

BLOCKADE, COUNTER BLOCKADE, AND FOREIGN POLICY; USA and CSA, 1861-1865

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This narrative is an introduction to some of the greater strategies used by both North and South in the war between Americans from 1861 to 1865. The strategies described herein are blockade, counter-blockade, and foreign policy, with emphasis on foreign policy. The reader is encouraged to look at the Study Guide Questions and Answers following this introduction for more comprehensive information. A complete bibliography used by this author is included at the end.

We will start with the supreme goals of both sides because they are what dictated their strategies. For the separatist states, it was to become an independent new nation. For the United States, it was to deny the independence of the Confederate States—and both sides were willing to fight about it. For many Americans, it was a foregone conclusion that separation meant war, and, given that neither side had an army of maneuver, it was further assumed that it would be a short naval war—and the presupposed first act of war would be a Northern blockade of Southern ports.

That presumption was simply because the US already had an established navy. However, the US Navy was not large and it was spread out thinly around the world. Actually, less than a dozen US regular Navy fighting ships were available for service anywhere near home waters for which to cover 3,500 miles of coastline. That non-trivial detail did not stop Lincoln from calling for a blockade. Although the separatists did not have a navy at all, or even a government, when the secession movement started, they could, and did, come up with both very quickly.

The long-debated legalities of separation did not matter because neither side recognized the laws and courts of the other. What really mattered was how the great and powerful European nations would react to the outbreak of a war between Americans in international waters—and they all agreed in a virtual blink that a war had already begun before they had gotten word about it. Illustrating the point, in a world when diplomacy and the force of arms went hand-in-hand, both sides acted instantly from positions of maximum possible strength.

For the United States government, the tricky part was how to handle the secession crisis without getting trapped in a contradiction—how to conduct a blockade against its own states without admitting that it was a *real* war against a *real* nation that had a right to exist. By long-standing international codes, blockades were recognized as warfare between established countries regardless of whether or not war was officially declared. A blockade would be taken as an admission that war existed between the United States of America (known as “the Union”) and the confederation of American states identifying themselves as a separate country named “the *Confederate* States of America” or, “the Confederacy” for short.

At the moment of crisis in mid-April, 1861 an admission by the USA that the CSA was a separate country engaged in a legal war against it was exactly what the Confederacy wanted. If

recognized as a self-governing nation by other nations it could make its own treaties and alliances as well as to collect import and export revenues for its own treasury.

Individual state sovereignty of the Southern states was not in the plan because there was no chance that European governments would make alliances with individual breakaway states of America. It had to be a unified nation under a single national government. By US law *and* CS law, only their central governments could raise an army and navy and grant letters of marque and reprisal. In other words, in addition to raising armed services, each government could also authorize privateers in times of war.

On April 17, 1861 CSA President Jefferson Davis, in assuming that war already existed after USA President Abraham Lincoln called for volunteer troops to preserve Federal property. Further assuming executive war powers against a presumably inevitable blockade, Davis called for privateers as an act of war against the stronger United States. Likewise, under identical US war powers, President Lincoln called for a blockade of the seaports of five Confederate states on April 19 and expanded it on April 27 to include Virginia and North Carolina. The troubling part was that both strategies required a show of force in international waters, which needed a powerful third party, Great Britain, to fully legitimize their claims. The British version of “approval” was a declaration of neutrality on May 13, 1861, which recognized that a state of war existed between two organized American governments. The irrefutable logic of that is, you cannot have neutrality unless there are two parties at war to be neutral from.

The Queen’s declaration upheld the USA’s right to have a blockade and the CSA’s right to have privateers. The British declaration of neutrality was the first formal international recognition of a war between two American governments. In comparison, Ft. Sumter and Lincoln’s call for 75,000 volunteer state militia did not mean a thing to foreign governments. To them, those first two acts were strictly the internal affairs of the Americans.

British neutrality was a slap to Lincoln who wished to portray the war only as domestic violence (or an insurrection) so he could deal with it under Article IV, Section 4 of the Constitution. In self-contradiction, Lincoln invoked emergency war powers as the Chief Executive of a country at war and opted for a blockade, which was *his* greatest immediate strength. He knew that Southern ports had to be sealed off from foreign shipping and that only formal blockades had the strength of long-established international respect. In addition, blockades had the recognized right of search and seizure of non-neutral ships, a right that legislated closures did not have. This meant that duly notified shippers in violation of the blockade proceeded at their own risk into a war zone without the protection of their parent country.

Although considered legal in matters of foreign affairs, declared blockades came with certain restrictions. Blockades had to physically exist off declared ports *and* be regarded as *effective*. The word “effective,” as ruled by Great Britain, did not mean escape-proof. It only meant that blockades must impose an evident threat to violators. The term was, and still is, vague, but Lincoln at least understood that it could not be a legislated closure from afar, which could be, and most likely would be, blatantly ignored.

How Britain would rule was a matter of great apprehension to the Lincoln Administration because a declared blockade might be taken internationally as a self-admission that the United States was at war with another country. If so, Lincoln could be effectively legitimizing Southern independence himself. Europeans might then be tempted to not only trade directly with the Confederate States, but also to provide military support.

Meanwhile, the Confederacy, as a privateering nation, faced its own problems with international respect. For one thing, most Western nations *hated* privateering and had tried to abolish it universally (but unsuccessfully) in 1856. The United States did not sign the anti-privateering treaty because it was still a small country with a weak navy. The USA had held on to the right to have privateers as a means of raising forces against larger and more powerful seafaring nations. When the war broke out against the Confederacy the United States, by then a much stronger nation, suddenly wished to view privateers as outlaws. Of course, the CSA was not a signer of the treaty either because it did not exist when the treaty was made. Having no prior restrictions, the CSA took up privateering immediately.

Lincoln held that the Confederacy was *not a real country* and that privateers without a real country were pirates and subject to the death penalty under criminal law. Conversely, Davis held that his privateers were a legitimate “militia of the sea” of a *real* national government. If captured, they should have the same rights as prisoners of war. As a fighting force, however, the idea was not to fight the US Navy, it was to attack unarmed merchant ships. As a counter-blockade measure, it would draw Union warships away from blockaded seaports to chase them down. Presumably, that would leave Southern seaports unguarded and open to traffic, which would then force British observers to admit that the blockade was ineffective. Presumably also, that in turn, would give Britain the legal basis to intervene to protect *their* commercial trade. In theory, no contest. War over. South wins.

There is really no chance that the privateering strategy would have played out in the presumed manner. The US gave the British government, and others, notice through diplomatic channels that any form of intervention for the Confederacy meant instant war with the United States. Wisely, they stayed out of the conflict. Small as the US Navy was (behind Britain and France), it was stronger than it had ever been and it was already global. Besides, having retained the right to also have privateers, the United States could have flooded the world with them. Not wishing to go through that again, and among many other considerations, the British government opted for neutrality. All other Western countries followed Britain’s lead.

The importance of privateers cannot be measured in the usual gruesome way by counting dead bodies. It was really their influence upon *international foreign policies* that mattered the most. The privateers instantly gained the nation-like right to raid at sea as a mode of legitimate warfare. Starting in May, they successfully drew a number of US Navy warships away from the blockade, which lowered the blockade’s total effectiveness throughout the critical summer and early fall months of 1861.

The blockade’s relative weakness in the early months of the war encouraged the shipment of arms into the South. However, due to the cotton embargo and an initial hesitation by most British shippers to challenge the blockade, foreign shipments did not begin in earnest

until late 1861. In addition, with the offshore waters getting crowded with British and French observers, the US was forced to continually raise more blockading ships. Not doing so would admit to the world that the blockade was a failure. The delay of the blockade's strength in 1861 bought a long enough time for the CSA to develop other means to build up its strength on land and sea. Due to the delay and the good fortune of British neutrality, the Confederacy got a leg up in the arms race before the Union could raise sufficient military and naval strength to put down the so-called insurrection.

Around the beginning of 1862, the rest of the world cared little about legal contradictions and circular logic. They accepted the conflict in America as a real war between the two most powerful and dangerous parties on the North American Continent. Lincoln had a war on his hands whether he admitted it or not and his blockade proclamation removed all doubt. Even the US Supreme Court ruled in 1863 that war existed *when* the blockade was declared. That's *not* the same thing as saying that's when the war started. It merely says that is when the United States admitted by its own action that a state of war existed.

When the shooting began at Ft. Sumter, neither president wanted to be remembered as the one who started it, nor, just as importantly, as the one who backed down. Thus, in the immediate sense, it was politically expedient for both presidents to deny that their actions were anything but reprisals (not war) against wrongs previously done. Their denials died out quickly in the face of obvious reality. Nevertheless, the war had begun internally and was by official US policy, only an insurrection, so any mention of the US fighting against another country was a sticky legal matter. In his remaining life, Lincoln never uttered the words "Confederate States of America" or that the war was anything but an insurgency.

No matter. By the end of 1861, Lincoln no longer had any real concern for European intervention caused by loose words. There was always, however, the possibility of intervention for humanitarian reasons, that is, to stop the bloodshed and end slavery. Oddly enough, both sides kept slavery off the diplomatic table so the British government (and others) could not officially see slavery as a reason for the war. Lincoln went on to prosecute the war with an ever-growing blockade and Europeans were content to stay out militarily. Nevertheless, they were eager to jump in *commercially* by shipping arms of European manufactory into the South. That practice is remembered as blockade running.

Blockade running proved to be more attractive to private owners than privateering mostly because private raiding was too risky for too little reward. Consequently, privateering essentially played out by the end of 1861. Privateers were typically only Southern adventurers in the game for fun and profit, but the high chance of getting captured soon took all the fun out of it. On top of that, the privateersmen captured in 1861 were put on trial for their lives. As futile as privateering may seem in retrospect, it was the *only* war measure available to the Confederacy in its earliest hours. It demonstrated the will to fight for independence and the ability to influence foreign policy.

Most importantly In matters of foreign policy, the privateers gained international recognition of the CSA as a *belligerent*. This was not an insult. It was an important classification as an organized government at war, even if it did not have full diplomatic recognition. Having at

least *this much* legitimacy enabled the CSA to legally obtain foreign credit and to purchase arms and war materiel from overseas.

The main problem for the Confederacy was the blockade—getting cotton exported to pay for the goods and then getting foreign goods back in through the blockade, which was not the job of privateers. That task was left up to blockade runners, a different class of counter-blockaders. Privateers were not well-suited for blockade running, nor, contrary to popular belief, were they a substitute navy for fighting other navies. They were a counter-blockade class of their own, actually called upon before there was any mention of a blockade.

Ironically, Davis's call for privateers handed Lincoln his excuse to call out a blockade against them before the first privateer ever sailed. So, there we see the first two war strategies, blockade and counter-blockade, or, an observer might just as easily say in the earliest moments, privateering and anti-privateering. These and virtually all strategies that followed fell under the umbrella of *blockade* (meaning, isolation by the Union) and *counter-blockade* (meaning, Confederate attempts to break *free* of isolation)—and foreign policy had a great deal to do with both.

For the Union, isolation of the South was ultimately achieved through domination of the American waters from Pittsburg and down the Western rivers into and including the Gulf of Mexico and the Atlantic Coast from Florida to Chesapeake Bay. Isolation was as much to keep the Southern states in as to keep foreign states out. The blockade was a strategy that played out so well that even today, so many years after the fact, it is still being mischaracterized as a carefully thought-out great plan before it was even declared. But that was not the case. The blockade started as an *ad hoc* response to privateering, which Lincoln believed was the quickest way to end the insurgency. For another thing, Lincoln could not have planned on the impact of British *ad hoc* policy of neutrality, which respected both Davis's privateers *and* Lincoln's blockade.

For the Confederacy the naval strategies were almost entirely about breaking the blockade starting before there was one. They started with the privateers and then escalated to regular CS Navy commerce raiders as well as the cotton embargo, blockade runners, ironclad warships, submarines, and torpedoes. But the highest strategy of all was to gain diplomatic recognition by other nations. That would obligate *them* to help break the blockade. Even the great land battles followed the same strategic guidance for the supreme goals of both sides. For the North, it was first to control the waters for isolation purposes. As the war continued the strategy grew to using the waters for invasion and conquest. For the South, it was all about holding out long enough to either bring on European intervention or to make Northerners demand peace on the CSA's terms.

In the meantime, both sides raised enormous armies and fought each other to great slaughter. The Confederates held on militarily for four years because enough holes existed in the blockade to import some 60% of their arms, 1/3 of their bullet lead, and 2/3 of their saltpeter for gunpowder. Obviously, "domination of the waters" did not mean the Union had an airtight blockade.

Not to forget foreign affairs, if England had sided with the Confederacy at any time in the war that would have been an enormous game changer—possibly to the extent of bringing on a world war with no predictable outcome. Keeping Europeans out of the conflict was as important to USA survival as having European allies was for CSA survival.

And as for exciting tales of the blockade and blockade-running, the truth is, it was boring. Other than an occasional chase and a few shots fired, there was very little danger of getting killed or injured on either side. The job of privateers and runners was to avoid or outrun the blockade, not to fight it. On the other hand, the blockaders did not like to fire any more shots than necessary to cause them to stop. They preferred to capture ships undamaged so they would bring a better price at auction. And by US policy, as altered soon after the *Trent* Affair, only American-born personnel faced prosecution if captured. Europeans, which most of the runners were or claimed to be when captured, were usually released after temporary detention for questioning or testifying in a prize court.

So, with that as an introduction, please continue to the following study guide for more insightful questions and answers.

BLOCKADE, COUNTER-BLOCKADE AND FOREIGN POLICY

STUDY QUESTIONS AND ANSWERS

1.[Q]... *Before the war, what strategy did the secessionist leaders devise to avoid having their effort become a lawless insurrection in the eyes of the world and be seen as traitors in the eyes of the American people?*

[A]... Using the American Revolution as a model, six Southern states declared their independence by written ordinances of secession and then unified and organized a new government under a new charter, the Constitution of the Confederate States of America.

2.[Q]... *Why was “independence-first” an important part of Confederate strategy?*

[A]... The six original Confederate States wanted diplomatic recognition and respect in the world as a unified *great* nation of laws. If so recognized, the movement could not be taken as a league of rogue republics. If to be a new nation of laws, there had to be a legal way to do it.

3.[Q]... *Was there a legal way to break away from the Union?*

[A]... Yes, there was, and still is, a legal way out, but don't expect to find it in the US Constitution. It is a complete contradiction to refute the Constitution and still be protected by it. Besides, no national government has ever written a dissolution clause into its own charter. The real escape clause is the Declaration of Independence, which affirms the natural right of the people to have a government by the consent of the governed.

[<https://www.archives.gov/founding-docs/declaration-transcript>] It is the self-evident human right of revolution. The Confederate States had the right to revolution and the United States had the right to oppose it. The process is simply to declare independence and then to back it up either by force or peaceful negotiations.

4. [Q]... *Does the 10th Amendment provide an escape clause for states to secede?*

[A]... The 10th Amendment does not say that states can secede. The right to secede is only inferred by a typically partisan interpretation of its words. It simply says: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

[https://www.law.cornell.edu/constitution/tenth_amendment]. The part between the commas where it says “nor prohibited by it” is problematic. Actually, the US Constitution has several prohibitions against individual state sovereignty, which (as follows) refutes the right to secede.

First is the permanence clause written into the original US Charter of 1778 entitled the “Articles of Confederation and Perpetual Union Between the States.”

[<https://www.loc.gov/resource/rbpe.17802600/>] Later, the US Constitution of 1789 did not nullify the permanence of the bond between the states. It formed a “more perfect union” of the original bond. [<https://www.archives.gov/founding-docs/constitution-transcript>]

Second is the “supremacy clause” (Article VI, clause 2) saying that the US government is supreme in any conflict with state laws.

Third is the oath of office requiring all elected officers (both state and federal) to “preserve and protect the Constitution of the United States” (Article II, clause 8 and Article VI, clause 3).

Fourth is Article I, Sect. 10 prohibiting states from entering treaties, alliances, and confederations with other states or nations.

Fifth, Article I, Section 10 also prohibits states from raising armies and navies and issuing letters of marque and reprisal.

In all, the articles above amount to a far cry from individual state sovereignty, and, as for States' Rights, these articles are repeated in the CS Constitution nearly verbatim or otherwise in no uncertain terms. Thus, we can argue

that the 10th amendment is not an escape clause, nor does it obligate the US to dissolve if some states are dissatisfied. [https://avalon.law.yale.edu/19th_century/csa_csa.asp]

5. [Q]... *How did the American Revolution become the secessionist's model for protection against charges of treason?*

[A]... The colonists declared themselves not subject to British law and organized a government of their own and raised an army to back themselves up. They knew that separation meant war and they could not be tried for treason if they won. Of course, if they had lost, they would have been traitors by definition of the winners. As Benjamin Franklin once said, "We must all hang together or we will all hang separately." On treason, US law was similar to British law, except that here it is *only* in levying war against the United States or aiding or abetting their enemies [Article III, Sect. 3]; and back then, just like it was in Britain, treason was punishable by death.

If the breakaway states had conducted war against the United States before formal secession, they would have met the definition of treason. Instead, they did exactly what the colonists did—they declared themselves not subject to the laws of the mother country, formed a government of their own, and raised their own army for the protection of all states. They knew that separation meant war and they could not be tried for treason if they won.

The first six US states to secede met in early February 1861 to form a new government named the Confederate States of America. As yet unrecognized as a separate entity, they were regarded only insurgent states of the United States in violation of Article I, Section 10 of the US Constitution. Confederations and alliances with other states within states of the United States was illegal, however, it was not treason.

In claiming new authority and rejecting the old order, the six Confederate States began to seize US Federal property within their respective boundaries almost immediately. The seventh state, the State of Texas, seceded and joined the Confederacy in a single act in late February. At that time, Texas also moved to seize Federal property. With strength in numbers, armed and bonded together under a new constitution, the newly formed seven Confederate States became relatively immune from prosecution by the Buchanan Administration.

6. [Q]... *Why was diplomatic recognition by Britain so important to the CSA?*

[A]... Diplomatic recognition, the formal and customary way to accept another nation as an equal, is made official by the exchange of diplomats. Diplomatic exchange is formal respect of a central government's ability to stand on its own independently and have sovereignty (meaning control) of its people within defined political boundaries and territorial waters thereof.

Great Britain, then the most powerful nation in the world, mattered the most as the great arbiter of international disputes and laws governing freedom of the seas. Other nations usually followed Britain's foreign policies. France, in particular, was eager to recognize the Confederacy if Britain went first.

Recognition by Britain and presumably other foreign nations would give the *central government* of the Confederate States the right to make treaties and alliances and to regulate trade. This part was especially important because it was something the individual states could not do, either in the USA or the CSA. They both had the same articles in their respective Constitutions stating nearly identical "shalts" and "shalt nots" for states. For instance, Article I, Section 10 in both Constitutions says, "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; [etc.]. [Also] Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the [central government, the United States or Confederate States, respectively]; ...[And] No state shall [among other things] keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded."

7. [Q]... *Why did a strict legal construction have to be carefully followed by the CSA in order to gain diplomatic recognition?*

[A]... If not handled carefully as one unified nation of laws, the CSA was not likely to be recognized by established nations, most importantly, Great Britain.

8. [Q]... *Why were the privateering and blockading proclamations of central importance in literally the first hours of the war?*

[A]... Both proclamations bypassed the customary means of initiating war, that is, by formal Congressional declarations. Instead, both presidents issued widely recognized equivalences of declared war—their respective proclamations of privateering and blockading. In issuing these bold proclamations, by all international legal codes, both parties became “belligerents *de facto*,” meaning, participants in a war against each other as evidenced by irrefutable physical facts.

A shade of difference was that the USA already had international recognition as the *de jure* (legal) government of all the states. Nevertheless, the rest of the world saw it as a legitimate war between two organized American *central* governments, each claiming supremacy over the same states. Confederate emissaries had previously sought recognition with the British and US governments as early as February and March, but failed.

By early April the time to act decisively was running out. The new Lincoln Administration was in its infancy, US military and naval strength were at a relative low point and England was facing the threat of an economic crisis over cotton—and the situation could change quickly. The CSA still had two more steps to go to gain diplomatic recognition. The first was obtaining the national legal status of belligerent—which happened on April 17th. The next step, full recognition by exchange of diplomats, never did happen. Nevertheless, Britain and other nations accepted the CSA’s right to fight for independence. If successful through war or peaceful negotiations an exchange of diplomats might follow. At that point, it was strategically important for the Confederacy to have a real war to force both Britain and the United States to acknowledge its existence—something that Lincoln had steadfastly refused to do. The three practically simultaneous acts: Davis’s call for privateers, Lincoln’s blockade and Britain’s neutrality fulfilled that part of Confederate strategy.

9. [Q]... *Why was it important to Lincoln to deny that a war existed?*

[A]... For Lincoln the war had to be defined strictly as an internal matter so he could deal with it constitutionally. Normally, it is up to Congress to call forth the militia to suppress insurrections (Article I, Section 8, clause 15), but the Constitution allows the Executive to act against domestic violence when the legislature cannot be convened. (Article IV, Section 4). Congress specifically delegated that power to the Executive (President George Washington) in writing by the Militia Act of 1795. [<https://www.loc.gov/resource/rbpe.22201300/?sp=1>] [See also <https://law.justia.com/constitution/us/article-1/58-the-militia-clauses.html>]

Admitting it was a war would be tantamount to recognizing the CSA as a separate country, which could lead to its recognition by other countries as well. Lincoln had to be cautious with his words. He was fully aware of the Union’s material advantages, but he also knew that a Confederate alliance with the British could change the entire equation and throw the advantage to the South. For that reason it was important to prevent Confederate intercourse with foreign powers. As it turned out, the issue was a moot point. Even though the blockade was a self-admission that a real war existed it did not result in diplomatic recognition of the CSA by other nations.

10. [Q]... *How did the presidential proclamations instantly produce an international crisis?*

[A]... Lincoln called for a blockade within 48 hours of Davis’s call for privateers. The two nearly simultaneous proclamations immediately affirmed that a state of war not only existed, but that it existed in international waters. This, in turn, demanded an instant response from foreign nations to protect their own shipping. *Their* response was to declare neutrality.

11. [Q]... *Why was British neutrality of primary importance?*

[A]... In claiming neutrality, Great Britain, as the great rule-making third party, agreed that war existed between the two governments and other major nations went along. Therefore, by international acceptance, Davis could have privateers and Lincoln could have a blockade. These were important international rights for both parties.

Neutrality sounds innocuous, but actually, it was *the* greatest factor of all in expanding and prolonging the war. It gave the war a world-wide stamp of officialdom and opened the door to commercial interests to trade with both sides. Despite British internal laws prohibiting trade with belligerents, and a Royal decree against it, the

market for arms and contrabands of war became too great to ignore by European shippers, primarily British. Thereby, blockade-running flourished. With every shipment of arms into the South the Confederacy grew stronger. In turn, the only way to keep a lid on Southern imports was to continue adding ships to the blockade.

12. [Q]... *What was at stake for Britain if she had not declared neutrality?*

[A]... Given that there was great popular sympathy for the South around the world, taking the side of Lincoln could have produced hostility against Britain by any number of other nations. If the British Empire had fallen Britain's landmark reforms of the mid-19th Century may also have come apart, in particular, freedom of the seas and their own abolition of slavery throughout the empire in 1833. On the other hand, siding openly with the Confederacy, whether by recognition or any form of intervention, would have meant instant war with the United States. In a war against the US, Britain stood to lose Canada, if not also Bermuda and the Bahama Islands, as well as vital grains from the US Old Northwest.

13. [Q]... *How did British neutrality benefit the Confederacy?*

[A]... It gave the CSA instant rights as a belligerent, that is, the nation-like right to fight for recognition as well as to openly seek business relations in foreign countries.

14. [Q]... *Why did Lincoln think that British neutrality was a slap to the Union cause?*

[A]... It refuted Lincoln's claim that the war was only an insurrection and granted the Confederacy a higher level of legitimacy.

15. [Q]... *How did British neutrality broaden the war policies of both sides?*

[A]... In declaring neutrality, the British government recognized both parties as belligerents, which recognized their rights to wage war at sea as well as spend freely in Europe. Britain upheld the US right to have a blockade with the stipulation that it must physically exist and be verified by a strong third-party (Britain in particular) to be effectively enforced. Raising an effective blockade was truly an existential problem for the United States given the relative incapability of the US Navy at the moment. Facing an ever-growing number of private foreign shippers willing to run the relatively non-existent blockade in 1861 the US was forced to expand its navy at a previously unthinkable rate. Between March and December 1861, starting with only 42 serviceable warships, the US Navy raised 222 more ships (to a total of 264). In continuing with a rapid growth rate, by the end of the war the US Navy had nearly 600 ships in service for the blockade and various coastal offensives.

Likewise, the Confederacy had a right to expand its naval power and to conduct foreign business, which it did to the maximum extent possible. Despite British laws prohibiting aid and trade with foreign belligerents the potential fortunes to be made by arms merchants and shipbuilders were too great to ignore and the British government simply looked the other way. Neutrality encouraged foreign business transactions, including loans to the Confederacy, which in turn stimulated growth of the war into large proportions.

In a somewhat balanced move, however, the British government closed off all ports throughout the empire to the *clearing* of prizes by privateers and commerce raiders. This meant that the only courts that could clear prizes were in Southern seaports, which were under Lincoln's blockade. Thereby, British policy limited the scope of the blockade to the Southern coastline. It further prevented the participation of foreign privateers and made the blockade much more manageable.

Meanwhile, the Confederacy raised six more regular CS Navy commerce raiders in British shipyards of which expanded the war into the Atlantic and Pacific Oceans. Their strategic mission, just like the privateers, was to draw Union warships away from the blockade.

16. [Q]... *Did either president have Congressional approval when they proclaimed for privateering and blockading?*

[A]... No. Both presidents assumed executive war powers in a perceived emergency when their respective congresses were not in session. (<https://www.archives.gov/founding-docs/constitution-transcript>; Article IV, Section 4.)

17. [Q]... *Did either president have a well-developed plan for a prolonged struggle when they proclaimed for privateers and blockaders?*

[A]... No. Virtually all policies from the very beginning were *ad hoc*. Neither president had a long-term plan for war before making their proclamations. This, however, does not mean that both privateering and blockading were not already on the minds of both presidents. Davis tipped his hand in his inaugural speech by saying he would use “the well-known resources for retaliation upon the commerce of an enemy.” (He meant privateers.) Actually, both inaugural speeches (Davis’s on February 18 and Lincoln’s on March 4, 1861) proved that war was on their minds and both presidents alluded to using force to ensure a *permanent* national existence.

Neither of the two presidents nor their top cabinet advisors were experts in foreign policy. They did not know how their respective seaward policies would be regarded in international law, which turned out to be the greatest influencing factor of all in prolonging the war. Nevertheless, each side sensed the importance of European reaction to the crisis and both Lincoln and Davis did their utmost to manipulate foreign policy each to his own nation’s advantage. Davis gambled on the intervention of Britain and France and did all he could to pull them in. Lincoln, on the other hand, acted to keep the privateers in and the Europeans out, which was also a gamble. Both presidents escalated war policies at sea before knowing how Europe would react.

18. [Q]... *Whose idea was it to use privateers to strike against US commercial shippers?*

[A]... Credit typically goes to the advisement of Raphael Semmes, an Alabama lawyer and former US Navy officer who had resigned his commission and offered his service to the separatist states as a naval expert. [<https://www.gutenberg.org/files/34827/34827-h/34827-h.htm>] Actually, given the great success Americans had with privateering in previous wars, it was not an original idea, nor a difficult decision to make.

In January 1861, before there was a Confederate government, Semmes warned the Alabama Representative in US Congress, Jabez Curry, that the ability of the Northern states to harm the Southern States was in commercial “ships and shipping.” Upon that premise, he advised that seceded states should adopt privateering as a cheap and easy naval strategy. As he pointed out, they could mobilize quickly for war and demobilize just as quickly when the war was over. Taking up the idea, President Davis endorsed privateering in his inaugural speech. [<https://jeffersondavis.rice.edu/archives/documents/jefferson-davis-first-inaugural-address>]

19. [Q]... *Why did Davis think privateering was a necessary first-strike against the United States?*

[A]... The answer lies under several layers, which we can peel back one at a time.

- One. Davis, and plenty of Southern leaders, believed Lincoln’s inauguration would lead to sudden war. Lincoln raised their anxiety in his inauguration speech by saying words that they inferred as aggressive, such as: “the Union [...] will constitutionally defend and maintain itself. [...] “The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government;” [and] “You have no oath registered in heaven to destroy the Government, while I shall have the most solemn one to “preserve, protect, and defend it.”” [https://avalon.law.yale.edu/19th_century/lincoln1.asp]

After Ft. Sumter, the sense of urgency to act was heightened by Lincoln’s call for 75,000 state volunteers to reclaim more than 50 seized Federal properties. These included forts, arsenals, mints, and US customs houses. At the time of Lincoln’s inauguration, Forts Sumter and Pickens were under siege and Washington, DC itself was threatened.

- Two. Privateers were Davis’s only available physical means for a national reprisal in response to Lincoln’s call for troops.
- Three. Presumably, the unleashing of privateers upon US commercial shipping would make merchants, bankers, and insurers scream for peace. Presumably also, Lincoln would capitulate and the CSA would win its independence by default. n

- Four. As a counter-blockade strategy, Davis presupposed that a Union blockade and invasion, although unready and unable, was inevitable. His strategy to act quickly was plausible at a time when US Navy ships were scarce in home-waters, when a regular US army of maneuver did not exist, and when the US Congress was not in session to declare either a war or a blockade.
- Five. In matters of foreign policy, it was important for the Confederate States to demonstrate to the world their determination for self-rule. They could not have expected Europeans to fight for them unless they showed a willingness to fight for themselves.
- Six. It was strategically important to have a real war (not just an insurrection) to force both the British and the US governments to acknowledge the Confederacy's national existence.
- Seven. *Time* was of the essence in the moment of international crises at home and abroad. As the old adage goes, "never let a good crisis go to waste," the CS government put pressure upon the US and European governments to make quick decisions. Letting the situation drag out any longer risked losing the moment of crisis and the independence movement could have just fizzled out.

20. [Q]... *Did either the US or CS Congress actually declare war in writing? [In accordance with their respective Constitutions.]*

[A]... No. The two presidential proclamations introduced a state of war without Congressional declarations on either side. The British government acknowledged the war's existence by its declaration neutrality. Lincoln's acknowledgement was his call for a blockade, exactly as was Davis's call for privateers. Later, in May, the CS Congress recognized in writing that a state of war existed. Although the US Congress never followed up with a similar Act, the war was endorsed and supported thereafter by the democratically elected (US) state governors and legislators and was backed by a US Supreme Court decision in 1863.

<https://supreme.justia.com/cases/federal/us/67/635/>.

21. [Q]... *What was the British role as a third party to the war in America?*

[A]... Britannia, the undisputed ruler of the waves, was also the world's top cop. It was her job to enforce the laws of the seas that she herself had sponsored only five years earlier in the 1856 Treaty of Paris. Her declaration of neutrality put the Royal Navy in the position of being the verifier of the blockade's effectiveness. This could only be achieved by direct observation in close American waters.

22. [Q]... *What was the British Admiralty's ruling on the effectiveness of the blockade?*

[A]... In the fall of 1861, British observers were satisfied that the blockade was *effective enough* to count. The official stamp of British approval, enacted in Parliament on February 15, 1862 after the resolution of the *Trent* Affair, said that it did not matter that various ships had escaped capture. As long as a number of armed US ships stationed off declared ports presented an evident danger to ships entering or leaving, the blockade met international law. The *Trent* Affair itself was a quiet affirmation of the blockade's effectiveness. It proved that it was dangerous even for neutral navy ships to be in the war zone, especially if they overtly aided the Confederacy. After the *Trent* Affair, the British flag no longer gave British ships immunity from stop-and-search measures.

23. [Q]... *What was at stake for the British if they had ruled the blockade was ineffective?*

[A]... First and foremost, it would have meant instant war with the United States, which they did not want. Furthermore, they would be obligated to protect British commercial trade at Southern American seaports. At the height of the *Trent* Affair, the British had 42 warships off American shores as observers. However, these were only about 12% of the Royal Navy. The rest were needed to maintain order throughout the global British Empire.

24. [Q]... *Were the privateers supposed to fight the US Navy?*

[A]... No. Exactly like their land counter-parts, the privateers, also known as the "militia of the sea," were outclassed by organized regular Navy forces. As a counter-blockade measure, the idea was only to draw the limited

number of available US warships away from Southern seaports. Presumably, in turn, that would force the British to admit that the blockade was ineffective.

25. [Q]... *Did privateers operate out of blockaded seaports?*

[A]... No. Privateers hung out in shallow sounds many miles away from the main port inlets while also staying very close to busy commercial shipping lanes in the Gulf Stream. US Navy ships, in order to stop them, had to leave their stations at the main ports. This temporarily weakened the blockade physically, and, Confederates hoped, perhaps also in the eyes of foreign observers.

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