Private + confidential

Executive Mansion

Washington, Sept 22, 1861

Hon. O. H. Browning

My dear Sir,

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

So much as to principle. Now as to policy. No doubt the thing was
popular in some quarters, and would have been more so if it had been a
general declaration of emancipation. The Kentucky Legislature would
not budge till that proclamation was modified; and Gen. Anderson
telegraphed me that on the news of Gen. Fremont having actually
issued deeds of manumission, a whole company of our Volunteers threw
down their arms and disbanded. I was so assured, as to think it
probable, that the very arms we had furnished Kentucky would be
turned against us. I think to lose Kentucky is nearly the same as to lose
the whole game. Kentucky gone, we can not hold Missouri, nor, as I
think, Maryland. These all against us, and the job on our hands is too
large for us. We would as well consent to separation at once, including
the surrender of this capitol.