

TVCWRT Civil War Tutorial; Part IV: Reality Sets In; 1862 Politics

by Emil Posey

No one on either side had wanted or expected this war. When the opening salvos were fired, most had expected it to be over quickly. They were wrong. As the first campaign season wound down and field forces went into winter quarters, it was becoming obvious to most that this was going to be a longer and more brutal conflict than anticipated. Events in 1862 would confirm that mindset.

When 1862 dawned, things seemed to be looking up for the South. The year started quietly as the North concentrated on training and organizing its inexperienced troops, and the South elected to conserve its strength for the coming spring. Once the winter was over, though, the war resumed in earnest.

To win, the Confederacy had merely to survive; for the Union to win, it had to overcome. So far, the Confederacy was holding its own on the battlefield, whereas the Union war strategy was immature. Unfortunately, for the South this was more of a façade than real. It was stretched thin militarily trying to protect its long land border with the Union; there was precious little navy to confront the Union's and stem the growing blockade, protect the coastline, and contest the riverways; its industrial and fiscal resources were insufficient for a long war; its state governors were quarrelsome and myopically protective of their state's rights and prerogatives;¹ and recognition by foreign powers (Great Britain and France) was proving elusive. The stage was set for a long, tough year.

The Executive Branches

Managing the War

The famous military philosopher Carl von Clausewitz said war is an extension of politics. The one certainly flows from the other, and when a president becomes enmeshed in both, things rarely turn out for the best.

Planning and implementing national military strategy occupied the majority of Union President Abraham Lincoln's and Confederacy President Jefferson Davis' time. The US Constitution makes the President, a civilian, the Commander in Chief of the armed forces, and so it was with the Confederate Constitution, which was essentially a copy of the US Constitution with a few, albeit significant, changes.

The differences in their management styles in dealing with the prosecution of the war were distinct. Lincoln had only rudimentary military experience, his service having been limited to a brief stint (without seeing combat) as a volunteer with the Illinois militia during the Black Hawk War in 1832. Davis, on the other hand, had extensive military experience. While having served in the Black Hawk War as well, he also had commanded the Mississippi Rifles,² a locally raised regiment, in the War with Mexico, leading it valiantly in the battles of Monterrey and Buena Vista. He had resigned his elected position as a Representative from Mississippi in the US Congress to join this regiment and was soon elected its Colonel. After the war, he refused a promotion to brigadier general and returned to Congress as an elected Senator from Mississippi. He went on to serve as US Secretary of War 1853-1857. His experience turned into a disadvantage for him as president of the Confederacy, whereas Lincoln's inexperience

turned into an advantage. Davis exhibited personality traits early on that hampered his performance as a war-time Commander in Chief. Lincoln excelled at dealing with people and learned from his mistakes.

When the war began, the Confederacy had no army to speak of. There were state militias, but they had to be formed into a national warfighting force. "He built up a government, fielded an army, developed a command structure, and formulated a military strategy in an amazingly short time."³ Elected Provisional President by the Confederate Provisional Congress on February 18, 1861, he had only five months until the First Battle of Bull Run/Manassas (Virginia, July 21) and one additional before the Battle of Wilson's Creek (Missouri, August 10). Note that these were significant opening battles on opposite ends of the Confederacy.

Davis would have preferred a senior military command in the Confederate Army rather than the presidency. He wanted to participate in field operations directly but was constrained by his responsibilities as president. As Commander in Chief, he appointed the senior Confederate commanders. Of the five in the first group of "four stars", two proved problematic, chosen more for their past relationship with Davis than on the basis of their military acumen.⁴ Note also that Davis did not formally appoint a General in Chief until he did so with General Robert E. Lee on February 6, 1865. Up to that time, he fulfilled that role himself albeit he did use Lee as his principal military advisor officially and unofficially for most of the war.⁵

More problematic, Davis was a micromanager, which led him to often bypass his Secretary of War when making decisions and communicating with senior officers in the field.⁶ This problem was exacerbated by, lacking a General in Chief, there was no single point of contact between field commanders and Davis. The only senior field commander he did not micromanage (because he would not let Davis do so) was Lee. The trust and faith Davis showed in Lee was not shown to anyone else in the Confederate military or government. Micromanagement was not limited to his War Department. It extended throughout his Administration and would remain a problem throughout the war.⁷ And, finally, Davis held grudges. He showed great loyalty to A. S. Johnston and Lee, for example, but would never trust Beauregard or J. E. Johnston after First Bull Run/Manassas.

Lincoln as Commander in Chief started in better circumstances. He inherited a fully functional government and a standing military comprising both a Regular Army and the various state militias. Initially, he changed nothing in the structure of either the Executive Branch or the upper echelons of command of the army or navy. Like most, he expected a short war brought to conclusion with quick, decisive military action. Like most, he was sadly surprised when it did not occur.

Lincoln's central reaction to the Union army's failures in Virginia in 1861 was to look for aggressive field commanders. When 1862 dawned, he still had not found them. Given the crop of poor and mediocre, slow and cautious general officers the Union had as field commanders early on, micro-management of his generals seemed necessary in his anxiety to prosecute the war vigorously. His fear of losing the capitol to a sudden Confederate thrust drove him to tightly manage planning and mission assignments of Union forces throughout Virginia. This proved critically, if not fatally, counterproductive.

Davis seemed never to understand the downsides of his management style. Lincoln, on the other hand, learned from his mistakes.⁸ By the middle of the year, Lincoln would learn to allow his generals more freedom to run their campaigns at the operational level. Moreover, he became dismayed at the difficulties of coordinating several major commands and eventually (after the failure of the Peninsula and the Valley campaigns) backed off and henceforth refrain from managing the operations of field armies. More Union debacles were to come, though, and his search for a competent, aggressive commander in the East continued into 1863.⁹

Internal Relations

Davis was a Mississippi slave-owner born in Kentucky who had won the hearts of Deep South planters by serving with distinction in the Mexican War and championing the spread of slavery as a member of both the US House and Senate, and as an innovative Secretary of War under Democratic President Franklin Pierce. A talented officer and a smart politician, he was enormously difficult to work with. As president of the Confederacy, he quickly alienated his subordinates. He surrounded himself with mediocre minds who would never challenge his decisions. As the war progressed and prospects dimmed, he became increasingly abrasive and stubborn, unable to forge the meaningful relationships and popular support needed to govern a republic.¹⁰

The Southern states seceded because they believed many of their rights were being usurped by the federal government. They were suspicious of any act that seemed to weaken the influence of the states, and believed the states possessed the right to judge whether federal actions were constitutional. One area in which this manifested itself after secession was the raising of an army to defend the Confederacy and how it would be deployed vis-à-vis the maintaining of strong state militias for state control and defense. This made central direction of Confederacy affairs problematic and led to serious quarrels over questions like conscription, local defense, and finance.¹¹ Lincoln's relationships with Union governors were comparatively smooth albeit not without conflict and disagreement. This was driven more by factional politics – between and within the Radical Republicans, moderate Republicans (such as Lincoln himself), and the Democrats – and less with governors over issues associated with states' rights.

A striking feature of Confederate politics was the absence of political parties. Unlike the Union, which benefitted from a vigorous competition between the various parties and their factions, the Confederacy enjoyed no such organized debate. The prominent issues of the pre-war period (secession and nation-forming) had been supplanted by 1862 by war-related controversies.

Pre-secession heritage parties disappeared and were replaced “nationally” by wartime political unity. With secession declared and war incurred, there were few major issues to define elections and campaigns.¹²

Not so with the states. The Confederate states governors could be a touchy bunch with a tendency to go their separate ways with little apparent desire to cooperate with the central government or each other. This was all wrapped up in the Confederacy's states' rights ideology. There were times it could be rationalized to make sense; there were too many times when it could not.

The most famous example of state obstructionism is Governor Joseph Brown of Georgia. Throughout the war, Brown insisted on putting the needs of his own state above the needs of the Confederacy and denying Confederate field forces critical resources. In the spring of 1861, for example, he refused to allow people who volunteered directly for the Confederate army to take any weapons out of the state, even their own guns. In the first battle of the war, Bull Run/Manassas, Georgia troops were withheld because Brown was not permitted to appoint their commanding officers. Later, in order to keep Georgians at home, he exempted over 15,000 from the draft. To extreme conservatives, Brown's actions were in keeping with true states' rights ideology, but to Confederate leaders like Davis, Brown's actions were profoundly selfish and destructive.¹³

Lincoln, on the other hand, was an effective national and partisan leader. Though his Republican Party was often deeply divided over the fate of slavery and the prosecution of the war, Lincoln maintained control of the party apparatus (even achieving re-nomination and re-election in 1864 in the face of internal challenges, political setbacks, and military defeats) and pursued a moderate course that eventually proved successful. He was an astute observer of public opinion, he worked well with others, and he inspired loyalty and hard work in his subordinates. Instead of filling his cabinet with mediocrities (as Davis had largely done), Lincoln surrounded himself with the top politicians of the day, Democrats and Republicans, skeptical moderates and wide-eyed Radicals. He encouraged honesty and frank discussion among his policy-makers, leading to productive cabinet meetings and sound decision-making.¹⁴



*Joseph Emerson Brown
Governor of Georgia*

Brown was a powerful Georgian politician who appealed more to the working class than the planter elite. He was an ardent Secessionist and a passionate supporter of states' rights. He spoke out against the expansion of national powers at the expense of states and became a staunch opponent of Davis – a real thorn in his side, as it were.

The Sioux Uprising

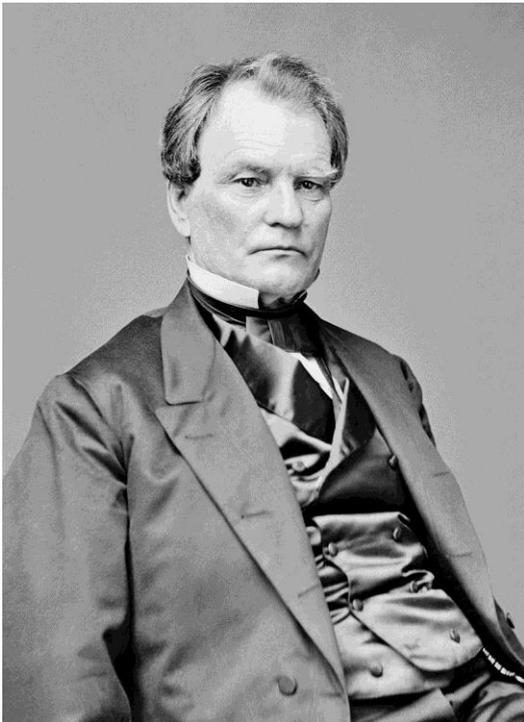
A particularly vexing problem for Lincoln arose in the northwest: the Sioux Uprising of 1862. There are numerous reasons for it, mainly revolving around the fact that government agents were extremely dishonest in their treatment of the Sioux Indians. The Sioux took it to a point, but it ultimately led to violence.

The Sioux had surrendered a large part of their land to the United States, in all some 28 million acres through different treaties, 21 million of those coming from the Traverse des Sioux Treaty of 1851. After all these treaties, they were left with two relatively small reservations for the 7,000 of them that lived in Minnesota.

The Sioux had agreed to purchase goods from the fur traders. They would do this before their government annuities arrived. When the payments did come, the fur traders got their hands on most of the money, leaving the Sioux with virtually nothing. This caused a large part of their frustration. Then there was the fact that the government was rarely on time with their payments. This was especially true in 1862. The Sioux were starving that summer, and Washington was behind in their annuity payments. Coinciding with the Civil War, the Sioux knew that the majority of the white

men of Minnesota were off fighting. So, if they did attack, they would be fighting a depleted enemy. For these reasons, the Sioux lashed out in the late summer and fall of 1862. They were being taken for fools by the government, and enough was enough.

The uprising lasted 37 days and claimed the lives of over 500 Americans and about 60 Sioux, including a mass execution of Sioux. There were actually 303 sentenced to death, but Lincoln carefully worked through the transcripts to sort out those who were guilty of serious crimes. Ultimately, he commuted the sentences of 265 defendants, and only 39 of the original 303 were executed. On December 26, 1862 in Mankato, Minnesota, these 39 Sioux Indians were hung, the largest mass execution in American history.¹⁵



*Benjamin Franklin "Bluff" Wade
US Senator for Ohio, 1851 to 1869
Chair of the Joint Committee on the Conduct of
the War.
Dec 1861 (formation) - May 1865 (dissolution)*

The Legislative Branches

The 1861 withdrawal of the Southern delegations resulted in the chambers of the US Congress being half-empty. However, with Southern Democrats no longer blocking Northern interests, the 37th Congress in spring and summer 1862 passed twelve major pieces of legislation, including three of the most far reaching Acts from the second half of the nineteenth century: the Homestead Act, which provided to applicants free farmland west of the Mississippi River; the Morrill Land-Grant College Act, which bestowed land for states to finance the establishment of agricultural colleges; and the Pacific Railroad Act, which led to the construction of a transcontinental railroad.¹⁶

Union Congressional oversight of the war was accomplished by the Joint Committee on the Conduct of the War. Started on December 9, 1861, its purpose was to investigate the progress of the war, but it became a forum for generals who, finding themselves accused of failure, put the blame on others. The committee was dominated by Radical Republicans whose aggressive views often clashed with the strategies favored by Lincoln. Meetings were held in secret, but reports were issued from time to time.¹⁷ The committee was chaired by Senator Benjamin Wade. A Radical Republican from Ohio, he was highly critical of Lincoln.

During the 37th and the 38th Congresses, the committee investigated every aspect of Union military operations, with special attention to finding the men who were guilty of military defeats. Its members assumed an inevitable Union victory and considered failure to indicate evil motivations or personal failures. They were skeptical of military science and, especially, West Point, many alumni of which were leaders in the Confederate army. The committee much preferred political generals with a known

political record. It ended up endorsing incompetent but politically-loyal generals. The committee is considered to be among the harshest congressional investigating committees in history, more inclined to conducting witch-hunts than fair inquiries.¹⁸

Conscription

Conscription stirred up the most fuss of any legislative activity on either side. The war was bloodier and longer lasting than had been foreseen, and casualties began to outpace enlistments. To maintain the ranks, drafting men for service became necessary in 1862 for both the North and the South.

The Union started slowly with the Militia Act of 1862. Enacted July 17, it authorized a militia draft within each state when the state could not meet its quota with volunteers. The Act, for the first time, also allowed African-Americans to serve in the militias as soldiers and war laborers. Previously, only white male citizens were permitted to participate in the militias. (There were exceptions, Louisiana, for example, which had a black militia unit in New Orleans.¹⁹)

The Act was controversial. It was praised by abolitionists as a first step toward equality because it stipulated that black recruits could be soldiers or manual laborers. However, the Act discriminated in pay and other areas stemming from the legislation envisioning blacks mainly as military laborers freeing up whites for combat. Many regiments struggled for equal pay, some refusing any money until June 15, 1864, when Congress deleted that portion of the Militia Act and granted equal pay for all black soldiers. The state-administered system set up by the Act failed in practice and in 1863 Congress passed the Enrollment Act, the first genuine national conscription law in the North.

Conscription in the Confederacy polarized its public. In the early months of the war, Southern white men volunteered in droves, but by April 1862 the realities of a long, expansive conflict and unprecedented mortality rate hurt recruitment, forcing the Confederate Congress to turn to coercion. Conscription was enormously unpopular from the start, not only because young white men were becoming less eager to leave their families and die in battle, but also because a major motive of the rebellion had been fear of centralized authority. Under the United States government, Americans had had little, if any, experience with federal power. Making war and delivering the mail was about it. Secession and the start of civil war had been based in no small degree on a *theoretical future* growth of central power.

The Confederate draft was the first in American history and came as quite a shock. Forcing its citizens to fight and die, Southerners understood, is the ultimate exercise of government authority. Sensing their constituents' displeasure with the "horror of conscription" and the frightening expansion of centralized power, many candidates running for seats in the 2nd Confederate Congress condemned the policy. Some did so on the grounds that it detracted from state and local defense efforts, while others argued that it placed too much power in the hands of Davis.

The First Conscription Act, passed April 26, 1862, made any white male between 18 to 35 years old liable to three years of military service. On September 27, 1862, the Second extended the age limit to 45 years; the Third, passed February 17, 1864, changed this to 17 to 50 years old, for service of an unlimited period.

Originally, anyone drafted could hire a substitute, a provision that was heavily criticized, and abolished on December 28, 1863. In addition, an act of April 21, 1862, created reserved occupations excluded from the draft. On October 11, 1862, a new exemption act, soon dubbed the *Twenty Negro Law*, was approved. It exempted from military service one white overseer for every 20 slaves on a plantation, “to secure the proper police of the country.” This would allow enough white males to stay home to defend against a so-called domestic insurrection. Poor whites were unnerved, perceiving that the law made the conflict “a rich man’s war and a poor man’s fight.” The Davis Administration argued that the law was necessary to keep up agricultural production and to prevent slave revolts.²⁰

The debate over conscription reflected the political struggle in the Confederacy between those who saw it as another example of the threat to freedom posed by the centralization of power, the suspension of Habeas Corpus being another. Their opponents viewed a strong central executive and these measures as essential to preserve Southern independence.

Several states passed legislation against it; in addition to simply hiding, draftees violently resisted conscription officers of the Confederate government, mirroring similar disputes in the North, most famously the New York City draft riots in July 1863. By 1864, the Southern draft had become virtually unenforceable.²¹

Still, it relieved the army’s manpower problem at a critical time. Boosted by the Act, the total number of men in the Confederate armies increased from 325,000 at the beginning of 1862 to 450,000 at the end of the year.²²

Suspension of the Writ of Habeas Corpus

The suspension of habeas corpus allows the government to hold a prisoner indefinitely without presenting to a court the evidentiary reasons for the arrest. The US Constitution, Article 1, Section 9, provides, “The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.” This was carried over verbatim into the Confederate Constitution.²³

An in-chambers opinion is written by an individual Justice (as opposed to being heard by the entire court) to dispose of an application by a party for interim relief, e.g., for a stay of the judgment of the court below, for vacation of a stay, or for a temporary injunction.

Lincoln first suspended it on April 27, 1861, shortly after the war started, enabling military commanders to arrest and detain individuals indefinitely in areas where martial law had been imposed. He was eventually challenged in the courts. Chief Justice Roger Brooke Taney rendered *Ex parte Merryman*, an in-chambers opinion arguing that only Congress, not the president, had the authority to suspend the writ. Lincoln ignored the opinion. In 1863 Congress passed a bill essentially holding the president harmless for suspending the writ,

and so it remained for the rest of the war.

The Confederate Congress authorized Davis to suspend habeas corpus from February 1862 until February 1863 and again from February 1864 until August 1864, and afterward authorized Davis to suspend the writ as he saw fit. The suspension of the writ of habeas corpus allowed the government to hold a prisoner indefinitely without presenting to a court the evidentiary reasons for the arrest. Additionally,

civilians found their travel restricted by the Confederate government in the autumn of 1862 when Congress created a civilian pass system. Though promptly issuing exemptions to its own members, Congress forbade civilian travel without the approval of national authorities. The Confederate government also prohibited the sale of liquor in 1862. Although the government explained those measures with appeals to order, unity, and preventing desertion in the army, the restrictions also represented the efforts of the Confederate government to enforce social policy outside the realm of military necessity – totally counter to the Confederacy’s states’ rights ideology.²⁴

The Judicial Branches

With only two rulings issued, 1861 had not been a busy year for the US Supreme Court. Not so with 1862, during which it considered 40 cases.

One case in particular had significant importance as to how the war would be prosecuted: *Prize Cases*, 67 U.S. 635 (1862). With the secession of several states from the Union, Lincoln did not ask Congress to declare war on the Confederacy. He believed this would be tantamount to recognizing it as a nation. Instead, he instituted a naval blockade, which had important legal ramifications because nations do not blockade their own ports; rather, they close them. By ordering a blockade, Lincoln essentially declared the Confederate states to be belligerents instead of insurrectionists. The blockade resulted in the capture of dozens of American and foreign ships, both those attempting to run the blockade and smuggle goods and munitions to the South as well as those attempting to smuggle exports from the South.

The question before the court dealt with the seized ships, but it reached widely into the legality of wars against acts of belligerence, whether or not officially declared. It rose through the lower Federal courts through lawsuits by Northern merchants whose ships were seized by Union warships enforcing the blockade. In admiralty law, a ship captured during war may be kept as a prize. If there is no formal war, capturing ships and impounding them is piracy. Plaintiffs contended that the blockade was not legal because a war had not been declared, thus making it perfectly legal to run the blockade and sell war materiel in the blockaded Southern ports.

Admiralty law or maritime law is a body of law that governs nautical issues and private maritime disputes. Admiralty law consists of both domestic law on maritime activities, and private international law governing the relationships between private parties operating or using ocean-going ships.

On March 10, 1863, the Court ruled that the states of the Southern Confederacy were in insurrection and at war against the United States by the firing upon Fort Sumter and the Privateering Act proclaimed by Confederate President Davis. The Supreme Court found by a five to four majority that the decision by Lincoln to impose a blockade to be constitutional. While only Congress could declare war, the chief executive did have a lawful responsibility to take measures to resist insurrection. The court thus sanctioned Lincoln’s exercise of emergency powers prior to the congressional authorization of those powers.²⁵

Emancipation

Of all the drama in 1862, emancipation was the big story of the year. The most dramatic political changes in the South were experienced by enslaved blacks. Even before the war began, slaves were fleeing to the North. The flight from bondage

intensified after the war began and grew in intensity as the war continued, with slaves now fleeing bondage for Union forts and forces. This put pressure on the Lincoln Administration to re-examine its war aims and policies. Likewise, slave resistance and escape forced the South to fight in essence a two-front war: one against the Union, the other against their own enslaved population. The strain of slaves' restiveness and, when Union soldiers are nearby, even defiance prompted the Confederate Congress to pass the September 1862 plantation exemption (the *Twenty Negro Act* mentioned above in connection with conscription) and forced Davis and state governors to direct scarce troops and resources to protect its citizens and enforce slave laws.

Today, many regard the Emancipation Proclamation signed by Lincoln on January 1, 1863, as a triumph for human equality, but that's not how he sold it to his contemporaries. The Union strategy depended crucially on slaveholding border states remaining loyal to the Union. Rather than sell the Proclamation as a principled antislavery measure, Lincoln promoted it as a way of depriving the Confederacy of much-needed manpower. Areas that were exempted included not only non-seceding states like Kentucky and Maryland, but also portions of Louisiana and Virginia that were then under Union control. Lincoln also exempted Tennessee, which was partially occupied by Union troops and, he hoped, would soon be re-incorporated into the Union. All slaves in the United States were not finally freed until the passage by Congress of the 13th Amendment on January 31, 1865 and ratified on December 6, 1865.

This brings us to the heart of the longest-lived conundrum of the Civil War: Was it fought by the North to abolish slavery or was that something that just happened along the way?

Lincoln's position on abolition and what to do with freed slaves matured during the war, shifting from a firm national strategy in the beginning of maintaining the Union even if it meant the continuation of slavery, to relocation of freed slaves to Liberia in Africa, to complete abolition via the XIII Amendment, which he championed through Congress.

Certainly, abolition in one manner or another was an underlying theme for many. Consider:

- Major General John Charles Frémont, then the third highest ranking Union general, issued his (in)famous proclamation of martial law in Missouri on August 30, 1861. It included the following passage: "All persons who shall be taken with arms in their hands within these lines shall be tried by court-martial, and, if found guilty, will be shot. The property, real and personal, of all persons in the State of Missouri who shall take up arms against the United States, and who shall be directly proven to have taken active part with their enemies in the field, is declared to be confiscated to the public use; *and their slaves, if any they have, are hereby declared free.*" (Emphasis added.) Lincoln considered this emancipation, limited as it was, to be outside of Frémont's authority and asked that he "as of his own motion" modify his proclamation and edit that paragraph. Frémont refused to do so unless directly ordered. Lincoln did so publicly and subsequently reassigned Frémont.²⁶

- While in command at Fort Monroe, Virginia, Major General Benjamin Franklin Butler declined to return fugitive slaves who had come within his lines to their owners. He argued that slaves used as laborers for building fortifications and other military activities could be considered contraband of war. He made no mention of emancipation, but they were not returned to their owners. They were treated as escapees. Congress in effect registered its approval of Butler's policy when it passed the First Confiscation Act, passed on August 6, 1861.²⁷
- Major General John G. Foster, Commander of the 18th Army Corps, captured the Confederate fortifications on Roanoke Island off North Carolina in 1862. He classified the slaves living there as contraband and, following Butler's precedent at Fort Monroe in 1861, did not return them to Confederate slaveholders.
- The Confiscation Act of 1862, which allowed for seizure of all Confederate property, including slaves, whether or not it had been used to support the rebellion.²⁸
- Even the Emancipation Proclamation itself.

These examples were not so much driven by desire to free slaves as they were efforts to interdict the supply of labor in the Secesh states, i.e., slaves. Also, these tied up soldiers and civilians guarding against slave uprisings and chasing runaways. Always, though, there was a growing undercurrent of emancipation as a moral imperative.

Lincoln, meanwhile, was meeting with men from the border states, especially Kentucky, hoping to persuade them to agree to a compensated emancipation. Over the course of these encounters, it became clear to him that the broad Unionist sentiment he thought existed in the South was a chimera.

When talks with the Kentucky delegates broke off in July, he drafted the Preliminary Emancipation Proclamation. In its final form, the Proclamation would free the slaves in areas that were not under Union control as of January 1, 1863, when it went into effect. This meant it did not apply in the border states or places such as New Orleans, which were already under Union military occupation by that time. Lincoln realized that such a move would strike a serious blow militarily to the Confederates, who relied on bondsmen for the bulk of their labor during the war, by both demoralizing white Southerners and giving additional incentive to slaves to run away.

However, the summer of 1862 had been a bleak one for Federal forces, and Lincoln wanted neither to issue the proclamation when the North appeared to be losing nor for other countries to consider it an act of desperation. So, he awaited a victory. Antietam/Sharpsburg, while technically a draw, was close enough. Lincoln claimed it as a Union win and announced the proclamation.

This was an important turning point. The war was now a contest not just about saving the Union but also about freeing four million slaves.

The importance of the Emancipation Proclamation cannot be overstated. It did not liberate any slave per se, but it freed some of them legally and politically. They were still slaves in secessionist-controlled territory, which at this point was still most of the Confederacy, but as they escaped and made their way to Union lines, and as Union lines made their way to them, growing numbers achieved freedom. The extent to which their freedom improved their lot is grist for discussion in and of itself, but as an

aspiration, the allure of freedom and thus the promise of the Emancipation Proclamation, was overwhelming. Moreover, it was a significant blow to the Confederacy. It changed the tone of the war. Heretofore, the war at its core was about maintaining the Union; eliminating slavery was not a national goal. Henceforth, it became a popularly accepted objective, particularly from the Southern point of view. It meant that if the secession failed, the South — culturally, socially, politically, and economically — would change. Emancipated slaves would not be returned to slavery and the desire for freedom on the part of those that still were enslaved would stiffen. In fact, this was a key milestone on the road to abolishment of slavery altogether in the United States by the passage of the XIII Amendment in 1865.

The goal of the Confederate States of America was clear: a new, independent nation based on deep racial and class inequalities. The form of government adopted — a loose confederacy — had already proven a failure in American history. The Articles of Confederation, drafted by the Second Continental Congress in November 1777 and in effect until September 1788 (*America 1.0*, as it were), had been woefully inadequate for the needs of the young nation. The Founding Fathers replaced it with a Constitution, creating a new central government supreme above the states. Secessionists in 1861, obsessed with state sovereignty and in a furious hurry, returned to the concept of confederacy for their new government, a decision that would prove disastrous.²⁹

By the end of the year, the war had been going on for over twenty months. The naive exuberance with which both sides started had given way to grim reality. Hope remained among Southern leadership that their bid for independence still could succeed, but the feel of the war had changed. The strain on Southern resources was beginning to show, while Northern resources, channeled by Lincoln's resolute determination, were coming to bear. One could feel the South's fortunes ebbing. Unease, even desperation, rippled across its population.

One thing was clear. The South's antebellum culture was changing irrevocably. Slave aspirations for freedom had been given new strength. Slavery, as an institution and as a way of life, was undergoing a fundamental change. Win, lose, or draw, that genie was out and was not going back into the bottle.

Notes

¹ "Jefferson Davis and the Confederate Governors," Arthur Gordon Daniel, North Texas State College, Denton, Texas; June 1959, *iv*.

² *The ancestor of today's 155th Infantry Regiment, Mississippi Army National Guard.*

³ "Abraham Lincoln and Jefferson Davis: A Comparison of Civil War Commanders in Chief", Michael S. Trench, LCDR, USN; US Army Command & General Staff College, Ft. Leavenworth, KS, June 1, 1995; 26.

⁴ *These were Joseph Johnston and P.G.T. Beauregard. The other three in the original group – Samuel Cooper, Albert Sidney Johnston, and Robert E. Lee proved quite competent. Cooper, highest ranking Confederate general and also a close friend of Davis, would serve the combined positions of the Confederate Army's Adjutant General and Inspector General throughout the war. A. S. Johnston, formerly a career US Army officer*

seemingly on par with Lee, was killed in action at Shiloh on April 6, 1862. Lee came to be the most famous and beloved Confederate general of the war.

⁵ [General in Chief of the Armies of the Confederate States - Wikipedia.](#)

⁶ Davis went through five Secretaries of War. He was on his second (Judah P. Benjamin) when the year started and on his fifth (James A. Seddon) when it ended. See list at Confederate Cabinet Departments and Secretaries, Dennis L. Peterson; Jefferson: McFarland and Company, 2016; 92. As to communicating directly with senior officers in the field, see, for example, Trench, 29-31. In contrast, President Lincoln fired his first Secretary of War, the incompetent Simon Cameron, in January 1862, replacing him on January 20 with the very capable Edwin Stanton who served in this position for the remainder of the war.

⁷ “From the earliest days in Montgomery, Davis basically acted as his own secretary of war. Considering no matter too trivial for his attention, he did not assign Secretary Walker primary responsibility for any activity. Much correspondence and many directives went out over Walker's signature, but all the major decisions, and many minor ones, were Davis's... As the war became larger and the demands upon the War Department even greater, Davis's involvement remained so total that no room existed for Walker to act independently. The president's hand was on almost everything, including a Virginia civilian's offer of his home to care for wounded and a private's request for transfer to be near his brother.” Jefferson Davis, American, William J. Cooper, Jr.; New York: Alfred A. Knopf, 2000; 354. And it continued throughout the war. “[A]fter the turn of the year [1865] when he confronted the disintegration of his armies and his country, Davis continued to immerse himself in a sea of minutiae. His administrative practice did not change at all. He wanted to know why a lieutenant from Louisiana was promoted in a South Carolina artillery unit; he even entered a dispute over seniority between two captains in a Virginia regiment. A plan to promote several captains in General William Hardee's command generated a directive to the adjutant and inspector general. In early spring 1865 Davis gave directions in a controversy over a local commander's right to revoke a general order for a special assignment. Late in April he instructed [then Secretary of War] Breckenridge on the promotions of lieutenants on general staffs.” Cooper, 520-521.

⁸ In the West, Lincoln had the kind of aggressive generals he needed: Ulysses S. Grant and William Tecumseh Sherman. Their reputation would climb throughout 1862, from Grant's capturing of Forts Henry and Donelson through their victory at Shiloh. Lincoln came to realize he could not be Commander in Chief and General in Chief at the same time. The burdens and practicalities simply did not allow it. He brought Major General Henry Halleck from the West to Washington to be General in Chief effective July 23. But even then, Lincoln lacked confidence in Halleck and often went around him to his field commanders and allowed them to bypass Halleck as well. Trench, 87.

⁹ The Second Battle of Bull Run/Manassas (August 29-30), failure to pursue after the Battle of Antietam/Sharpsburg (September 18), and the disastrous Battle of Fredericksburg (December 13).

¹⁰ “Union and Confederate Politics”, Michael Todd Landis, [Union and Confederate Politics - Essential Civil War Curriculum](#).

¹¹ Daniel, *op cit*.

¹² Landis, *op cit*.

¹³ Landis, *op cit*.

¹⁴ See *Team of Rivals: The Political Genius of Abraham Lincoln*, Doris Kearns Goodwin; New York: Simon & Schuster, 2005. An outstanding read on the topic.

¹⁵ “Habeas Corpus”, Frank J. Williams, [Habeas Corpus - Essential Civil War Curriculum](#)

¹⁶ [U.S. Senate: The Civil War: The Senate's Story](#). The twelve Acts were:

February 19, 1862: [Anti-Coolie Act](#), Sess. 1, ch. 24, 27, 12 Stat. 340

February 25, 1862: [Legal Tender Act of 1862](#), Sess. 2, ch. 33, 12 Stat. 345

April 16, 1862: [District of Columbia Compensated Emancipation Act](#), Sess. 2, ch. 54, 12 Stat. 376

May 15, 1862: [An Act to Establish a Department of Agriculture](#), Sess. 2, ch. 72, 12 Stat. 387

May 20, 1862: [Homestead Act](#), Sess. 2, ch. 75, 12 Stat. 392

June 19, 1862: An Act to secure Freedom to all persons within the Territories of the United States, Sess. 2, ch 111, 12 Stat. 432

July 1, 1862: [Morrill Anti-Bigamy Act](#), Sess. 2, ch. 126, 12 Stat. 501

July 1, 1862: [Revenue Act of 1862](#), Sess. 2, ch. 119, 12 Stat. 432

July 1, 1862: [Pacific Railway Act](#), Sess. 2, ch. 120, 12 Stat. 489

July 2, 1862: [Morrill Land Grant Colleges Act](#), Sess. 2, ch. 130, 12 Stat. 503

July 17, 1862: Confiscation Act of 1862 (aka Second Confiscation Act)

July 17, 1862: [Militia Act of 1862](#), Sess. 2, ch. 201, 12 Stat. 597

¹⁷ [United States Congressional Joint Committee on the Conduct of the War - Wikipedia](#); also see [A History of Notable Senate Investigations: Joint Committee on the Conduct of War \(Civil War\)](#)

¹⁸ *Ibid*.

¹⁹ The 1st Louisiana Native Guard (CSA) was a Confederate Louisianan militia that consisted of free blacks. Formed in 1861 in New Orleans, it was disbanded on April 25, 1862. Some of the unit's members joined the Union Army's 1st Louisiana Native Guard, which later became the 73rd Regiment Infantry of the United States Colored Troops.

²⁰ Landis, *op cit*.

²¹ [Confederate Conscription Acts 1862–1864 - Wikipedia](#)

²² [1862: Near Victory for the Confederacy | Encyclopedia.com](#)

²³ [Constitution of the Confederate States of America- what was changed? \(jmcullough.com\)](#)

²⁴ “Civil Liberties in Virginia during the Civil War”, [Civil Liberties in Virginia during the Civil War – Encyclopedia Virginia](#)

²⁵ [Prize cases | American legal history | Britannica](#). See also, “United States, The Prize Cases” at [United States, The Prize Cases | How does law protect in war? - Online casebook \(icrc.org\)](#).

²⁶ [Frémont Emancipation - Wikipedia](#)

²⁷ [Monroe and the "Contrabands of War" \(U.S. National Park Service\) \(nps.gov\)](#)

²⁸ As the Senate met in extraordinary session from July 4 to August 6, 1861, one of the wartime measures it considered was the Confiscation Act, designed to allow the federal government to seize property, including slave property, being used to support the Confederate rebellion. The Senate passed the final bill on August 5, 1861, by a vote 24 to 11, and it was signed into law by Lincoln the next day. Although this bill had symbolic importance, it had little effect on the rebellion or wartime negotiations.

When Congress again convened in December, Senator Lyman Trumbull of Illinois, chairman of the Judiciary Committee, proposed a more comprehensive confiscation bill. On December 2, 1861, Trumbull introduced the Confiscation Act of 1862 to allow for seizure of all Confederate property, whether or not it had been used to support the rebellion. Before long, however, Trumbull's bill stalled due to ideological differences over the issue of confiscation. Radical Republicans called for a vigorous confiscation bill to seize property and free slaves, but more conservative members worried about expanding the reach of the federal government while denying property owners their constitutional rights.

Early in 1862, a group of moderate senators, led by Ohio's John Sherman, produced a compromise bill that authorized the federal government to free slaves in conquered rebel territory and prohibited the return of fugitive slaves, while allowing for confiscation of Confederate property through court action. It also allowed the Union army to recruit African American soldiers. Although more aggressive than the first act, the Confiscation Act of 1862 also lacked enforcement capabilities. Loosely enforced by the Lincoln administration, the law was actively undermined by Lincoln's successor, President Andrew Johnson. [U.S. Senate: The Confiscation Acts of 1861 and 1862](#)

²⁹ Landis, *op cit*.