed whites.

One may wonder why Ruggles and Whiting, two undistinguished mid-level bureaucrats, were selected to review the records. There is a suggestive precedent from earlier in 1862. On February 27, Secretary of War Stanton, "by order of the President," appointed

General John Dix and Edwards Pierrepont to examine the cases of all political prisoners being held without trial, "to determine whether in view of the public safety and the existing rebellion they should be discharged or remain in military custody."³¹ Dix was a Democrat and Pierrepont a Republican, thereby insulating the administration from charges that prisoners were released or held based on their political persuasion.

Similarly, Ruggles was a Republican politician, a former Whig and Know-Nothing who played an important role in merging the New York Know-Nothings into the state Republican Party.³² Whiting was a Democrat, having been appointed to a patronage position by President Van Buren in 1838, and promoted to Commissioner of Pensions in 1857 by President Buchanan. He must have had anti-slavery credentials, since the Lincoln administration retained him to coordinate the prosecution of slave traders.³³ Again, the administration was insulated against accusations that it overturned 262 death sentences because

Sibley was a Democrat, or that by this unpopular act Lincoln had failed to take the interests of the Minnesota Republican Party into account.

Even after the hangings, President Lincoln continued to avoid the issue. In March 1863, on a visit to Washington, Governor Ramsey asked the President what he would do about the Dakota still in military custody. He replied that "it was a disagreeable subject but he would take it up and dispose of it."³⁴ He never did. He may have found the subject even more disagreeable a few days later, when a letter arrived from Sarah Wakefield, who reported that a Dakota man, who had saved her life and the lives of her children when they were captives, had been hanged by mistake, in place of a man with a similar name who had murdered a woman.³⁵ For whatever reason, Lincoln could never bring himself to decide the fate of all the captive Dakota, and many were still in custody at his death. As predicted by some of their leaders, the Dakota eventually lost all their land in Minnesota and were moved to a barren reservation in the Dakota Territory.

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Mr. Carnahan is a Foreign Affairs Officer at the US Department of State and a Professorial Lecturer in Law at the George Washington University in Washington DC. His JD degree is from Northwestern University (1969) and he holds an LL M from the University of Michigan (1974). From 1969 to 1989 he served as a Judge Advocate in the US Air Force, specializing in international legal issues. From 1974 to 1978 he was an Associate Professor of Law at the US Air Force Academy. The author of two books and numerous articles on Abraham Lincoln, international law, and the law of war, he has spoken on Lincoln and his era at the Abraham Lincoln Institute Symposium at the National Archives, the Gettysburg College Civil War Institute, the Filson Historical Society in Louisville, Kentucky, and many other venues.

Mr. Carnahan is a member of the inaugural President Lincoln's Cottage Scholarly Advisory Group.

1. The people called themselves the Dakota, though they were commonly referred to as the Sioux by the U.S. government and American whites. The word "Sioux" is a contraction of a name coined by their traditional adversaries, the Chippewas, and means "enemy" in that language. Duane Schultz, *Over the Earth I Come: The Great Sioux Uprising of 1862*, p. 16 (St. Martins, 1992).

2. For general accounts of the origins and conduct of the war, see Duane Schultz, *supra*; Kenneth Carley, *The Dakota War of 1862* (2nd ed., Minn. Historical Society, 1976); and Isaac D. Heard, *History of the Sioux War and Massacres of 1862 and 1863* (Nabu facsimile reprint of 1863 ed.). Heard was a contemporary witness to events who served as a member of the Minnesota militia during the fighting and acted as official recorder of the military commission trials. Like many whites of his time, he regarded the Dakota as savages, but also believed that the U.S. government had treated them unjustly and deserved much of the blame for the outbreak of the war. Heard's accounts of debates among the Dakota were based on interviews with the surviving Dakota participants.

3. Isaac D. Heard, *supra* note 2, pp. 243, 248.

4. Ramsey to Stanton, August 21, 1862, in *The War of the Rebellion: A Compilation of The Official Records of The Union and Confederate Armies*, series 1, vol. XIII, p. 590 (U.S. Govt. Printing Office, 1885) (hereinafter *Official Records*).

5. Wilkinson. Dole and Nicolay to the President, August 27, 1862, in *Official Records*, series 1, vol. XIII, p. 599.

6. "Henry H. (Hastings) Sibley," Minnesota Historical Society website, http://www.mnhs.org/people/governors/gov/gov_04.htm; Duane Schultz, *supra* note 2, pp. 88 – 92.

7. Sibley to Pope, September 27, 1862, in *Official Records* series 1, vol. XIII, p. 679. More captives were freed as other Dakota bands who had retained their captives were either captured or surrendered, raising the number to 107 whites and 162 of mixed ancestry, for a total of 269 captives freed. Kenneth Carley, *supra* note 2, p. 65.

8. Pope to Halleck, October 9, 1862, in *Official Records*, series 1, vol. XIII, p. 607.

9. Sibley to Pope, September 27, 1862, *supra*.

10. Sarah F. Wakefield, *Six Weeks in the Sioux Tepees*, pp. 113-14 (June Namias ed., U. of Oklahoma Press, 1997; originally published in 1864).

11. Order No. 55, Headquarters Camp Release, September 28, 1862. The order can be found at the beginning of each of the 39 records of trial submitted by President Lincoln to the Senate on December 11, 1862, Ex.

12. Doc. No. 7, 37th Congress, Third Session, U.S. National Archives Record Group 46. Lt. Col. Marshall was later relieved to perform other military duties, and Major George Bradley named to replace him. Isaac Heard, *supra* note 2, p. 251. Isaac Heard, *supra* note 2, p. 188. See also Duane Schultz, *supra* note 1, pp. 245-47.

13. Isaac Heard, *supra* note 2, p. 269.

14. Id. pp. 254-55; Duane Schultz, *supra* note 1, p. 252; Kenneth Carley, *supra* note 2, p. 69.

15. Sibley to Pope, September 28, 1862, in *Official Records*, series 1, vol. XIII, pp. 686-87.

16. Act of July 17, 1862, chapter 201, section 5, 12 Stat. 597.

17. Pope to Lincoln, November 7, 1862, in the Abraham Lincoln Papers at the Library of Congress. It is not known why Pope did not include the other six defendants whose death sentences had been approved by General Sibley.

18. Lincoln to Pope, November 10, 1862, in *Official Records*, series 1, vol. XIII, p. 787; *The Collected Works*

of Abraham Lincoln, vol. V, p. 493 (Roy Basler, ed., Rutgers U. Press, 1953) (hereinafter *Collected Works*).

19. Pope to Lincoln, November 11, 1862, in the Abraham Lincoln Papers at the Library of Congress.

20. David Herbert Donald, *Lincoln*, p. 394 (1995). See also William Hesselstine, *Lincoln and the War Governors*, p. 276 (1972 reprint of 1948 Knopf ed.): "Then the President studied the trial records and concluded that only thirty-nine of the prisoners had committed crimes deserving death."

21. William Lee Miller, *President Lincoln: The Duty of a Statesman*, pp. 324-25 (Knopf, 2008).

22. Riggs to Lincoln, November 17, 1862, in the Abraham Lincoln Papers at the Library of Congress.

23. Message of the President in Answer to a Resolution of the Senate of the 5th Instant in Relation to the Indian Barbarities in Minnesota, December 11, 1862, Senate Ex.Doc. No. 7, 37th Congress, Third Session. Lincoln's message, without enclosures, appears in *Collected Works*, vol. V, pp. 550-51.

24. Lincoln to Halleck, November 27, 1862, in *Collected Works*, vol. V, pp. 514-15.

25. David A. Nichols, *Lincoln and the Indians*, p. 101-04 (U. of Missouri Press, 1978); Duane Schultz, *supra* note 1, pp. 254-58.

26. Ramsey to Lincoln, November 28, 1862, in the Abraham Lincoln Papers at the Library of Congress.

27. Lincoln to Holt, December 1, 1862, in *Collected Works*, vol. V, pp. 537-38; Holt to Lincoln, December 1, 1862, in the Abraham Lincoln Papers at the Library of Congress.

28. Message of the President, *supra* note 24. Emphasis in original.

29. Sibley to Lincoln, December 27, 1862, in the Abraham Lincoln Papers at the Library of Congress.

30. Joshua E. Kastenberg, *Law in War, War as Law*, pp. 86-89 (Carolina Academic Press, 2011).

31. Executive Order No. 2, Relating to Political Prisoners, War Dept., Washington, February 27, 1862, in *Official Records*, series 2, vol. II, p. 249.

32. For Ruggles' background see Roy Franklin Nichols, "Some Problems of the First Republican Presidential Campaign," *The American Historical Review*, Vol. 28, No. 3, April 1923, pp. 492-96; "Ruggles, Francis H." <http://www.ourcampaigns.com/CandidateDetail.html?CandidateID=169336>.

33. See summary of Whiting's career in *Papers of Andrew Johnson, 1858-1860*, (Leroy P. Graf, Ralph W. Hastings eds. 1972) U. of Tenn. Press, vol. 3, p. 458 note; see also *Records Of The Office Of The Secretary Of The Interior Relating To The Suppression Of The African Slave Trade And Negro Colonization, 1854-72*, <http://www.fold3.com/pdf/M160.pdf>.

34. *Recollected Words of Abraham Lincoln*, p. 372 (Don Fehrenbacher and Virginia Fehrenbacher eds., Stanford U. Press, 1996).

35. Wakefield to Lincoln, March 23, 1862, in the Abraham Lincoln Papers at the Library of Congress.

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