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Civil War History

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HUBBELL PRIZE AWARDED

Robert Bonner has won the John T. Hubbell Prize for work published in *Civil War History* during 2005. His article, "Slavery, Confederate Diplomacy, and the Racialist Mission of Henry Hotze," was selected by a five-judge panel as the best one published in the journal for volume year fifty-one. The prize earns the recipient a $1,000 cash award.

Bonner's article focuses on the diplomatic mission of the Confederate propagandist Henry Hotze and the emergence of scientific racism in the nineteenth century. He concludes the Hotze's "commitment to racialism anticipated an early chapter of a darker, more modern story, when twentieth-century governments took up the nineteenth century's most pestilent ideas and implemented them with thoroughness and malice, until another global war marked their end."

Bonner is an assistant professor of history at Michigan State University. He is the author of *Colors and Blood: Flag Passions of the Confederate South* (Princeton Univ. Press, 2002) and *The Soldier's Pen: Firsthand Impressions of the Civil War* (Hill and Wang, 2006). He was recently awarded an American Antiquarian Society–National Endowment for the Humanities Fellowship in support of his current research project, "Crossings to Freedom: Fugitive Slaves and the Completion of American Liberty."

Awarded annually and funded by a donor through the Richards Civil War Era Center at Pennsylvania State University, the John T. Hubbell Prize recognizes the extraordinary contribution to the field of its namesake, who served as editor of *Civil War History* for thirty-five years.

Which Poor Man's Fight? Immigrants and the Federal Conscription of 1863

Tyler Anbinder

Why was Hugh Boyle the only one? Of the more than 15,000 New Yorkers living in the teeming Five Points slum, this sandy-haired, blue-eyed, twenty-seven-year-old laborer was the only one forced into the army as a result of the Civil War draft. Anyone familiar with either the conscription law or its reputation among New York's Irish immigrants should find this fact surprising. Few Five Pointers could afford the $300 commutation fee that exempted one from the conscription. As a result, impoverished immigrants such as those who dominated Five Points thought that the onus of conscription would fall disproportionately on their shoulders. They believed that "the draft was an unfair one," reported the *New York Herald,* "inasmuch as the rich could avoid it by paying $300, while the poor man, who was without 'the greenbacks,' was compelled to go to the war."[1] But the draft rolls from New York seem to suggest a different story. Perhaps the draft did not create a "poor man's fight" after all. Only a systematic study of immigrants in the Union draft could determine if the conscription had forced many immigrants into uniform, or if, instead, immigrants had found some way to avoid service despite their relatively modest economic circumstances.

1. *New York Herald,* July 14, 1863. For Boyle, see Register of Drafted Men, Fourth Congressional District of New York, Entry 1589, RG 110, National Archives; Tyler Anbinder, *Five Points: The Nineteenth-Century Neighborhood That Invented Tap Dance, Stole Elections, and Became the World's Most Notorious Slum* (New York: Free Press, 2001), 317–18.

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One might imagine, given the voluminous historiography of the American Civil War, that the subject of immigrants in the Northern draft would have been thoroughly examined already. But in fact no satisfying study of the subject has ever been published. The few works that specifically survey the role of immigrants in the Civil War barely mention the draft, focusing instead on the heroics of foreign-born volunteers. The two book-length studies of the Northern draft, by Eugene Murdock and James W. Geary, devote very little attention to immigrants, concentrating instead on the conscription's many procedural problems and controversies.[2] Bell Wiley and James McPherson have both published careful analyses of who fought for the North, but because their figures lump draftees together with volunteers, their statistics tell us only that immigrants were not overrepresented in the army as a whole, and leave the question of the newcomers' treatment in the draft unresolved. The drama of Civil War draft rioting continues to attract interest from a wide range of scholars, but none of them has determined whether the rioters' fear that they would be disproportionately affected by the draft actually proved to be true.[3]

2. Ella Lonn, *Foreigners in the Union Army and Navy* (Baton Rouge: Louisiana State Univ. Press, 1951); William L. Burton, *Melting Pot Soldiers: The Union's Ethnic Regiments* (New York: Fordham Univ. Press, 1998). The many works on Irish units likewise ignore drafted soldiers. See D. P. Conyngham, *The Irish Brigade and Its Campaigns* (New York: McSorley and Co., 1867); Paul Jones, *The Irish Brigade* (Washington, D.C.: R. B. Luce, 1969); Patrick O'Flagherty, "The History of the Sixty-Ninth Regiment of the New York State Militia, 1852–1861" (Ph.D. diss., Fordham University, 1963); Eugene C. Murdock, *One Million Men: The Civil War Draft in the North* (Madison: State Historical Society of Wisconsin, 1971); James W. Geary, *We Need Men: The Union Draft in the Civil War* (DeKalb: Northern Illinois Univ. Press, 1991).

3. Bell Wiley, *The Life of Billy Yank: The Common Soldier of the Civil War* (Indianapolis: Bobbs-Merrill, 1952), 306–15, 343–44; James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford Univ. Press, 1988), 600–608. For draft riots involving immigrants, see William F. Hanna, "The Boston Draft Riot," *Civil War History* 36 (1990): 262–73; Judith Ann Giesberg, "'Lawless and Unprincipled': Women In Boston's Civil War Draft Riot," in James M. O'Toole and David Quigley, eds., *Boston's Histories: Essays in Honor of Thomas H. O'Connor* (Boston: Northeastern Univ. Press, 2004), 71–91; William Marvel, "New Hampshire and the Draft, 1863," *Historical New Hampshire* 36 (1981): 58–72; Adrian Cook, *The Armies of the Streets: The New York City Draft Riots of 1863* (Lexington: Univ. Press of Kentucky, 1974); Iver Bernstein, *The New York City Draft Riots* (New York: Oxford Univ. Press, 1990); Grace Palladino, *Another Civil War: Labor, Capital, and the State in the Anthracite Regions of Pennsylvania, 1840–1868* (Urbana: Univ. of Illinois Press, 1990), 95–117; Lawrence H. Larsen, "Draft Riot in Wisconsin, 1862," *Civil War History* 7 (1961): 421–27. For the Confederate draft, which preceded the Union conscription and was the first to inspire complaints that it would bring about "a rich man's war and a poor man's fight," the most detailed study is still Albert B. Moore, *Conscription and Conflict in the Confederacy* (New York: Macmillan, 1924).

Lax record keeping made the undertaking difficult. Draft officials nationwide were supposed to maintain identical records, indicating the name, age, height, eye and hair color, occupation, and birthplace of each draftee. Provost officers were also expected to record the ultimate disposition of each conscript—whether he was exempted for medical or other reasons, paid the $300 commutation fee, hired a substitute, or was "held to service." But most draft officers left important portions of the ledgers blank. Some recorded most of the information but failed to note nativity, the crucial variable for this study (this was the case for most of New York City, for example). Even the fairly complete draft books do not typically indicate the nativity of those who "failed to report" (the official term for those who did not appear at a draft office after their name was drawn). Because it appears that immigrants failed to report at a higher rate than natives, ledgers lacking nativity information on draft dodgers are far less valuable than those that contain this data. Finally, the army's record keeping grew worse as the war progressed. A draft officer who kept good records during the first draft (which took place in most areas in the summer of 1863) usually recorded far less information concerning those drafted in later conscriptions. Consequently, this study focuses on the conscription of 1863, although it also includes data from cities such as Chicago and Milwaukee, whose first drafts were conducted in 1864.[4]

The pattern that emerges from this data is unmistakable: immigrants were not disproportionately forced into the army as a result of the draft. In most instances, in fact, immigrants were underrepresented in the ranks of those held to service. From Maine and New Hampshire to Ohio and Illinois, immigrants in the nation's major and mid-size cities were almost always less likely than natives to serve in the army as a result of the draft. The Irish, the most economically disadvantaged of the major immigrant groups of the period, are especially underrepresented, but other immigrant groups are lacking in the ranks of the conscripted as well, though in a few places in 1864 Germans entered the army as a result of the draft at a higher rate than either the Irish

4. The draft records of thirty-nine cities were examined for this study: Albany, Bangor, Boston, Brooklyn, Buffalo, Chicago, Cincinnati, Cleveland, Columbus, Concord (N.H.), Des Moines, Detroit, Dubuque, Fort Wayne, Harrisburg, Hartford, Lancaster, Lowell (Mass.), Manchester (N.H.), Milwaukee, New Albany (Ind.), New Haven, New York, Newark, Philadelphia, Pittsburgh, Portland (Maine), Portsmouth (N.H.), Poughkeepsie, Providence, Reading, Rochester, Scranton, Springfield (Mass.), Terra Haute, Troy (N.Y.), Vincennes (Ind.), Worcester, and Youngstown (Ohio). Those cities listed but not discussed below either had draft registers that were too incomplete to be useful for comparing the army service of immigrants and natives, or they did not conduct a draft in 1863.

or the native-born. If one considers *all* those forced to contribute to the war effort as a result of the draft, by combining those forced to serve with those who hired substitutes or paid the commutation fee, then immigrants lag even further behind natives in their contributions. This study indicates that one group does appear to have been disproportionately forced into service as a result of the draft—native-born laborers, especially those residing in rural areas. Their outsized contribution to the Union cause has not previously been adequately recognized.

The Data

Because the data in the tables below play such an important role in this study, a brief discussion of their source is in order. In the bowels of the old National Archives building on Pennsylvania Avenue, lining hundreds of feet of shelves in the dark, low-ceilinged stacks, sit thousands of leather-bound volumes that comprise Record Group 110, the papers of the Provost Marshal General's Bureau. Although a large portion of these records are those of the bureau's main office in Washington, the majority of the collection is comprised of ledgers maintained by the bureau's district headquarters. In March 1863, the bureau established one such office in every congressional district and in the territories as well. Each district office preserved its correspondence with Washington, kept account books detailing expenditures, and recorded the enlistment of volunteers and the pursuit of deserters and bounty jumpers. In the spring of 1863, bureau officers began recording the names of every man in each provost district presumed eligible for the draft. When the draft commenced in the summer of that year, the selected names were inscribed in ledger books, along with the information about appearance, age, nativity, and occupation. Later on, once each case had been resolved, the final status of the conscript would be recorded as well. Although their ink is fading and their bindings are disintegrating, these rich records, largely ignored by historians in the 140 years since the Civil War ended, provide the data that made this study possible.

It is also necessary to explain the organization and presentation of the figures derived from these ledgers. First, the columns of each table are arranged so that as one reads from left to right: one begins with the outcome least desirable to the government ("failed to report"), moves right through ever more desirable outcomes (exempted after reporting, paid $300 to the

government for commutation, hired a substitute) until at the right one reaches the most desirable outcome for the army, a draftee who agreed to serve (i.e., was "held to service"). Second, some explanation is needed for the variations in the labeling of the far-right column in the tables. In most cases, that column is labeled "number drafted," which refers to the number of persons whose names were called to serve in the army when each draft was held. But because the ledgers for some places do not list the nativity of those who were called but failed to report, the far-right columns in the tables based on those ledger books are labeled "number reporting," to indicate the exclusion of those who failed to report. The reader needs to remember that the figures in those tables should be used to compare immigrants to nonimmigrants within each locale and should not be compared directly with the other tables. Finally, because the number of immigrant and nonimmigrant draftees within a given city sometimes varied tremendously, a comparison of the raw numbers would be misleading for determining the proportion of immigrants and natives forced into the army as a result of the draft. Percentages make for a much quicker and more relevant comparison. But for those who want to know the raw numbers, it is easy to calculate. In any given row, merely multiply the percentage (converted into a decimal) by the number at the end of that row to calculate the actual number of persons who make up the percentage. In the very first row of Table 1, for example, we can determine the actual number of natives held to service in Bangor by multiplying the percentage given (6%, or .06) by the total number drafted (298) to learn that eighteen native-born Bangor residents entered the army as a result of the draft.

With this information in mind, we can begin to examine the data from the draft ledgers. The best-kept draft books contain data for every federally prescribed category, including the nativity of those who failed to report for duty. Only six of the twenty-six urban draft ledgers from 1863 consulted for this study, about 20 percent of the total, recorded every bit of the prescribed information, and the data from these records are presented in Table 1. As Table 1 shows, these ledgers suggest that immigrants were not more likely than natives to serve in the army as a result of the draft. In five of the six cities, in fact, immigrants were far *less* likely to be held to service than other draftees. Only in Lowell did immigrants enter the army at rates comparable to natives. It is also notable that in most instances immigrants "failed to report" significantly more often than natives, and that Irish immigrants were typically the most likely to desert rather than report when drafted. The

Table 1. Draft Results in Cities with Complete Draft Ledgers, Summer 1863

City and Nativity	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Bangor						
Natives	4%	63%	4%	22%	6%	298
Irish Immigrants	2%	93%	4%	0%	1%	81
Other Immigrants	21%	66%	4%	6%	2%	47
Boston (Wards 1, 2, 3, 5, 6, 9)						
Natives	13%	70%	6%	8%	0.76%	1708
Irish Immigrants	24%	74%	0.48%	0.97%	0.12%	828
Other Immigrants	19%	78%	2%	1%	0%	529
Harrisburg						
Natives	18%	53%	10%	14%	5%	398
Irish Immigrants	20%	63%	13%	3%	0%	30
Other Immigrants	10%	67%	6%	17%	0%	48
Lowell, Mass						
Natives	8%	66%	21%	.92%	5%	434
Irish Immigrants	19%	70%	4%	0%	6%	93
Other Immigrants	7%	81%	7%	0%	4%	55
New Haven						
Natives	4%	70%	1%	23%	2%	557
Irish Immigrants	15%	77%	1%	5%	0%	163
Other Immigrants	9%	87%	0%	4%	0%	97
Reading						
Natives	6%	68%	4%	18%	3%	413
Irish Immigrants	39%	52%	0%	9%	0%	23
Other Immigrants	13%	76%	4%	7%	0%	85
Nationwide (all draftees)	13%	56%	18%	9%	3%	292,441

Source: "Descriptive List of Drafted Men," 4th Maine Draft District, Entry 559, vol. 38; "Descriptive Book of Drafted Men," 4th Massachusetts Draft District, Entry 893, vol. 13; "Descriptive Book of Drafted Men," 14th Pennsylvania Draft District, Entry 3307, vol. 26; "Descriptive Register of the Names of Persons Drawn," 7th Massachusetts Draft District, Entry 934, vol. 12; "Descriptive Book of Drafted Men," 2d Connecticut Draft District, Entry 1189, vol. 35, all in RG 110, National Archives. All "Descriptive Books" (i.e., draft ledgers) cited below are from this record group in the National Archives. Nationwide draft figures are based on data published in *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, ser. 3 (Washington, D.C.: GPO, 1900), 5:730. These "corrected" figures differ slightly from those given in *Final Report Made to the Secretary of War by the Provost Marshal General of the Operations of the Bureau of the Provost Marshal General of the United States* (Washington, D.C.: GPO, 1866), 173–74. In this and all subsequent charts, percentages greater than one have been rounded to the nearest whole number. Due to that rounding, percentages in some charts may not add up to 100.

Table 2. Draft Results in Cities Whose Draft Ledgers Do Not List Nativity for Those Who "Failed to Report," Summer 1863

City and Nativity	Exempt	Paid $300	Hired Substitute	Held to Service	Number Reporting
Albany					
Natives	53%	19%	18%	0%	659
Irish Immigrants	77%	13%	10%	0%	326
Other Immigrants	69%	14%	16%	0.42%	236
Boston (Wards 4, 7, 8, 10, 11, 12)					
Natives	72%	13%	12%	2%	1861
Irish Immigrants	97%	.4%	1%	0.29%	701
Other Immigrants	93%	3%	3%	0.81%	493
Buffalo					
Natives	72%	4%	22%	2%	689
Irish Immigrants	88%	3%	7%	2%	220
Other Immigrants	87%	4%	14%	0.96%	937
Concord, Manchester, and Portsmouth, N.H.					
Natives	66%	.90%	29%	4%	664
Irish Immigrants	79%	0%	22%	2%	81
Other Immigrants	60%	0%	36%	3%	58
Rochester					
Natives	71%	2%	24%	3%	441
Irish Immigrants	82%	0%	15%	1%	137
Other Immigrants	77%	0%	21%	2%	406
Scranton					
Natives	54%	27%	17%	0%	104
Irish Immigrants	88%	10%	1%	0%	83
Other Immigrants	79%	18%	4%	0%	112
Nationwide (all draftees)	65%	21%	10%	4%	252,566

Source: "Descriptive List of Drafted Men," 14th New York Draft District, Entry 1881, Vol. 19; "Descriptive Books of Drafted Men," 3d Massachusetts Draft District, Entry 877, vol. 17; "Descriptive Book of Drafted Men," 30th New York Draft District, Entry 2291, vol. 21; "Descriptive Books of Drafted Men," 1st New Hampshire Draft District, Entry 645, vol. 14 (Portsmouth); "Descriptive Book of Drafted Men," 2d New Hampshire Draft District, Entry 667, vol. 19 (Concord and Manchester); "Descriptive List of Men Drafted into Service," 12th Pennsylvania Draft District, Entry 3114, vol. 23. Nationwide figures from *War of the Rebellion*, ser. 3, 5:730. The Scranton draft was held in October. The figures in this chart do not include the 211 men who failed to report in Albany, the 528 who did not report in this portion of Boston, the 396 who failed to report in Buffalo, the 32 who did not report in New Hampshire's principal cities (why so few failed to report there is not clear), and the 118 who failed to report in Scranton.

figures do, however, corroborate the notion that immigrants were less able to hire substitutes or pay for commutation than other Americans. In most cases, immigrants were far less likely than natives to buy their way out of the draft—anywhere from two to ten times less likely. The only exception was in Harrisburg, where a large and relatively prosperous German immigrant community was either able to pay the commutation fee or hire substitutes at about the same rate as natives. Yet by more often claiming exemptions and failing to report, immigrants without the money to buy their way out of the draft were able to offset the disadvantage of their limited monetary resources. As a result, immigrants in these cities were less likely than natives to serve in the army as a result of the draft.

Although draft ledgers that do not record the nativity of those who failed to report are less useful than those that include this data, such draft books do nonetheless enable us to compare the rate at which immigrants and natives were held to service. The draft records from these cities confirm the trends found in the complete registers. Immigrants were never overrepresented in the ranks of those held to service, and in most cases they were underrepresented. Only in Albany and Scranton were immigrants held to service at the same rate as natives, and that is because, in effect, nobody from those two cities was held to serve. In Albany, almost no one was held to service because the city bought substitutes for all who could not afford them. The only Albany resident forced into the army was an immigrant who had failed to report. When he was arrested a year later, he had forfeited his opportunity to have the city pay for his substitute and was forced into service. It is not clear why no one was held to service in Scranton. The high percentage of draftees who paid the $300 commutation fee suggests that such a plan might have been adopted there as well, though the only local newspaper extant from the war years does not mention one. (Note that the "nationwide" data for Table 2 differ from that for Table 1 because the figures for Table 2 exclude all those who failed to report.) In any case, either by failing to report or by claiming exemptions at a higher rate than natives, immigrants in these thirteen cities—and Irish immigrants in particular—were able to avoid service in the army even more so than native-born citizens, who could more often afford to purchase a substitute if they were not exempted.[5]

5. For the Albany substitute procurement legislation, see the *Albany Evening Journal,* July 21 and 31, 1863. The *Lackawanna Register,* a Democratic organ, does not mention any government program to pay commutation fees in Scranton. For such programs created in New York City and Brooklyn, see *New York Times,* July 28 (2, 4, 5), Aug. 16 (3), Aug. 17 (4), Aug. 20 (8), and Sept. 6 (3), 1863.

Because the majority of draftees avoided service by claiming an exemption, it is worth considering how authorities meted them out. Those whose names were selected on draft day had to appear at the local provost marshal's office for examination in the days or weeks after the draft took place. The draftee would be exempted from service if he was seventeen or younger, forty-five or older, or thirty-five or older and married. He could also claim an exemption if he was the only son (and thus the only supporter) of either a widow or infirm parents, or if he was the father of motherless children. Exemptions were also available for those who already had two brothers in service and for those who had been in uniform on March 3, 1863, the date the draft law was enacted. Draftees could also secure exemptions if they had been convicted of a felony or if they were the only brother of children under the age of twelve (though out of 290,000 drafted in the summer of 1863, only about 150 men successfully claimed either of these last two exemptions).

All the exemption categories mentioned thus far accounted for just 30 percent of the exemptions. Another 14 percent, the second largest category, went to "aliens," immigrants who had not yet become citizens. Not all aliens were exempt from the draft. According to the draft law, even noncitizens had to participate in the conscription if they had previously taken an oath declaring their intention to become citizens, a legal filing that was a prerequisite to naturalization. This clause may have been included in the law because, as Lincoln later stated, the national emergency created the need for every able-bodied person with allegiances to the United States (no matter how new or tenuous) to do his part. But this portion of the law may also have originated from the fear that, in an era when virtually any court could issue a certificate of naturalization and the federal government kept no central repository of those records, immigrants who had in fact become citizens might be able to avoid service by falsely claiming that they were in fact still aliens. Other immigrants could seek this exemption and hope that draft officials would not find out that they had already filed a declaration of intent. It is impossible to determine if immigrants employed such means of deceit to escape service. Whatever the case, the "alienage" exemption clearly enabled thousands of immigrants to avoid the draft.

The final exemption category, accounting for 55 percent of all exemptions in 1863, was for "physical disability."[6] Hernias, limps, badly healed fractures, heart and lung ailments, and nearsightedness were the physical disabilities

6. *War of the Rebellion,* ser. 3, 5:731; Neil C. Kimmons, "Federal Draft Exemptions, 1863–1865," *Military Affairs* 15 (1951): 25–33.

that most commonly earned draftees exemptions. But the list of additional ailments that could excuse one from service is surprisingly lengthy and diverse. In Boston, for example, several recruits received medical exemptions for "inflamed" or "diseased" testicles. Others were excused because they were considered too short or too weak (a recruit's weakness was sometimes corroborated by recording his abnormally small chest measurements). Others were exempted because they were missing too many teeth, perhaps on the grounds that such a soldier would not be able to eat enough to sustain himself for battle. But the opposite problem could bring one an exemption as well: "excessive obesity" was cited in a number of exemptions. The ability to march was clearly considered a prerequisite for service, as a number of draftees were exempted for ankle and foot problems. "Crooked toes" or even a single disabled toe was enough to earn one an exemption in Boston. One recruit was even excused because he had "tender feet." Hundreds were exempted for a variety of other maladies, including varicose veins, "chronic diarrhea," odd skin growths, syphilis, swollen hemorrhoids, "brain disease," imbecility, and "excessive stammering." With so many options available, it is little wonder that about 40 percent of all draftees who reported for examination were able to procure a medical exemption. (The 55 percent figure reported at the end of the previous paragraph describes the percentage of *exemptions* that were granted on medical grounds. [please recheck ref. to previous paragraph; need to restate?])[7]

By either failing to report or obtaining an exemption, eight out of ten draftees in the urban areas sampled managed to avoid army service. The remaining men had three options: pay the $300 commutation fee, hire a substitute, or enlist. If one sought to avoid service, hiring a substitute was preferable to paying commutation. The person who hired a substitute was excused from service for the length of the substitute's enrollment (three years for the 1863 draft), whereas someone paying the commutation fee was exempted only from that particular draft. That additional drafts were already being contemplated was widely known in the summer of 1863, and three more major drafts calls were subsequently issued—in March, July, and December 1864. Unless one worried about guilt feelings should one's substitute die while serving, it was clearly more advantageous to hire a substitute than to pay commutation.[8]

7. "Descriptive Book of Drafted Men," 4th Massachusetts Draft District, Entry 893, vol. 13.

8. Circular No. 44 of the Provost Marshal General, July 12, 1863, reprinted in *Albany Evening Journal,* July 14, 1863; Peter Levine, "Draft Evasion in the North During the Civil War, 1863–1865,"

Why, then, did the Lincoln administration offer the option of commutation at all, since it needed men far more than greenbacks? The commutation clause was inserted in the draft law not to enable the rich to avoid the draft, but to place a cap on the price men would have to pay for substitutes. Clearly chafing at the negative reaction to the $300 clause, Lincoln composed (though he never sent or published) a rebuttal to the charge that the administration had created the commutation clause to allow the wealthy to avoid military service. Lincoln noted that substitution, "an old and well known practice, . . . is not objected to. There would have been great objection if that provision had been omitted." With no choice but to allow substitution, Lincoln argued, "the money provision" had to be added to the draft law in order to be sure that the price of substitutes did not become exorbitant. "Without the money provision," wrote the president, "competition among the more wealthy might, and probably would, raise the price of substitutes above three hundred dollars, thus leaving the man who could raise only three hundred dollars, no escape from personal service. . . . The money provision enlarges the class of exempts from actual service simply by admitting poorer men into it. How, then[,] can this money provision be a wrong to the poor man?"[9]

The available evidence seems to validate Lincoln's reasoning. After the commutation option was eliminated in July 1864, the proportion of draftees able to buy their way out of the army fell from 27 percent in the summer of 1863 to just 13 percent in the summer of 1864. As Lincoln had predicted, the price of substitutes, which had ranged from about $200 to $275 in the summer of 1863, rose to $500 or more by late 1864. In New York and Washington, $800 and even $1,800 payments were not unheard of. Lincoln was right; the commutation clause helped many Northerners avoid military service who could not have done so otherwise.[10]

Journal of American History 67 (1981): 819; Geary, *We Need Men,* 81. Some sources indicate that paying the $300 commutation fee relieved the draftee of all future obligations, but Circular No. 44 clearly states otherwise.

9. Lincoln, "Opinion on the Draft" [Sept. 1863?], in Roy P. Basler, ed., *Collected Works of Abraham Lincoln* (New Brunswick: Rutgers Univ. Press, 1953–55), 6:447–48. Although Lincoln's memorandum was never published, other Republicans echoed his sentiments in public. See, for example, the *New York Times,* Dec. 25, 1863, 4. Also see Carl Sandburg, "Lincoln and Conscription," *Journal of the Illinois State Historical Society* 32 (1939): 5–19.

10. *New York Times,* Aug. 17, 1863, 4; Geary, *We Need Men,* 145; Murdock, *One Million Men,* 266–68. Two most-often cited studies of the fairness of the commutation clause are Murdock, "Was It a 'Poor Man's Fight'?" *Civil War History* 10 (1964): 241–45, and Hugh Earnhart, "Commutation: Democratic or Undemocratic?" *Civil War History* 12 (1966): 132–42; both, however, are problematical. A more sophisticated analysis can be found in Geary, *We Need Men,* 140–50.

If this were the case, then why did so many Americans greet the commutation clause with such hostility? Perhaps what Lincoln did not understand was that "the money provision," by allowing both wealthy *and* middling Americans to avoid military service, may have made the poor feel that they were the only socioeconomic group that could not avoid service. The poor may have also resented the commutation clause because it suppressed the price they could command for their services as substitutes. We have seen that immigrants, despite their relatively limited economic means, did not have to serve in the army more often than natives as a result of the draft. In fact, they were less likely than natives to be forced into the army. But the newcomers may not have understood this before the draft commenced, which perhaps explains why the North's major draft riots all took place before the results of the first national draft were known.

While urban immigrants were not more likely than natives to have served in the army as a result of the draft, perhaps the draft placed a disproportionate burden on the urban poor in general, regardless of nativity. Unfortunately, the data needed to answer this question are rarely found in the draft registers, as few provost officials bothered to fill in the "occupation" column in their ledger books. Even in the cases where employment data do exist, the evidence is somewhat contradictory. Classifying the socioeconomic ranking of Civil War–era Americans by their occupations is a tricky business, but for this study it was sufficient to choose five popular occupational categories that could roughly translate into economic status. Merchants and lawyers populate the upper end of the spectrum, characterized as high-status "white-collar" workers. (In Boston, merchants alone were sufficient to create a statistically significant grouping, but lawyers had to be added in the remaining cities to obtain a larger, more reliable sample.) Clerks and bookkeepers represent the lower-status white-collar occupation. Artisans are represented by the full spectrum of woodworkers, ranging from shipbuilders and carriage makers to simple coopers and carpenters. The lowest end of the occupational spectrum is represented by menial day laborers.

Predictably, those toward the top of the socioeconomic ladder were more frequently able to buy their way out of the draft than those toward the bottom. More than half of the merchants in Boston and merchants and lawyers in New Haven did so, as did nearly half of the merchants and lawyers in Harrisburg and a third of that group in Springfield. Clerks were also able to buy their way out of the army far more often than manual workers, while woodworkers could do so more frequently than unskilled laborers. But these figures also display some surprising trends. In Boston, for example, though

Table 3. Draft Results by Occupational Category, Summer 1863

City and Occupation	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Boston (Wards 1, 2, 3, 5, 6, 9)						
Merchants	0%	45%	28%	28%	0%	44
Clerks	11%	74%	5%	10%	0.59%	339
Woodworkers	17%	77%	0.51%	5%	0%	198
Laborers	24%	74%	0.51%	1%	0%	394
Harrisburg						
Merchants and Lawyers	0%	53%	21%	26%	0%	19
Clerks	5%	67%	3%	26%	0%	39
Woodworkers	19%	53%	16%	6%	6%	32
Laborers	29%	46%	5%	11%	9%	93
New Haven						
Merchants and Lawyers	0%	38%	4%	58%	0%	26
Clerks	3%	67%	2%	29%	0%	63
Woodworkers	6%	82%	0%	10%	2%	50
Laborers	20%	72%	3%	3%	2%	65
Rochester						
Merchants and Lawyers	N/A	71%	2%	24%	2%	45
Clerks	N/A	76%	1%	20%	2%	85
Woodworkers	N/A	74%	0%	24%	2%	91
Laborers	N/A	84%	0%	12%	3%	73
Springfield, Mass.						
Merchants and Lawyers	N/A	67%	20%	13%	0%	15
Clerks	N/A	63%	30%	8%	0%	40
Woodworkers	N/A	73%	20%	0%	7%	41
Laborers	N/A	94%	4%	0%	1%	72

Source: Springfield data from "Descriptive Book of Drafted Men," 10th Massachusetts Draft District, Entry 981, vol. 17; for the data from other cities, see sources cited for Tables 1 and 2.

very few manual workers could afford substitutes or commutation, this fact did not force more manual workers into the army. By claiming exemptions and by failing to report, Boston's woodworkers and laborers were able to avoid the army just as readily as more prosperous men. In Rochester, too, those in lower-status occupations were not much more likely to serve as a result of the draft than those in higher-status occupations.[11] Yet the outcome of the draft differed in New Haven, Springfield, and Harrisburg. In those cities, manual workers were much more likely to be held to service than white-collar workers, even though manual workers in those very cities were much more likely than their Boston counterparts to be able to buy their way out of the army.

What explains these incongruities? In Springfield, there seems to have been a shortage of substitutes. The predominantly immigrant laborers there could compensate either by taking the alienage exemption or failing to report, since their ties to the community were relatively tenuous anyway. Woodworkers, who were much more likely to be native-born and thus more likely to have longer-standing ties to the community, did not always have those options and were more likely to be forced into service. In Harrisburg, in contrast, there were not many immigrants at all. A majority of its laborers were native-born, and many were African Americans. About half of the Harrisburg laborers held to service were black men who, having been previously denied the opportunity to fight, were now probably quite willing to go into the army. The relative paucity of immigrants in Harrisburg may have also driven up the wages of manual workers there, explaining why so many of the city's artisans and laborers could afford commutation or substitutes.

A comparison of the figures in Table 3, which show relatively high rates of draft-induced army service by the least prosperous urban residents, with those from Tables 1 and 2, which show a relatively low rate of draft-related army service among urban immigrants, suggests that native-born urban workers of limited means were likely the only city dwellers disproportionately forced into the army as a result of the draft. Table 4, which offers a comparison of immigrants and natives in the same occupational groups, substantiates this conclusion. The figures in this table are grouped in pairs (native clerks with immigrant clerks, native woodworkers with immigrant woodworkers,

11. In Rochester, the one "merchant" held to service was an immigrant "fish merchant," likely a fish peddler. It may be that the Rochester draft official who recorded the occupations of the draftees used the term "merchant" more loosely than the recording officials in other cities.

Table 4. Draft Results by Occupational Category and Nativity, Summer 1863

City, Nativity, and Occupation	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Boston (Wards 1, 2, 3, 5, 6, 9)						
Native Clerks	10%	72%	5%	11%	0.67%	298
Immigrant Clerks	15%	85%	0%	0%	0%	41
Native Woodworkers	18%	75%	0%	7%	0%	110
Immigrant Woodworkers	15%	81%	1%	2%	0%	86
Native Laborers	17%	80%	0%	3%	0%	70
Immigrant Laborers	25%	74%	0.63%	0.63%	0%	316
New Haven						
Native Clerks	0%	65%	2%	33%	0%	55
Immigrant Clerks	25%	75%	0%	0%	0%	8
Native Woodworkers	5%	73%	0%	20%	3%	40
Immigrant Woodworkers	6%	88%	0%	6%	0%	17
Native Laborers	0%	60%	10%	20%	10%	10
Immigrant Laborers	24%	75%	2%	0%	0%	55
Rochester						
Native Clerks	N/A	70%	2%	25%	3%	64
Immigrant Clerks	N/A	95%	0%	5%	0%	21
Native Woodworkers	N/A	71%	0%	33%	6%	31
Immigrant Woodworkers	N/A	75%	0%	25%	0%	60
Native Laborers	N/A	60%	0%	27%	13%	15
Immigrant Laborers	N/A	90%	0%	9%	0%	58
Springfield						
Native Clerks	N/A	67%	25%	6%	2%	51
Immigrant Clerks	N/A	50%	50%	0%	0%	2
Native Woodworkers	N/A	68%	25%	3%	5%	40
Immigrant Woodworkers	N/A	100%	0%	0%	0%	7
Native Laborers	N/A	75%	17%	0%	8%	12
Immigrant Laborers	N/A	98%	2%	0%	0%	61

Source: Same as those for Tables 1, 2, and 3. There were too few immigrants in Harrisburg for inclusion of that city in this chart with a reliable degree of statistical significance.

etc.) in order to draw the reader's attention to the relevant comparisons. Whether one looks at clerks, woodworkers, or laborers, natives were much more likely than their immigrant coworkers to contribute to the war effort as a result of the draft—either by serving themselves, hiring a substitute, or paying a commutation fee that could be used to pay the bounty of a volunteer. Of all these groups, however, native-born laborers were the only ones consistently held to service at a rate higher than the national average. These workers lacked the economic means to escape service and could not avail themselves of the alienage exemption, as could so many immigrant laborers. But with the exception of that one group, relatively few city dwellers were forced into the army as a result of the draft of 1863.

The Countryside

Conscription played out somewhat differently in the countryside. As Table 5 illustrates, rural residents of the very draft districts cited above ended up hiring a substitute, paying the commutation fee, or serving themselves as a result of the draft significantly more often than did their urban counterparts. For example, 38 percent of the rural residents of the Second Connecticut Congressional District helped the draft effort in one of these three ways, while only 19 percent of New Haven residents did so. In some draft districts, the disparity between rural and urban contributions was less extreme. In northern Maine, 29 percent of rural draftees contributed to the war effort as a result of the draft, while a respectable 25 percent of Bangor residents did so as well. Residents of rural areas were also more likely than city folk to enter the army themselves as a result of conscription. In four of the eight districts sampled in fact, country folk were at least twice as likely as their urban counterparts to end up in the army as a result of the draft. In Maine, rural Mainers were nearly three times as likely to be held to service as those living in Bangor, possibly because the hardscrabble farmers of Northern Maine lacked the resources to buy their way out (a shortage of substitutes there probably contributed to this outcome as well). In three of the other four districts, however, rural and urban residents entered the army at about the same rate. Only in rural Berks County were residents less likely than their urban neighbors to enlist in the army as a result of the draft, apparently because the county was so prosperous that nearly half the draftees there could either hire a substitute or pay commutation. One might argue that

Table 5. Draft Results Comparing Rural Areas to Cities Within the Same Draft District, Summer 1863

Location	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Second Conn. Draft District						
Rural Central Conn.	4%	59%	18%	19%	0.94%	535
New Haven	7%	74%	1%	17%	1%	841
Fourth Maine Draft District						
Rural Northern Maine	29%	42%	8%	7%	14%	847
Bangor	6%	69%	4%	16%	5%	426
First N.H. Draft District						
Rural Southeast N.H.	0.71%	64%	1%	30%	4%	423
Portsmouth	0.70%	69%	2%	26%	2%	286
Fourteenth N.Y. Draft Dist.						
Rural Albany Co., N.Y.	7%	37%	43%	14%	0%	232
Albany	15%	53%	14%	18%	0%	1442
Eighth Pa. Draft District						
Rural Berks Co., Pa.	2%	52%	20%	25%	1%	334
Reading	9%	69%	4%	16%	3%	1046
Fourteenth Pa. Draft Dist.						
Juniata Co., Pa.	9%	50%	27%	5%	9%	371
Harrisburg	17%	55%	9%	13%	4%	485
Twelfth Pa. Draft District						
Rural Susquehanna Co.	8%	48%	33%	4%	6%	510
Scranton	28%	53%	13%	6%	0%	415

Source: "Descriptive Book of Drafted Men," 2d Connecticut Draft District, Entry 1189, vol. 35, subdistricts 9, 10, 11, 14, 16, 20, 23, 25, and 30 (all communities in New Haven and Middlesex counties in which at least 50 percent of the draftees were farmers or farm workers); "Descriptive Books of Drafted Men," 4th Maine Draft District, Entry 559, vol. 38, subdistricts 32–51 (townships in modern-day Aroostook and Piscataquis counties); "Descriptive Book of Drafted Men," 1st New Hampshire Draft District, Entry 645, vol. 14, subdistricts 6–9 (a rural portion of Rockingham County); "Descriptive Book of Drafted Men," 14th New York Draft District, Entry 1881, vol. 19, subdistricts 11–13 (the Albany County towns of Coeymans, Guilderland, and Bern); "Descriptive Book of Drafted Men," 8th Pennsylvania Draft District, Entry 2999, vol. 29, subdistricts 1–9; "Descriptive Book of Drafted Men," 14th Pennsylvania Draft District, Entry 3307, vol. 26, all 1863 Juniata County pages; "Descriptive Book of Drafted Men," 12th Pennsylvania Draft District, Entry 3114, vol. 33, draftees 3200–3700.

because the rural districts were populated overwhelmingly by the native-born, it would be more meaningful to compare the rural draftees only to native-born city dwellers (because so many urban immigrants could take the alienage exemption). But a comparison of the statistics in Table 5 with those for natives only in Table 1 indicates that the contributions of rural residents outstripped those of urban natives too, albeit by smaller margins.

One might wonder if there might be a correlation between one's political persuasion and one's propensity to enter the army as a result the draft. Information on the party affiliations of the individuals who were held to service in the districts were not examined in this study. Nor was there an attempt to determine the political leanings of each district sampled. Because the districts considered in this study were chosen because of the quality of their draft ledgers, and not as a result of a research strategy that sought to control for partisan affiliation, it did not seem worthwhile to consider the partisan proclivities of the districts surveyed. Nonetheless, the three rural districts examined in Pennsylvania do allow for a modicum of speculation on the subject. Berks County (in the east-central part of the state) was renowned for consistently returning huge Democratic majorities; Susquehanna County (in northeastern Pennsylvania) was safely Republican; while Juniata County (located in the south-central portion of the state) was just about evenly split between the two parties. Predictably perhaps, Table 5 shows that the held-to-service rate in Democratic Berks County (1 percent) was only one-sixth of that of the rural part of heavily Republican Susquehanna County (6 percent). Yet the proportion held to service in evenly split Juniata County was higher still (9 percent), a fact that calls into question the relevance of partisanship in determining draft results. Furthermore, if one considers all contributions to the war effort one could make as a result of the draft (paying commutation, hiring a substitute, and going into service), a higher percentage of the residents of heavily Democratic Berks County (46 percent) contributed than did those in either Republican Susquehanna (43 percent) or evenly split Juniata (41 percent). In this case, economics seems to trump partisanship. Mountainous Juniata was far less prosperous than either Berks or Susquehanna counties. This fact probably explains why a smaller proportion of its residents could hire substitutes or pay the commutation fee, and therefore why more of its residents had to enter the army as a result of the draft.

A first assumption was that farmers were the rural residents who contributed the additional manpower and money to the war effort, but closer examination indicated that there were a lot more nonfarmers living in the

Table 6. Rural Draft Results Comparing Farmers and Nonfarmers, Summer 1863

Location	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Rural North-Central Mass.						
Farmers	1%	71%	15%	9%	3%	286
Nonfarmers	4%	70%	16%	8%	2%	399
Rural Southwest Mich.						
Farmers	N/A	47%	41%	6%	6%	401
Nonfarmers	N/A	61%	26%	7%	6%	218
Rural Southeast N.H						
Farmers	0%	57%	1%	39%	3%	164
Nonfarmers	0%	68%	0.84%	27%	4%	237
Rural Northeast N.H.						
Farmers	0%	61%	25%	14%	0.36%	279
Nonfarmers	0%	57%	25%	18%	0.61%	163
Rural Dutchess Co., NY						
Farmers	0.5%	50%	47%	3%	0.25%	400
Nonfarmers	2%	68%	27%	2%	0%	291
Rural Berks Co., Pa.						
Farmers	0%	46%	20%	35%	0%	123
Nonfarmers	3%	56%	20%	18%	2%	206
Juniata Co., Pa.						
Farmers	6%	51%	36%	5%	3%	163
Nonfarmers	12%	51%	20%	4%	12%	220
Rural Susquehanna Co.						
Farmers	8%	42%	39%	4%	6%	252
Nonfarmers	9%	54%	27%	4%	6%	249

Source: "Descriptive Book of Drafted Men," 9th Massachusetts Draft District, Entry 964, vol. 20, subdistricts 31–47; "Descriptive Book of Drafted Men," 2d Michigan Draft District, Entry 5992, vol. 27, subdistricts 1–47; "Descriptive Book of Drafted Men," 1st New Hampshire Draft District, Entry 645, vol. 14, subdistricts 6–9 (southeast), 20–24 (northeast, all of Carroll County); "Descriptive Book of Drafted Men," 12th New York Draft District, Entry 1839, vol. 16, subdistricts 2, 3, 5, 6, 8, 11, 14, 20, 22, 23, 29, 30, 33–34, 38–40 (subdistricts in which at least half the men drafted were farmers or farm workers); "Descriptive Book of Drafted Men," 8th Pennsylvania Draft District, Entry 2999, vol. 29, subdistricts 1–9; "Descriptive Book of Drafted Men," 14th Pennsylvania Draft District, Entry 3307, vol. 26, all 1863 Juniata County pages; "Descriptive Book of Men Drafted," 12th Pennsylvania Draft District, Entry 3114, vol. 33, draftees 3200–3700.

countryside than one might imagine. Table 6, which divides the rural population into farmers and nonfarmers, reveals two trends. First, farmers and nonfarmers in most rural locales were held to serve in the army at about the same rate. But if one also considers the hiring of substitutes and the paying of commutation fees, farmers contributed much more to the draft than other rural residents, and much more than the average city dweller. In rural southwest Michigan, for example, 53 percent of draftee farmers paid the commutation fee, hired a substitute, or entered the army, whereas only 38 percent of nonfarming rural residents did so. Farmers in most of the other districts studied contributed to the draft effort in equally high rates. Farmers turn out to be a lot like urban merchants—they could far more readily pay to avoid service than other members of their communities. This fact has been obscured in the past because so many studies have lumped yeoman farmers and menial farm laborers together into a single category. There was apparently more variation in age and wealth among farmers than among urban merchants, however, for while only a single merchant in the five cities sampled by occupational group became a soldier as a result of the 1863 draft, a significant number of farmers (typically younger, possibly less prosperous ones) did enter the army due to conscription.[12]

In the countryside, as in urban areas, menial laborers were the ones most often forced into the army as a result of the draft (see Table 7). Whereas a laborer in a city was most often a construction or transport worker of some sort, in rural America a "laborer" might do that kind of work or might instead be a farmhand. The census and draft records rarely distinguish between the two. As Table 7 indicates, in four of five districts sampled, rural laborers in general were much more likely than rural nonfarmers to be forced into the army as a result of the 1863 draft. In southwest Michigan, for example, while only 6 percent of rural nonfarmers were forced into the army, 11 percent of rural laborers were held to service. In most of my rural sample areas, there were not enough immigrants to allow for a statistically significant comparison

12. The most thorough and sophisticated study of the draft to date, by James W. Geary, asserts that farmers were the only occupational group significantly overrepresented among the ranks of those forced to serve as a result of the conscription. My findings differ from Geary's because he made the mistake of grouping farmers and farm laborers in a single category. Farm laborers occupied a vastly different socioeconomic rank than the farmers who employed them, and it was these laborers who were most likely to be forced into military service. Geary's method of categorization may have been influenced by the work of James McPherson, who also grouped farmers and farm laborers together in his analysis of army service records. See Geary, *We Need Men,* 92–102; McPherson, *Battle Cry of Freedom,* 608–14.

Table 7. Rural Draft Results Comparing Laborers to All Nonfarmers, Summer 1863

Location	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
North-central Mass.						
All Nonfarmers	4%	70%	16%	8%	2%	399
Laborers only	10%	82%	6%	0%	2%	94
Southwest Mich.						
All Nonfarmers	N/A	61%	26%	7%	6%	218
Laborers only	N/A	68%	18%	4%	11%	57
Rural Berks Co., Pa.						
All Nonfarmers	3%	56%	20%	18%	2%	206
Laborers only	7%	53%	16%	21%	4%	190
Juniata Co., Pa.						
All Nonfarmers	12%	51%	20%	4%	12%	220
Laborers only	16%	47%	13%	4%	18%	93
Rural Susquehanna Co., Pa.						
All Nonfarmers	9%	54%	27%	4%	6%	249
Laborers only	17%	47%	19%	3%	13%	93

Source: Same as Table 6, with the following exceptions. For north-central Massachusetts (9th Draft District), to ensure enough laborers to create a statistically significant sample, the sample size for laborers was increased by collecting data from subdistricts 31–63, or roughly twice as many subdistricts as were used to create the "all Nonfarmers" category here and in Table 6. For the same reason, sample size was increased when compiling data on southwest Michigan laborers by increasing the sample to include subdistricts 1–61, a sample about 50 percent larger than the one used for the other data. Likewise, the size of the sample for Berks County laborers was increased by two-thirds by expanding the sample to include subdistricts 1–15.

of native-born and immigrant laborers. The one exception was north-central Massachusetts, where native-born laborers were far more likely than immigrant laborers to be held to service.[13]

To make sense of these trends, both urban and rural, one must reconstruct the mind-set of the draftee of 1863. An urban draftee of means had relatively little incentive to fail to report, because he knew he could buy his way out of the army if he failed to qualify for an exemption. This explains why so few white-collar workers dodged the draft. In addition, many of these citizens owed their prosperity to business and community ties that would be destroyed

13. In the north-central Massachusetts sample, two (6 percent) of the thirty-two drafted native-born laborers were held to service, while none of the sixty-two immigrant laborers was forced into the army.

if they fled rather than fight. Manual workers, however, tended to have jobs that were less dependent on such connections. This was especially the case for immigrants, whose ties to their communities might be relatively new. Urban manual workers, especially younger, unmarried ones, typically moved each year in search of better housing; those who were single and lived in boardinghouses sometimes moved even more frequently.[14] If they did not have the savings to pay for a substitute, or even if they did barely have enough, these draftees might calculate that it was worth the risk of arrest not to respond to the draft board's call. If they lived in a big city, they could pick up quickly, move to another teeming neighborhood and take another job, knowing it was very unlikely they would ever be found by a provost marshal. They could even move to another city, making the possibility of arrest more remote still. Immigrants also had the option of lying about their citizenship status. Whether foreign or native-born, the city dweller of modest means therefore had, in some senses, even more alternatives available to him than did the well-to-do city dweller, and he was able in most cases to avoid draft-induced military service. Even the impoverished urban immigrant, it turns out, was by no means powerless to prevent his conscription into the army. He had many options, and typically he employed them skillfully in order to avoid being forced into the army.

Those of limited means in the countryside, however, had far fewer options. If a small-town resident failed to report after being drafted, he was much easier to find than a city dweller. It was also far harder for a farmhand to pick up suddenly and find a new job in a new locale, as farmers rarely hired new hands until harvest time. Residents of small towns would also have more difficulty faking medical maladies too, as their ailments (or lack thereof) were more likely to be common knowledge. The native-born rural laborer was therefore the person most likely to be forced into the army as a result of the draft—his was the only group that entered the army at far above the national rate. He was typically physically robust, everyone knew where he lived, and he was not likely to have the savings to enable him to pay someone else to take his place, or even find a substitute if he did have the means. Native-born urban laborers were the other group disproportionately compelled by the draft to enter the army. The expectation that the poor would shoulder an unfair share of the burden resulting from the initial draft thus turned out to be only partially true. Immigrants, even those who dominated the ranks of the menial labor force in eastern cities, were not compelled to contribute

14. Kenneth A. Scherzer, *The Unbounded Community: Neighborhood Life and Social Structure in New York City, 1830–1875* (Durham: Duke Univ. Press, 1992), 19–48.

Table 8. First Draft Results in Cities That Did Not Hold a Draft in the Summer of 1863

City, Nativity, and Date	Failed to Report	Exempt	Paid $300	Hired Substitute	Held to Service	Number Drafted
Cincinnati, Spring 1864						
Natives	38%	40%	14%	7%	1%	824
Irish Immigrants	42%	44%	11%	2%	1%	520
Germans	29%	40%	23%	6%	1%	1522
Other Immigrants	30%	48%	16%	6%	0.81%	246
Nationwide	24%	36%	29%	8%	3%	113,446
Chicago (Wards 6, 8, 9, and 12), Fall 1864						
Natives	39%	26%	0%	33%	5%	144
Irish Immigrants	57%	29%	0%	13%	1%	229
Germans	38%	30%	0%	23%	10%	261
Other Immigrants	39%	35%	0%	21%	5%	109
Nationwide	29%	47%	.56%	12%	11%	231,918
Milwaukee (Wards 1–4, 6, 8–9), September 1864						Number Reporting
Natives	N/A	65%	0.85%	31%	3%	117
Irish Immigrants	N/A	86%	0%	3%	6%	37
Germans	N/A	42%	0.13%	39%	13%	783
Other Immigrants	N/A	63%	0%	26%	11%	99
Nationwide	N/A	66%	.78%	17%	16%	165,759

Source: "Descriptive Book of Drafted Men," 1st Ohio Draft District, Entry 4559, vol. 8; "Descriptive Book of Drafted Men," 1st Illinois Draft District, Entry 5576, vol. 57; "Descriptive Book of Drafted Men," 1st Wisconsin Draft District, Entry 6172, vol. 3; *War of the Rebellion*, ser. 3, 5:733–35 (for nationwide figures). The Cincinnati totals represent only wards 1–5, 7, 9–11, 13, and 17. For wards 6 and 8, the draft ledger did not list the nativity of the recruits, while the pages in the ledger set aside for wards 14, 15, and 16 were left blank. Of the 38 Cincinnatians from the sampled wards who were held to service in this draft, only 5 went willingly. The other 33 were men who failed to report but were arrested soon afterward by the city's especially vigilant provost marshal. The four Chicago wards examined were the only ones whose draft is recorded in detail in the district's ledger. Milwaukee figures include all wards except 5 and 7, whose draft figures could not be found in the ledger. The Milwaukee figures do not include two Irish immigrants who were arrested in 1865 for failing to report and whose status after arrest was unclear. The total number of men who failed to report in these Milwaukee wards was 647. The "nationwide" figures for Cincinnati and Chicago differ from each other because the Cincinnati draft was part of a relatively small conscription held by only a few states in the spring of 1864. The Chicago draft was held in the fall of that year, when virtually every state conducted a draft. The autumn 1864 draft was also the first conducted after Congress eliminated the option of commutation. The Milwaukee "nationwide" figures differ from the Chicago figures because the Milwaukee ledger did not the nativity of those who failed to report—therefore, the Milwaukee nationwide figures, like those in Table 2, do not include draftees who did not report.

disproportionately to the war effort as a result of the draft; in fact, in most cases they contributed less (both in terms of joining the army and providing substitutes) than did other drafted Americans.

It is important to acknowledge that there were some significant variations to these trends. In a few cities, such as Lowell and Buffalo, immigrants were held to service at a rate equal to or slightly higher than natives. There were also sometimes great disparities within a single draft district. In the northern Maine hamlet of Golden Ridge, for example, nine of the thirty-eight draftees were held to serve in the army, a proportion four times higher than that of the city with the highest held-to-service rate. Yet in the subdistrict that precedes Golden Ridge in the Maine draft ledger, every one of the fifty-seven draftees failed to report! Such wild variations were most common in isolated rural areas, where substitutes were hard to find, farmers were too poor to pay for commutation, and many undoubtedly believed that their remote residences would protect them from the provost marshals.[15]

There was also variation between drafts. This study has focused on the draft that took place in the summer of 1863 because that was the draft that most often sparked claims of unfairness to the poor. But many states with large immigrant populations were exempt from the draft in 1863 because they had filled their quotas with volunteers. These states were required to hold drafts in 1864, however, and the results do not always comport with the data from 1863. Table 8 presents the results of the first drafts held in Cincinnati, Chicago, and Milwaukee, three Midwestern cities dominated by immigrants. The results in Cincinnati do not differ much from the other cities examined thus far—few residents, no matter what their nativity, were forced into the army as a result of the draft. But in Chicago and Milwaukee, German immigrants entered the army at a much higher rate than natives. It is hard to know how to interpret these figures, though, for when one compares the Chicago and Milwaukee numbers to the national averages, it turns out that the Germans in Chicago and Milwaukee were not being held to service at a particularly high rate. Rather, natives in these cities were entering the army at a rate far below the national average.[16]

The drafts in these three cities were peculiar for other reasons as well. First,

15. Draft of Aug. 1863, "Descriptive Book of Drafted Men," 4th Maine Draft District, Entry 559, vol. 38, subdistricts 50 (the townships of Madawaska, Daigle, and Dion) and 51 (Golden Ridge). For Lowell and Buffalo, see Tables 1 and 2.

16. At first glance, the rate at which Germans were held to service in Chicago and Milwaukee appears to be quite high, as we have seen that on average 3 percent of draftees were held to

almost every person held to service in Cincinnati was put in that position because he was arrested after failing to report. Otherwise, the percentage of citizens forced into service there would have been minuscule. Second, while the proportion of citizens who could buy their way out of the army fell dramatically in most of the country after the option to pay commutation was eliminated for all but conscientious objectors, huge numbers of draftees from all socioeconomic backgrounds were still able to afford substitutes in Chicago and Milwaukee. To understand this anomaly, one needs to remember that immigrants far outnumbered natives in these two cities. With so many noncitizen immigrants in these locales exempt from the draft but willing to serve as substitutes, these towns never experienced the shortage of substitutes that faced so many eastern states in 1864. As a result, while relatively few eastern immigrants hired substitutes or entered the army themselves as a result of the draft in 1863, Germans in these two midwestern cities supplied more than their fair share of recruits and substitutes to the northern cause in 1864.[17]

Substitutes

In fact, it was the North's substitutes, not its draftees, who were disproportionately immigrants. If this truth has been underappreciated, it is probably because so little is known about the Civil War substitute; there are few other Civil War soldiers about whom we know so little. No books, dissertations, or theses focus on the subject. The first article focusing on substitutes—those in East Texas—only appeared in 2005. One book on the draft does contain a chapter on substitution, but it deals primarily with the mechanics of the system and does not examine who risked their lives in this capacity. The dearth of scholarship on substitutes is especially surprising when one considers that three-quarters of the men who entered the army as a result of the 1863 draft were substitutes.[18]

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service in 1863. But from the summer of 1863 to the fall of 1864, the nationwide failed-to-report rate more than doubled, from 13 percent to 29 percent. Perhaps to compensate, draft officials in 1864 gave far fewer exemptions than they had previously. With the commutation option eliminated and the price of substitutes in the East climbing rapidly, the percentage of draftees held to service in the fall of 1864 was nearly four times higher than in 1863.

17. Why the Irish did not contribute as much as the Germans in these cities is unclear. Although the Irish in the West were more likely than those in the East to have the economic means to buy substitutes, they lacked the political motivation to do so.

18. Mary L. Wilson, "Profiles in Evasion: Civil War Substitutes and the Men Who Hired Them in Walker's Texas Division," *East Texas Historical Journal* 43 (2005): 25–38; Murdock,

The federal government mandated that draft officials record the same demographic information for substitutes as for those held to personal service, but, as we have seen, the amount of information actually logged in the draft registers varied enormously, and draft officials were typically even more careless recording information about substitutes than about draftees. Nonetheless, enough draft districts did collect detailed information on their substitutes to allow us to determine what kind of individual became a substitute in the North. Whether one looks in cities or in rural areas, in the East or in the West, substitutes were overwhelmingly foreign-born. In the Fifth Draft District of New York, for example, comprising four wards on the East Side of New York City, immigrants made up 77 percent of the 1863 substitutes, a figure significantly higher than their proportion of the general population. Eighty-four percent of the substitutes hired in the Third Massachusetts Draft District, which comprised half the city of Boston, were also foreign-born, about double the newcomers' representation in the draft-age population there. The same was true in cities with few immigrants. In Concord, New Hampshire, for example, where only 7 percent of the 1863 draftees were foreign-born, 74 percent of the substitutes were immigrants. Even in rural areas with tiny immigrant communities, newcomers also dominated the ranks of the substitutes. In the Eighth Pennsylvania Draft District, where immigrants made up less than 5 percent of the population, the foreign-born constituted 60 percent of the 1863 substitutes. In the Third Draft District of Vermont, another region where very few immigrants lived, they made up 64 percent of the substitutes. And in rural eastern New Hampshire, where the foreign-born population was very small, 77 percent of the 1863 substitutes had been born abroad. Of all the cities examined whose ledgers listed the nativity of substitutes, only Chicago's were not disproportionately dominated by immigrants.[19]

One Million Men, 178–96. Mack Walker, "The Mercenaries," *New England Quarterly* 39 (1966): 390–98, focuses on the diplomatic repercussions of a recruitment drive in Germany that brought foreigners to fill the quotas of one Massachusetts draft district. Geary, *We Need Men,* makes only passing reference to substitutes, while Lonn, *Foreigners in the Union Army and Navy,* has a whole chapter on the draft but nothing significant about substitutes.

19. "Descriptive Book of Drafted Men," 5th New York Draft District (wards 7, 10, 13, and 14), Entry 1613, vol. 12; "Descriptive Book of Drafted Men," 3d Massachusetts Draft District, Entry 877, vol. 17; "Descriptive Book of Drafted Men," 1st New Hampshire Draft District, Entry 645, vol. 14, subdistricts 6–9 and 20–23; "Descriptive Book of Drafted Men," 8th Pennsylvania Draft District, Entry 2999, vol. 29; "Descriptive Book of Drafted Men," 3d Vermont Draft District, Entry 783, vol. 7; 1st Illinois Draft District, Entry 5576, vol. 57.

One can imagine how residents of the North's big seaboard cities might have found immigrants to serve as substitutes, but how did those living in rural districts with few foreign-born residents manage to hire them? Recruiting was the predominant method. When residents of rural Deerfield, Massachusetts, could not locate enough substitutes to meet the demand, for example, they found them in Washington, D.C. Towns in New Hampshire hired brokers in Canada to furnish substitutes. Representatives of rural districts had done the same thing earlier in the war in order to find men to fill their voluntary enrollment quotas and the quotas set in local "militia drafts." Newspapers of the era overflowed with advertisements seeking substitutes, and men desiring to hire themselves often traveled great distances to take such work.[20]

In rare cases, the draft ledgers note the residences of substitutes, confirming that the immigrants who dominated the substitutes' ranks often ventured quite far when seeking such employment. For example, only about one in five substitutes hired in 1863 in the 8th Draft District of Pennsylvania in eastern Pennsylvania was a district resident. Another one-fifth lived in other parts of Pennsylvania, but approximately 15 percent had come from Ohio (mostly Cincinnati) to take this work, another 15 percent from New York City, and another 15 percent from Maryland (mostly Baltimore). Some of these Pennsylvania substitutes came from as far as Washington D.C., Indianapolis, Chicago, and Memphis. In the western Massachusetts draft district, where there was a shortage of substitutes, only about one-quarter of those who agreed to serve as substitutes resided in the district. About 15 percent lived in other parts of the Bay State, while approximately 20 percent came from New York State, another 20 percent from the rest of the United States, and another 20 percent from abroad, primarily Canada.[21]

Although a full examination of Northern substitutes does not fall under the purview of this study, one other notable characteristic of Northern substitutes seems worth considering because it relates to the preponderance of immigrants in their ranks: that is, the startling number of sailors who hired

20. Emily J. Harris, "Sons and Soldiers: Deerfield, Massachusetts, and the Civil War," *Civil War History* 30 (1984): 163, 169; Thomas R. Kemp, "Community and War: The Civil War Experience of Two New Hampshire Towns," 52, in Maris A. Vinovskis, ed., *Toward a Social History of the American Civil War: Exploratory Essays* (New York: Cambridge Univ. Press, 1990); Eugene C. Murdock, *Patriotism Limited, 1862–1865: The Civil War Draft and the Bounty System* (Kent, Ohio: Kent State Univ. Press, 1967), 31–33; Murdock, *One Million Men,* 188–95.

21. "Descriptive Book of Drafted Men," 8th Pennsylvania Draft District, Entry 2999, vol. 29; "Descriptive Book of Drafted Men," 10th Massachusetts Draft District, Entry 981, vol. 17.

themselves out as substitutes. One might not be surprised to find that there were more sailors than followers of any other occupation among substitutes in the port city of Boston. One out of every six substitutes there was a seaman, a figure many times higher than their representation in the city as a whole, and 81 percent of these sailor-substitutes were immigrants.[22]

Sailors also made up a disproportionate percentage of the substitutes beyond eastern seaports. In rural eastern New Hampshire, where farmers, laborers, and shoemakers predominated, sailors constituted one-fifth of the substitutes, more than any other occupational grouping. In the state's river towns of Manchester and Concord, where few sailors were drafted, one-third of the substitutes were seamen. In those two towns, three times as many sailors signed up to serve as substitutes as did laborers, the second largest occupational group in the cities' substitute ranks. Even in landlocked Berks County, Pennsylvania, sailors constituted one out of every six substitutes, ranking second there, just behind laborers. In each of these districts, 85 percent of the sailor-substitutes were immigrants. These figures may indicate that we have severely underestimated the economic dislocations that the war caused to Northerners employed in the maritime industry. Or sailors may have been so badly paid that they leapt at the chance to instantly make a large sum of money by hiring themselves out as substitutes.[23]

In the end, then, it turns out to be true that the draft drew disproportionately large numbers of immigrants into the army, but not in the manner previously imagined. Very few immigrants were forced by the draft to serve in the army, and immigrants were much less likely than natives to contribute to the war by hiring a substitute or paying a commutation fee. That the poor were unfairly pressed into service as a result of the conscription is partially true, however, because native-born unskilled workers were disproportionately represented in the ranks of those held to service in 1863. This was true both in urban areas and in the countryside. But in most locales, the rural native-born entered the army more often than their urban counterparts.

22. "Descriptive Book of Drafted Men," 3d Massachusetts Draft District, Entry 877, vol. 17. It is generally difficult to determine the number of sailors who might call a city like Boston their home because they were typically at sea when the censuses were taken.

23. "Descriptive Book of Drafted Men," 1st New Hampshire Draft District, Entry 645, vol. 14; "Descriptive Book of Drafted Men," 8th Pennsylvania Draft District, Entry 2999, vol. 29. Many of the sailor-substitutes were deployed in the Union navy, though this fact is not discussed in Michael J. Bennett, *Union Jacks: Yankee Sailors in the Civil War* (Chapel Hill: Univ. of North Carolina Press, 2004).

Rural draftees were also less likely to successfully claim an exemption than urban draftees, less likely to fail to report when drafted, and more likely to hire a substitute or pay the commutation fee.

Immigrants, it turns out, had far more agency in controlling their draft fate than most observers—either then or now—have imagined. The foreign-born skillfully employed a variety of strategies to avoid forcible military service. For some, this merely involved claiming an exemption. For others, it meant taking out loans from friends, neighbors, or co-workers. And for others still, it meant choosing to ignore the draft call and live with the real possibility of arrest and imprisonment (a significant burden that must have weighed heavily on the minds of those who chose this course). About half the soldiers who entered the army as a result of the 1863 draft were immigrants, but the overwhelming majority of these foreign-born soldiers enlisted voluntarily as substitutes. They *chose* to join the army, gambling that the benefits of substitution fees and enlistment bonuses were worth the risk of disease, injury, or death that might await them.

Immigrants throughout Civil War–era America perceived nativism all around them. They complained of discrimination in housing, in the courts, in the workplace, in politics, and even in the army.[24] The riots that broke out across the North when the draft was implemented, riots instigated primarily by immigrants, indicated that the foreign-born believed that the conscription system would be unfair to them as well. Once the names had been drawn and the case of each draftee considered, however, the result proved far different than the newcomers had imagined. Very few immigrants were forced into the army as a result of the draft. Native-born citizens on the bottom rungs of the North's socioeconomic ladder, especially unskilled workers living in the countryside, were the only ones driven disproportionately into military service by the conscription law. We still know frustratingly little about the 119,954 conscripts and substitutes who agreed to enter the Union army under the Conscription Act of 1863.[25] Understanding their motivations and contributions to the Northern war effort will enable us to better appreciate the complicated means by which Lincoln managed to hold the North and its armies together until they could finally manage to subdue the Southern revolt.

24. Kevin J. Weddle, "Ethnic Discrimination in Minnesota Volunteer Regiments During the Civil War," *Civil War History* 35 (1989): 239–59.

25. The figure for the total number of soldiers raised by the draft law of 1863 comes from *War of the Rebellion,* ser. 3, 5:730–39.

The Confederate Sequestration Act

Daniel W. Hamilton

On October 11, 1861, the *Richmond Enquirer* reported that a Confederate court had confiscated Monticello. Weeks before, the Confederate Congress had passed the Sequestration Act, authorizing the seizure of Northern property in direct retaliation for the First Confiscation Act. A captain in the U.S. Navy, Uriah P. Levy of Pennsylvania, owned Thomas Jefferson's former estate. Two Virginians, George Carr and Joel Wheeler of Charlottesville, managed Monticello as Levy's agents. As a U.S. citizen, Levy had been designated an "alien enemy." Consequently, under the terms of the Act, all of his property located within the borders of the Confederacy was subject to permanent, uncompensated seizure and sale for the benefit of Confederate citizens who had lost property to the Union.[1]

The Confederate courts charged with administration of the law quickly seized the Monticello estate, "comprising 360 acres of land . . . assessed at $20 per acre," along with "a house and other improvements assessed at $2,500." In addition to Monticello, the courts confiscated other property Levy owned in Albermarle County, including 960 acres of land as well as "ten slaves, 8

1. "An Act for the Sequestration of the Estates, Property and Effects of alien Enemies and for the indemnity of citizens of the Confederate States and Persons aiding the same in the existing war with the United States" (hereafter Sequestration Act), in *Acts and Resolutions of the Third Session of the Provisional Congress of the Confederate States* (Richmond: Enquirer Book and Job Press, 1861), 57–67.

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horses, sixteen head of cattle, seventy-eight sheep, thirty hogs and a lot of household and kitchen furniture."[2] In its speed and efficiency, the confiscation of Monticello was typical. Rarely, however, did the Confederate government confiscate Northern property at so little cost to its own citizens.

In the South there was near ideological consensus on the legal basis for seizing Union property. The United States was an enemy belligerent whose property was, at international law, subject to permanent confiscation during war.[3] Through the resort to international law, the Confederacy was able not only to assert its sovereignty but also to craft a far more rigorous and effective Act much more quickly than its Northern counterpart. U.S. citizens were, at Confederate law, foreigners, and were not accorded the protections of domestic Confederate constitutional law. U.S. citizens were not traitors, and in fact owed no legal allegiance to the Confederate States of America.[4] As a result, all of the agonizing self-scrutiny over the constitutional rights of the enemy that so dominated the Northern confiscation debates was mostly absent in the South.

The classification of the Union as a foreign country had important institutional consequences. The whole legal apparatus for confiscation in the North—individual hearings determining the loyalty of property owners—was not conceptually applicable within the Confederacy. This made for a more vigorous confiscation regime. Property was confiscated by Confederate courts simply if it could be shown that such property belonged to an alien enemy. By 1865 the Confederate judiciary had seized and sold millions of dollars worth of Northern property located all over the South.[5]

2. *Richmond Enquirer,* Oct. 11, 1861.

3. It was, as of 1861, mostly settled, at least in antebellum American law, that international law permitted belligerents to seize immediately without compensation all enemy property located within their borders, if such seizures had been authorized by the national legislature. This interpretation had been the holding of the Supreme Court in *U.S. v. Brown,* 12 U.S. 110 (1814), and had formed the centerpiece of Lyman Trumbull's argument in the Northern confiscation debates. See Daniel W. Hamilton, "The Limits of Sovereignty: Legislative Confiscation in the Union and the Confederacy" (Ph.D. diss., Harvard University, 2003).

4. The sense of the United States as a foreign nation had roots not only in law but also in a burgeoning sense of Confederate nationalism. See Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge: Louisiana State Univ. Press, 1988), 21.

5. William M. Robinson, "The Legal System of the Confederate States," *Journal of Southern History* 4 (1936): 1–15. Robinson notes that between "1861 and the day of subjection four years later, the Confederate courts were destined," among other functions, "to sequester millions of dollars of property belonging to alien enemies" (5).

In discussing sequestration, we must draw a line between legislative and military confiscation. There is an important literature on the treatment of civilian property by the Northern and Southern military during the Civil War.[6] This work focuses on the treatment of property by armies on the move, and the attempt on the part of government to regulate the treatment of civilians. The taking of "contraband" is governed by the laws of war, a largely self-contained set of doctrines and principles based in domestic and international law, which balances the strategic needs of the military with a desire to protect noncombatants. This is distinct from confiscation pursued by a legislature, not to help win a battle or campaign, but as policy. Military confiscation is recognized as the seizure and use, and even destruction, of another's property as part of military strategy.[7] Under nineteenth-century law, the seizure of property by the military was normally temporary. Title to the property did not transfer from its owner, and the authority of the military to seize property ended with the restoration of peace. Legislative confiscation, in contrast, is designed to legally transfer property away from its owner, and it can take place thousands of miles away from any army or battlefield. Property need never be physically occupied in order for title to vest in the government.

Under the Sequestration Act, extraordinary legal demands were put upon ordinary Confederate citizens by the courts. The very independence of the Confederacy also limited the reach of Southern property seizures. Northern confiscation was designed to seize disloyal property and took place as the Union acquired more and more Confederate territory. Sequestration, however, could be enforced only within the boundaries of the new Confederate nation. The Confederacy made no claim to dominion over the Union but instead, of course, was fighting to secede. By the laws of war, the Confederate army operating in the United States could impress property for its own use. The Confederate Congress could not, however, make any general claim to foreign property located inside the boundaries of the United States. Belligerent property belonging to U.S. citizens could be confiscated by the legislature

6. Mark Grimsley, *The Hard Hand of War: Union Military Policy Toward Southern Civilians* (New York: Cambridge Univ. Press, 1995); Frank Freidel, "General Order 100 and Military Government," *Mississippi Valley Historical Review* 32 (1946): 541–56.

7. For discussions of the ways in which the laws of war treat civilian property, see Michael Howard, ed., R*estraints of War: Studies in the Limitation of Armed Conflict* (London: Oxford Univ. Press, 1979); Michael Howard, ed., *The Laws of War: Constraints on Warfare in the Western World* (New Haven: Yale Univ. Press, 1994).

only if it was located inside the boundaries of the Confederacy. In some cases, like the confiscation of Monticello, absentee landlords abandoned property, which was quickly seized. In most instances, however, Northern property was in the possession of Confederate citizens, often a family member, or a business partner, or a debtor who owed money to a Northern alien enemy.

The fact that Union property was subject to legislative confiscation only inside the Confederacy put remarkable demands on Southerners and became, in some cases, oppressive. In legal terms, the Sequestration Act reflected a broad assertion of extraordinary constitutional powers on the part of the Confederate government and, in particular, its courts. Families were required to offer up to court officers property belonging to children and siblings living in the North. Lawyers, bankers, brokers, and businesses were made to open their books to reveal any property located in the South belonging to Northern clients or partners. The contents of wills were scrutinized by court officers, who duly seized property that would have passed to Northern heirs. All citizens were required to inform the government of any enemy property of which they were aware, whether in their possession or anyone else's, imposing a clear legal instruction to inform on one's neighbors. Most important, in terms of the sheer amount of money involved, the Sequestration Act made the Confederate government the new creditor for any debt owed by a Confederate citizen to an alien enemy. Those in debt to Northerners now owed money to the Confederacy instead.

In social terms, the implementation of the Sequestration Act was at first embraced, but its implementation increasingly led to divisions and fragmentation within Confederate society. The Sequestration Act was initially praised in the popular press as a just and necessary retaliatory measure. There was widespread fear and anger over the resort to confiscation by the North, and high hopes that sequestration would offset the loss of property to what was depicted as a voracious Union confiscation program. The business community, however, opposed the act as harmful to commerce and devastating to companies and partnerships owned jointly by Northerners and Southerners. Moreover, the difficulties of enforcing confiscation inside the Confederacy became increasingly apparent. In particular, it became more and more difficult, both legally and personally, to determine who was and who was not an "alien enemy." The claim that the United States was a foreign country and its citizens alien enemies was much easier to maintain at law than in fact.

Until recently, it has been nearly axiomatic that the Confederacy was hampered by a devotion to limited central government, ceding too much

power to the states, exercising too little power over individual dissenters, and becoming increasingly weak as the war went on. In David Donald's famous formulation, the Confederacy "died of democracy." [8] The work of the Confederate courts, in particular, has been downplayed, with scholarly discussion confined largely to the famous inability of the Confederate Congress to create a Supreme Court, even though one was provided for in the Confederate Constitution. Article III of the Confederate Constitution, taken of course from the substantially similar U.S. Constitution, allowed for the creation of a Supreme Court, yet, because of congressional disputes over the relative power of state and federal courts, a Supreme Court was never established. This has led some historians to minimize, or dismiss entirely, the work of the Confederate judiciary.[9] As a consequence, some assert, the federal judiciary had a marginal role, while state courts had the central role.[10] Guided by these traditional interpretations, we would predict that a confiscation program designed by the Confederate Congress and administered by the Confederate judiciary was doomed to failure.

8. Frank Owsley, one of the early prominent scholars of the Confederacy, argued that the tombstone of the Confederacy would read "died of states' rights." Frank Owsley, *States Rights in the Confederacy* (Chicago: Univ. of Chicago Press, 1925). David Donald and David Potter have echoed his central theme in major works. David Donald, "Died of Democracy," in David Donald, ed., *Why the North Won the Civil War* (Baton Rouge: Louisiana State Univ. Press, 1960), 77–90. See also David M. Potter, "Jefferson Davis and the Political Factors in Confederate Defeat," in Donald, ed., *Why the North Won the Civil War,* 94–115. More recently, the broad constitutional powers exercised by the Confederate federal government have been the subject of increasing scholarly attention. For three especially significant recent works, see Mark E. Neely Jr., *Southern Right: Political Prisoners and the Myth of Confederate Constitutionalism* (Charlottesville: Univ. Press of Virginia, 1999); Brian R. Dirck, "Posterity's Blush: Civil Liberties, Property Rights, and Property Confiscation in the Confederacy," *Civil War History* 48 (2002): 237–56; and Mark A. Weitz, *The Confederacy on Trial* (Lawrence: Univ. of Kansas Press, 2005). For accounts of the power of the Confederate government, see Emory Thomas, *The Confederacy as a Revolutionary Experience* (Englewood Cliffs, N.J.: Prentice Hall, 1971); George S. Rable, *The Confederate Republic: A Revolution Against Politics* (Chapel Hill: Univ. of North Carolina Press, 1994); and Richard Franklin Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (New York: Cambridge Univ. Press, 1990).

9. In his classic book on the Confederacy, Emory Thomas devotes less than two pages to Confederate federal courts, arguing that "ultimate judicial authority remained in the state courts instead of the central government." Emory Thomas, *The Confederate Nation, 1861–1865* (New York: Harper & Row, 1979), 194–95. See also Marshall DeRosa, *The Confederate Constitution of 1861: An Inquiry into American Constitutionalism* (Columbia: Univ. of Missouri Press, 1991), 101–5.

10. In some major works, Confederate federal courts are barely mentioned at all, and then only to dismiss them. See Wilfred B. Yearns, *The Confederate Congress* (Athens: Univ. of Georgia Press, 1960), 37–38.

Yet Southern confiscation succeeded. During the war a remarkably demanding property confiscation regime was imposed on a mostly willing citizenry by the Confederate courts. The relatively sudden reassertion of broad power over individual property in the Confederacy was at odds with dominant Southern constitutional thought before the Civil War. During the 1787 constitutional convention, and in the decades after, Southern slaveholders had sought, largely successfully, to protect slave property from extensive regulation by the central government, arguing for the primacy of state sovereignty, and against the threat to individual property rights.[11] As a consequence, Southern constitutional thought before the Civil War was marked largely by a sustained legal fight to protect slave property from federal regulation and the elaboration of constitutional rights to property. Yet with sequestration, a nearly authoritarian regime was imposed by the new Confederate government as antebellum legal precedent and ideological commitments gave way to the exigent needs of a fledgling state.[12]

The Confederacy's break with the United States was manifested in the quick creation of governmental institutions.[13] The Confederate States of America "was to be an instant nation, an accomplished fact to invite allegiance from Southerners, recognition from Europe, and discourage interference from the United States."[14] A new Congress, a new Constitution a new president, and a new cabinet—all were put in place with striking speed. On February 4, 1861, the Provisional Confederate Congress, a unicameral body, met in the state capitol building in Montgomery, Alabama. On February 8, the Provisional Congress unanimously approved a provisional Constitution and on February 9 elected a president and a vice president, both of whom traveled to Montgomery for the inauguration on February 18, three weeks before Lincoln's inauguration in March.[15] The breakneck pace meant that,

11. Don E. Fehrenbacher, *Constitutions and Constitutionalism in the Slaveholding South* (Athens: Univ. of Georgia Press, 1989), 33–56. Fehrenbacher, *Slavery, Law, and Politics: The Dred Scott Case in Historical Perspective* (New York: Oxford Univ. Press, 1981), 7–40. See also Rable, *The Confederate Republic*: "Most Southern politicians stoutly defended property rights and were hypersensitive about both real and imaginary threats to slavery" (8).

12. Scholars have noted, in other contexts, the adaptive nature of ideology, and its legitimating function, in Southern history. See Drew Gilpin Faust, *The Ideology of Slavery: Proslavery Thought in the Antebellum South, 1830–1860* (Baton Rouge: Louisiana State Univ. Press, 1981). Faust pays particular attention to the relationship between slavery's "social role and the particular details of the ideology invoked to legitimate it" (8–9).

13. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Ballantine Books, 1988), 241. See also Thomas, *The Confederacy as a Revolutionary Experience,* 44.

14. Thomas, *The Confederacy as a Revolutionary Experience,* 39.

15. For a full description of the early organization of the Confederate Congress, see Yearns, *The Confederate Congress*.

by the time of the first major battle of the Civil War in July, the Confederacy had been in existence for almost six months.

The first Confederate steps toward confiscation reflected a balance of caution and necessity. On February 25, President Jefferson Davis appointed three ambassadors to represent the Confederacy in Washington and to negotiate the possession of all U.S. property located in the Confederacy, including forts, arsenals, and land.[16] U.S. Secretary of State Seward refused to recognize these commissioners, reflecting the Lincoln administration's position that the United States remained legally intact. Christopher Memminger, the Confederate secretary of the treasury was desperate for the hard currency needed for foreign trade and payments on government bonds. In early March, he ordered the seizure of U.S. assets located in Southern customs houses, mints, and, later, post offices, ultimately confiscating roughly some $1.6 million in specie.[17] The Confederate Congress kept the Tariff of 1857 in effect, and kept customs officials in office. While customs houses were initially in the hands of Southern state governments, Memminger soon transferred control to the Confederacy.[18]

The firing on Fort Sumter produced more definitive steps. On April 17, in response to Lincoln's order calling up seventy-five thousand troops, Davis issued a proclamation authorizing applications for letters of marque and reprisal. He declared that Lincoln was subverting the independence of the Confederacy and "subjecting the free people thereof to the dominion of a foreign power."[19]

On May 6, the Confederate Congress formally declared war on the United States, ordering that ships belonging to U.S. citizens had thirty days to leave port. Ships "in the service of the government of the United States" docked at Confederate ports were subject to immediate seizure.[20] The new government also took initial steps to seize Union property located inside the Confederacy.

16. The commissioners, John Forsyth and Martin Crawford, wrote Seward on their arrival in Washington, seeking recognition of a new nation. "Correspondence Between the Confederate Commissioners and Mr. Secretary Seward," Mar. 12, 1861, *Messages and Papers of the Confederacy* (Nashville: U.S. Publishing Co., 1905), 84. Seward predictably refused. "Mr. Seward Replies to the Commissioners," Mar. 15, 1861, *Messages and Papers of the Confederacy,* 86.

17. This estimate comes from Douglas B. Ball, *Financial Failure and Confederate Defeat* (Urbana: Univ. of Illinois Press, 1991), 123–24, 203.

18. Ibid., 73. Ball faults Memminger for financial mismanagement, including sending so much precious "hard money" abroad during the war.

19. Jefferson Davis, "A Proclamation By the President of the Confederate States," Apr. 17, 1861, *Messages and Papers of the Confederacy,* 60–62.

20. "An Act Recognizing the Existence of War Between the United States and the Confederate States," May 6, 1861, *Messages and Papers of the Confederacy,* 104.

On May 21, the Confederate Congress prohibited Southern debtors from paying off Northern creditors during the war, requiring payments be made to the Confederate Treasury instead. In return, debtors received an interest-bearing certificate that was "redeemable at the close of the war and the restoration of peace."[21] At this point, the law provided that the Confederate government would recognize Northern debts and pay Northern creditors.[22] The May 21 law thus envisioned the ultimate satisfaction of debt to Northern creditors, and was an application of the doctrine that in war, commerce between enemies is suspended.[23] It was nevertheless viewed by many in the North purely as an act of confiscation.

The Battle of Bull Run on July 21 led to more dramatic steps on both sides. On August 6, Lincoln signed into law the First Confiscation Act, passed in part as a retaliatory measure to the Confederate law.[24] While this act was not much enforced, it nevertheless set off a great deal of fear in the South and led to broad steps against U.S. citizens and their property. On August 8, the Confederate Congress declared U.S. citizens "alien enemies" and ordered them deported from the Confederacy. The Congress required "every male citizen of the United States, of the age of fourteen years and upwards, now within the Confederate States, and adhering to the United States and acknowledging the authority of the same . . . to depart from the Confederate States within forty days." The act exempted from deportation those U.S. citizens resident in the Confederacy who took an oath recognizing the authority of the Confederate government and who declared their intention to become Confederate citizens."[25]

On August 30, in explicit retaliation to the First Confiscation Act, the Confederate Congress passed the Sequestration Act, a much more effective confiscation law than any passed in the Union. As of that date, the May 21 law

21. "An Act to authorize certain debtors to pay the amounts due by them into the treasury of the Confederate States." *Acts and Resolutions of the First Session of the Provisional Congress of the Confederate States* (Richmond, 1861), 88–89.

22. Yearns, *The Confederate Congress,* 191.

23. Charles Fairman, *History of the Supreme Court of the United States: Reconstruction and Reunion, 1864–1888* (New York: Macmillan, 1971), 778.

24. "An Act to Confiscate property Used for Insurrectionary Purposes," 12 Stat. 319 (1861). The First Confiscation Act subjected all Southern property used in aid of the rebellion to seizure by the Union.

25. "An Act Respecting Alien Enemies," *Laws of the Provisional Congress* (Richmond, 1861). Citizens of the border states (Delaware, Kentucky, Maryland, and Missouri), who were still being courted by the Confederacy, were exempted, as were citizens of Washington, D.C., and the Arizona and New Mexico territories.

was superseded, but it nevertheless remained important as a form of official notice to break off all commercial relationships with U.S. citizens, and the Sequestration Act was made retroactive to May 21. In July, D. F. Kenner of Louisiana first referred a sequestration bill to the Judiciary Committee.[26] Two weeks later, on August 6, R. H. Smith of Alabama, who emerged as the main congressional sponsor of sequestration, reported the bill out of the committee. With minimal amendment, the full Congress passed the act a little more than three weeks later.[27]

Broadly speaking, there were two categories of Northern property available for seizure in the South—tangible property and debt. Tangible property referred to land, buildings, and equipment, as well as various other forms of real and personal property owned by Northerners and in the possession of Southerners. Such personal property took myriad forms and included goods such as books, medicines, and liquor sold on consignment for Northern merchants; business assets jointly owned by Southern and Northern families; livestock and cotton owned in part by Northern investors; property devised by will to Northern heirs; and bank accounts or stock certificates owned by Northerners and kept in Southern banks or with Southern lawyers. All were types of property located in the South and belonging to alien enemies.

The most valuable form of Union property inside Confederate territory, however, was not tangible property but debt, or money owed by Southern individuals and businesses to Northern creditors. It is difficult to know the precise amount Southerners owed Northerners as of 1861. John C. Schwab, in his 1901 study of Confederate finance, puts the figure at roughly $200 million.[28] Whatever the precise figure, it was a substantial amount. There was relatively little circulating currency in the South, and debt to Northern creditors was commonplace for rich and poor alike.[29] James McPherson notes, "Most planters were in debt—mainly to factors who in turn were financed

26. *Journal of the Congress of the Confederate States of America, 1861–65* (Washington, D.C., 1904), 1:280.

27. There is no record of the final vote on August 30: the journal records only that "the bill passed." *Journal of the Confederate Congress,* 422.

28. This number is drawn from John C. Schwab, *The Confederate States of America: A Financial and Industrial History* (New York: Burt Franklin, 1901), 111.

29. The Confederacy had a population of roughly 9 million, of whom 3.5 million were slaves. For decades, Southern capital had primarily been invested in land and slaves, not liquid assets. This made for the extensive use of credit in the South, much of it provided by Northern creditors. Tony A. Freyer, *Constitutionalism and Capitalism: Constitutional Conflict in Antebellum America* (Charlottesville: Univ. Press of Virginia 1994), 38–39.

by Northern merchants or banks."[30] All this money was, as of the passage of the Sequestration Act, owed to the Confederate government. Within the Confederacy, hopes were high that this cash would, in a significant way, help finance the war.

The terms of the act were efficient and severe. Unlike the Northern confiscation acts, here the confiscation of property was immediate, without any individual determination of disloyalty by a court. Title to alien enemy property located in the Confederacy transferred automatically as of August 30, 1861, subject only to identification and collection: "All and every of the lands, tenements and herediments, goods and chattels, rights and credits owned, possessed or enjoyed by or for any alien enemy since the twenty-first day of May are hereby sequestrated by the Confederate States of America."[31]

The act made it the duty of "of each and every citizen of these Confederate States speedily to give information" concerning alien enemy property to a newly created cadre of court officers called Receivers. It was, moreover, the express duty of "every attorney, agent, former partner, trustee or other person" holding enemy property to "place the same in the hands of such Receiver." Any such person failing to report such information was subject to a $5,000 fine, and six months in prison, and was liable to "pay double the value" of the alien enemy property "held by him or subject to his control."

Receivers operated with broad powers and relatively little supervision. Nominally under the scrutiny of Confederate judges in whose districts they were operating, Receivers nevertheless were given extraordinary responsibility under the act. It was their task to "take possession, control, and management" of all Union property seized under the act. To accomplish this, Receivers were empowered to "sue for and recover" property "in the name of the Confederate States." These lawsuits were initiated all over the South, often within a few weeks of the law's passage. For many Confederate citizens, one of their first encounters with their new government was a visit by a court officer serving papers that soon required their appearance in court.

Beginning in the fall of 1861, Receivers, and federal marshals under their supervision, began serving detailed interrogatories on individual Southerners and businesses. These interrogatories were invasive. They demanded to know, first, if the recipient was in possession of any property "held, owned, possessed or enjoyed for or by any alien enemy" and to describe the property.

30. McPherson, *Battle Cry of Freedom,* 437.
31. Sequestration Act, 58–67.

They then were asked: "Were you since the twenty-first of May 1861, and if yea at what time, indebted either directly or indirectly to any alien enemy? If yea, state the amount of such indebtedness. . . . Give the name or names of the creditors, and the place or places of residence, and state whether, and to what extent, such debt or debts have been discharged." Finally, the interrogatories asked for the names of anyone else in possession of alien enemy property and commanded recipients to "set forth specifically and particularly what and where the property is, and the name and residence of the holder, debtor, trustee or agent."

In response to the interrogatory, an answer was returned to the court. With answers in hand, Receivers would prepare a petition setting forth the "estate, property, right or thing sought to be recovered" from a particular person and "praying for sequestration thereof." The petition was then served on the person or business named, and the case was docketed for trial. The trial usually amounted to an uncontested order of sequestration issued by the judge ratifying the findings of the Receiver. Both tangible property and debt payments were then delivered to the Receiver, who was instructed to sell confiscated property at public auction.[32] The incentive on the part of Receivers to seize and sell as much property as possible was financial as well as patriotic. Receivers took "two and a half per cent on receipts and the same on expenditures" as compensation, but they were not in any case allowed to earn more than $5,000 a year. The framers of the act did put checks in place to keep track of the money and property changing hands, and to provide some measure of procedural protection from overzealous Receivers. Before taking office, Receivers were required to take an oath and to pay into the court a bond as security against embezzlement. Any Receiver embezzling money under the act was subject to indictment and, if convicted, to five years of hard labor, and fined double the amount embezzled.[33] In no small measure the act ran well because it largely paid for itself.

Status as an alien enemy was the sole criterion for property confiscation. A central problem, then, was to define precisely who exactly should be classified as an alien enemy. The act itself was silent on this issue. The Department of

32. At least every six months a Receiver was required, under oath, to "render a true and perfect account of all matters in his hands or under his control," as well as providing detailed reports on all "collections of monies and disbursements" resulting from the sale of property. Receivers with hundreds of sequestration cases had to account for each one individually, with the Receiver "making settlements of all matters separately." Sequestration Act, 58–67.

33. Sequestration Act, 58–67.

Justice, however, issued a set of instructions for the enforcement of the act. These instructions defined alien enemies as, first, "all citizens of the United States" except residents of Delaware, Missouri, Kentucky, Maryland, or the Arizona and New Mexico territories who did not "commit actual hostilities against the Confederate States." Second, an alien enemy was defined as anyone who had "a domicile" within the United States. "Domicile" is a slippery legal term and is defined as the place where a person intends to live or return to if absent. Thus, it is possible to have two, or more, residences, but only one domicile. The elusive, mostly subjective distinction between a "residence" and a "domicile" soon presented vexing questions about whether some Confederates with extensive Northern ties were in fact better classified as alien enemies. The Provisional Congress instructed the Confederate attorney general to issue uniform rules for the act's implementation. Judah Benjamin, the first attorney general, on September 12, issued instructions to Receivers and sample interrogatories.[34]

The act was explicitly retaliatory, not designed to raise revenue for the Treasury, but instead framed as a defensive measure. It provided that property would be "held for the full indemnity of any true and loyal citizen or resident of these Confederate states" who "may suffer loss or injury" under U.S. confiscation laws.[35] To adjudicate claims for indemnity, the president was instructed to create a three-member Board of Commissioners. This board was to meet in Richmond twice a year to hear claims, and to distribute sequestered property to those Confederate citizens who could show that their property had been confiscated by the United States.

Perhaps the most immediate consequence of the act's passage was a new incentive to declare one's loyalty to the Confederacy. As of the August 14 statute, alien enemies had been given forty days, or until September 24, to depart the Confederacy or declare their allegiance.[36] The Sequestration Act took no notice of the forty days provided. Instead, property was subject to immediate confiscation as of August 30, and the first instances of confiscation began within a week of the act's passage.[37] Instead of deportation, alien enemies now

34. *Instructions to Receivers* (Richmond: Department of Justice, Sept. 12, 1861).

35. Sequestration Act, 58–67.

36. The Act of Congress passed on August 8 instructed the president to issue a proclamation describing the terms of deportation. Davis did so on August 14, and it was then that the forty-day clock began to run.

37. The *Charleston Mercury* reports the first sequestration of property on September 5, 1861, when it noted that "a well-known shoe dealer, who having sold out his stock, was preparing

faced the loss of all their property located in the South unless they swore their allegiance to the Confederacy. On September 5, the *Charleston Mercury* reported that at the Confederate courthouse, "the business of citizen making has been going on pretty briskly for a fortnight. Several residents of foreign birth, anxious to place themselves 'right upon the record,' appear daily to qualify themselves as citizens." This citizenship oath-taking continued throughout September and into October. After September 24, the Secretary of War, Judah Benjamin, generally granted alien enemies passports, allowing them to leave the Confederacy under flag of truce "provided they take no wealth with them." This policy remained in effect until roughly November 3, at which point all alien enemies were to be taken prisoner by the Confederate Army.[38] Citizenship remained ambiguous, and the government in some instances took an unyielding position even against those eager to proclaim their Confederate citizenship. In October 1861, a Mr. Muhler, "who had been residing here for many years, asked to become by naturalization a citizen of the Confederate States." Muhler had previously been naturalized as a U.S. citizen. The district attorney opposed Muhler's request on the grounds that "the naturalization laws of the United States were not in force in the Confederate States."[39]

The act initially received widespread praise and public attention. On September 12, the *Mercury* reported, "The Sequestration Act, with all its ramifications and results, is now quite a fruitful subject of discussion on our streets."[40] "The importance of the law," the paper said, "can scarcely be exaggerated."[41] Expectations were high. The *New Orleans Delta* estimated

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to vamoose with the proceeds in sterling . . . has been notified that the money in his possession must be subjected to the tests laid down in the Sequestration Act." This case was brought before the district court, where the judge ordered that all the money should be placed in the safekeeping of the court, pending the arrival of an official copy of the act and "opportunity afforded for examination" (ibid., Sept. 7, 1861).

38. *Charleston Mercury,* Sept. 5, 1861. Jones John Beauchamp, *A Rebel War Clerk's Diary at the Confederate States Capital* (Sept. 25–Nov. 3, 1861), in *The American Civil War: Letters and Diaries:* www.alexanderstreet2.com (Alexander Street Press, in collaboration with the University of Chicago).

39. *Charleston Mercury,* Oct. 1, 1861.

40. Ibid., Sept. 10, 1861. This paper was owned and edited by Robert Barnwell Rhett, a South Carolina "fire-eater." Rhett was fervent in his condemnation of Davis and the Confederate Congress. While condemning the suspension of habeas corpus and other assertions of power by the central government, the paper nevertheless enthusiastically supported the Sequestration Act.

41. This abstract was not sufficient for the paper's readers, and on September 9, 1861, the *Charleston Mercury* offered, "As a desire has been very generally manifested to see this important Act of Congress . . . we publish it below in full."

that $12 million worth of Union property was liable to sequestration in that city alone.[42] The *Mercury* estimated that "the Yankee property in the South subject to the provisions of the bill—including mortgage interests—will not fall short of three hundred millions of dollars." It was, the paper declared, "a singular fact that a majority of the city real estate in the South is owned by our enemies."[43]

A central reason for the act's initial popularity was its perception as an act of reprisal and self-protection against the confiscation of Confederate property under the First Confiscation Act and the destruction of property by the Union army. The First Confiscation Act was designed to seize Southern property used in direct aid of the rebellion, but this limitation was dismissed as window dressing in the Confederate press and by Southern judges. The act contained "a phraseology as covert as it was comprehensive" and could be read to "comprehend pretty nearly everything the citizens of the Confederate States can own in the United States." In the Eastern District of Texas, Confederate judge William Pinckney Hill declared that the Union Congress had "passed an act confiscating all of the property of the citizens of the Confederate States," and that "no respect was paid to the qualification" limiting seizures to property used directly in the rebellion.[44]

By September and October, Southern newspapers railed that in the North "they have seized the property of Southern citizens wherever they could find it." In New York there were reports Southerners were routinely arrested and their money taken from them.[45] Reports from the *New York Herald,* reprinted in the Southern press, boasted that over five hundred thousand dollars in Confederate property had been confiscated in New York, including Southern bank accounts in New York, stocks and bonds, and even a trotting horse owned by Confederates.[46] Readers of the *Enquirer* learned that General Butler's troops had allegedly seized some nine hundred slaves and had "set fire to houses, destroyed furniture and pillaged and plundered wherever they had a chance."

In the face of such perceived aggression, newspapers urged retaliatory

42. Quoted in the *Richmond Enquirer,* Oct. 15, 1861.

43. *Charleston Mercury,* Sept. 5, 1861.

44. William Pinckney Hill, "Charge to the Grand Jury" (Nov. 19, 1861), in *Confederate Imprints,* Harvard University Library, Microfilm Reel A815 (hereafter *Confederate Imprints).* William Pinckney Hill had been appointed district judge for the Eastern District of Texas in 1861. He was considered a leading candidate for the Confederate Supreme Court, which was never established.

45. *Richmond Enquirer,* Sept. 12, 1861; see also Oct. 10.

46. Ibid., Oct. 5, 1861

sequestration as an extreme, yet lawful, necessity. The *Richmond Enquirer* concluded that it was "a very important and a very just law, and one that we hope will avail to indemnify all those of our citizens who may be the victims of governmental robbery at the hands of the Lincoln dynasty."[47] Sequestration would also act as a deterrent to the Union. Since Northern property was seized as compensation for the seizure of Southern property, "the government of the United States see that their people will gain a mighty loss by the operation of their Confiscation Act."[48] In Texas, in his charge to the Grand Jury, Judge William Pinckney Hill admitted that the seizure of enemy property was "a policy which the enlightened Christian sentiment of the age condemns." Nevertheless, Hill advocated sequestration as "an uncompromising necessity" and a "measure of retaliation upon our enemies to restrain their wanton excesses."[49]

Newspapers attacked those opposing the act as hindering the war effort, or even aiding the enemy. In wartime, the *Mercury* announced, all those who "protect and save for an alien enemy his property" were "abetting the enemies of his country." The act was severe, but the requirements of citizenship during war were always severe: "When the law requires it of you, as a soldier, you will kill him. When it requires you to surrender up his property to the custody of the state—a far lesser demand—why should you not obey?"[50] While the strictures and reporting requirements of the law "may be very grating," it was paradoxical to think that "the enemy, by his agent or attorney" could "use the Constitution of the country, with which he is, or was, at war to secure his property against sequestration." The war, the paper concluded, had wiped out preexisting professional relationships: "The trustee or attorney, after the war has commenced, are no longer trustees or attorneys. They are mere holders of an enemy's property. The fiduciary relation between them has ceased." To argue otherwise was to treat aliens simultaneously as "an enemy and yet a citizen," and to attribute to Northerners "a queer mixture of attributes."[51]

The act was put into operation with remarkable speed. In the fall of 1861, Receivers were appointed by Confederate district courts in Mobile, Galveston, Richmond, Savannah, New Orleans, Greensboro, Charleston, western

47. Ibid., Sept. 7, 1861.
48. *Charleston Mercury,* Oct. 15, 1861
49. Hill, "Charge to the Grand Jury."
50. *Charleston Mercury,* Oct. 11, 1861.
51. Ibid., Oct. 12, 1861.

Texas, and western Virginia.[52] The terms of the act and the attorney general's interrogatories were published in local newspapers, plastered in broadsides, and printed in pamphlets.[53]

An amazing array of property was confiscated with great speed. The first rush of sequestration pursued, for the most part, estates and goods easily identifiable as belonging to alien enemies and that could be seized without much hardship to Confederate citizens. In Virginia, estates belonging to William Rives of Boston, Francis Reeves of New York, and a Mrs. Sigourney of New York were confiscated. Each consisted of roughly eight hundred acres, which included, in the case of Francis and Sigourney, "a full stock of negroes."[54] Not only large estates were seized. Nathaniel Carusi admitted that he "was indebted to J. B. Bond of Fisherville, New Hampshire, an alien enemy, in the sum of $23." Carusi also admitted that he was in possession of the assets of Chickering & Sons, a Northern firm that sold musical instruments. Carusi's debt to Fisherville was sequestered; Chickering's inventory was seized and sold by the Receiver.[55] In New Orleans, the Merchant's Bank handed over six hundred shares owned by Northerners.[56] In Montgomery, "Forty two cases of shoes, consigned by Howe, Hoyt and Co. of New York to parties in Alabama, had been seized."[57] In Charleston, the *Mercury* announced that within roughly a month of passage of the act, "the sequestration proceedings so far instituted in this city, embrace property amounting to about a million of dollars."[58] In Richmond in October, the *Enquirer* detailed twenty-two separate estates against which sequestration proceedings had been initiated in the Eastern District of Virginia. The value of the property was "upwards of $800,000."[59]

52. See "Rules of Practice Under the Confederate Sequestration Act for the District of Alabama," in *Receivers, Clerks of Court, Districts etc.*" (Confederate States District Court, State of Louisiana, Nov. 1861).

53. See *New Orleans Times Picayune,* Oct. 2, 1861; *The Sequestration Act containing also Instructions of the Attorney General* (New Orleans: Wm. Bloomfield Jr., 1861). Louisiana had eight Receivers, two for New Orleans alone and six others spread out over the rest of the state. *An Act for the Sequestration of the Property of Alien Enemies* (Richmond: Tyler, Wise, Allegre and Smith, 1861); *Rules of Practice Under the Sequestration Act for the District Court of the Confederate States for the District of Alabama* (Mobile: S. H. Goetzel & Co., 1861); *Rules of the District Courts of the Confederate States of America for the Districts of Georgia* (Savannah: Thorne Williams, 1861). In *Confederate Imprints.*

54. *Richmond Enquirer,* Oct. 11, 1861.

55. Ibid.

56. Ibid., Oct. 15, 1861.

57. Ibid., Sept. 14, 1861.

58. *Charleston Mercury,* Oct. 8, 1861.

59. *Richmond Enquirer,* Oct. 11, 1861.

Even in the midst of this acquisitive frenzy, the Sequestration Act was soon under assault in the Confederate courts. At the same time that high-profile seizures were drawing notice and praise, it had also become clear that the law made extraordinary demands upon Confederate citizens, particularly those entrusted with the property of another. In the fall of 1861, Confederate district courts heard arguments and ruled on the constitutionality of Confederate property confiscation.

The Confederate courts were, like so many other Confederate institutions, up and running with speed. This was possible chiefly because many Southern judges resigned from positions in the United States to take judgeships in the Confederacy. These courts were quickly given a ready body of law to apply. In February, in one of its first acts, the Congress provided that "all the laws of the United States . . . not inconsistent with the Constitution of the Confederate States" were "continued in force until altered or repealed."[60] In the Judiciary Act of March 16, 1861, the Confederate Congress established seven district courts, and, as the number of states in the Confederacy increased, gradually added more. Ultimately twenty-two Confederate courts were created.

The Confederacy attracted one member of the U.S. Supreme Court. Justice John A. Campbell of Alabama agonized over whether to join the Confederacy and worked feverishly in March and April 1861 to broker a compromise. At the onset of war, his hopes dashed, Campbell left the Court to return to Mobile. Perceived as a Union sympathizer, he was at first kept out of government, and went into private practice in New Orleans. In late 1862, Campbell was named Assistant Secretary of War, and became the leading administrator of the Confederate conscription law. In contrast, Justices James M. Wayne of Georgia and John Catron of Tennessee chose to remain in the Union. They were both named alien enemies and their property sequestered by the Confederate courts.[61]

In the fall of 1861, important constitutional challenges were brought in two leading Confederate district courts in two leading Confederate cities. In Richmond, Judge James D. Halyburton heard the case of *Confederate States v. John H. Gilmer,* and in Charleston, Judge Andrew Magrath heard *The Sequestration Cases,* a consolidation of several different lawsuits challenging

60. "An Act to Continue in Force Certain Laws of the United States of America," *Acts and Resolutions of the Provisional Congress* (Richmond, 1861), 36.

61. Robinson, *Justice in Grey:A History of the Judicial System of the Confederate States of America* (Cambridge: Mass.: Harvard Univ. Press, 1941), 446–47.

various aspects of sequestration.[62] Both had been U.S. district court judges, and both had resigned to take up the same position on the Confederacy. Both were also especially prominent and independent legal thinkers. Magrath published several important opinions on sequestration, conscription, and prize law, and later declared the Confederate tax on securities unconstitutional. In 1864 he left the bench to become governor of South Carolina. Halyburton had been a U.S. judge since 1844. When war broke out, he was made a Confederate judge in Richmond, the Confederate capital, where he took up the ceremonial functions that would have fallen to the Chief Justice of the Supreme Court, including administering the oath of office to Jefferson Davis at his second inaugural.[63]

Both judges were also facing famous plaintiffs. In Virginia, John Gilmer had been a Whig candidate for governor in Virginia and represented the Know-Nothing Party in Congress from 1857 to 1861. An outspoken Unionist, Gilmer supported secession only after Lincoln called up troops in April 1861. During the war he was a constant critic of Confederate sequestration and conscription laws. In 1864 he was elected to the Confederate Congress, where he was an early advocate of peace talks. In Charleston, the lead plaintiff was James L. Petigru, who, ironically, had taught law to Judge Magrath. Petigru was also a Whig and prominent unionist, who, at the age of seventy-three, had a long history of taking on unpopular causes in Charleston, including the representation of abolitionists and free blacks.[64]

62. The fives cases Magrath combined were themselves subdivided into three separate actions. Three cases challenging the whole of the act were treated together by Judge Magrath. These were *C.S.A. v. James Petigru; C.S.A. v. Nelson Mitchell,* and *C.S.A. v. William Whaley.* Magrath also made a particular ruling as to the legality of compelling lawyers to break the confidences of their clients in *C.S.A. v. James Wilkinson.* Taken together, these cases were published as a pamphlet entitled "The Sequestration Cases before the Hon. A. G. Magrath: Report of Cases Under the Sequestration Act of the United States, heard in the District Court for the State of South Carolina, in the city of Charleston" (Charleston: J. Woodruff, 1861) (hereafter *Sequestration Cases)*.

63. Robinson, *Justice in Grey.* See also Jon L. Wakelyn, ed., *Biographical Sketches of the Confederacy* (Westport, Conn.: Greenwood Press, 1975), 203, 305. These cases have recently started to attract more important scholarly attention. See Mark A. Weitz, *The Confederacy on Trial: The Piracy and Sequestration Cases of 1861* (Lawrence: Univ. Press of Kansas, 2005).

64. Brian Dirck, "Confederate States of America v. James L Petigru," *Proteus: A Journal of Ideas* 13 (1996): 12–14. William H. Pease, *James Louis Petigru: Southern Conservative, Southern Dissenter* (Athens: Univ. of Georgia Press, 1995). Petigru was not the only plaintiff and was joined by other Charleston attorneys in opposition to the law. They were William Whaley, Nelson Mitchell, and Edward McGrady. All made separate arguments before Judge Magrath.

The combination of prominent judges and prominent attorneys in major Confederate cities combined to bring the cases wide publicity. Of the two, the *Sequestration Cases*—in part because they came first—received more notice, and became the leading authority on the constitutionality of the Sequestration Act. In Charleston, the *Mercury* covered the cases closely and alerted its readers to the publication of the lawyer's arguments and the judge's opinion, asserting that it included "nearly every thing that can be said for and against the Sequestration Act."[65] These were published as a pamphlet less than two weeks after the decision was handed down, and were advertised as "forming one of the most valuable records of opinions of some of the highest legal authorities of the Confederate States."[66] J. Woodruff, the pamphlet's publisher, declared that the document "has necessarily been hurried forward at the urgent request of Advocates in other Districts of this and the adjoining states." The cases had "created a deep and wide-spread interest," which was not surprising because, as Woodruff correctly observed, this was "an Act affecting nearly every citizen in the Confederate States."[67]

Both cases had been initiated by acts of civil disobedience by the lawyers themselves. Gilmer and Petigru had refused to answer the writs of garnishment and the interrogatories served on them by Receivers, and were representing themselves.[68] Both claimed that the act was unconstitutional and ought to be invalidated by the court. Only seven months into the war, these cases were the first tests of whether the Confederate courts would, in the absence of a Supreme Court, assert the power of judicial review. Just as important, these cases were among the first instances of judicial interpretation of the new Constitution in the South during the Civil War. In ruling on the constitutionality of sequestration, the judges were also necessarily asked to balance the limits of Confederate power against the legitimate legal obligations of Confederate citizens.

Petigru and Gilmer both challenged the procedural legitimacy of the act, claiming that it had created a bizarre legal hybrid, with elements from a traditional lawsuit, from grand jury proceedings and from prize-case hearings,

65. *Charleston Mercury,* Nov. 15 and 18, 1861.

66. Ibid., Nov. 8, 1861.

67. J. Woodruff, "Preamble," in *Sequestration Cases.*

68. This writ was authorized by Section 8 of the Sequestration Act and was issued by a clerk of the court after a request by a Receiver. The writ directed its recipient to appear at court to inform the Receiver of any alien property in his possession or in the possession of any other Confederate citizen.

with what looked like criminal penalties for noncompliance. John Gilmer condemned the act's "complex system of legislative adjudication."[69] Petigru asked, "Is this a common law proceeding or a proceeding in the Prize Court? Is it a civil or criminal proceeding?" In these cases, he argued, "there is no plaintiff and no defendant; it is no more a judicial proceeding than if the governor or general should call up every man in the community and purge his conscience as to alien enemies." Even if the state had the power to confiscate property during war, there was nevertheless no legal right "to order a private citizen to come forward and act as an informer" unless as a witness in a proper lawsuit. He proclaimed, "I deny that this is a judicial proceeding at all" but instead amounted to "a Court of Star Chamber," which gave the government sweeping, undefined powers.[70]

The reporting provisions of the act were condemned by the plaintiffs, in both Charleston and Virginia, as unethical violations of fundamental social and professional obligations. In mandating a general duty to reveal knowledge of any and all enemy property, Gilmer complained that the law "made it the duty of every citizen of the Confederate States to become a common informer."[71] The Charleston plaintiffs claimed that the law violated "relations that have been respected and held sacred by precedent, by the common law of the land, and by all the usages of civilized society." The law illegally "requires every body to become an informer" and "contains a severe penal enactment against a large class of persons should they be remiss and not inform speedily."[72]

With an eye to the special hardships placed upon families, the plaintiffs complained that the law made no exceptions "as to any of the relations of life," and made no inquiry "as to the mode in which the knowledge called for has been obtained." Moreover, the act was applied indiscriminately and put a severe burden on those considered unable to defend themselves—"the most helpless and forlorn that can address themselves to human compassion: the widow, the lunatic, the orphan, before this law there is no difference." Without exception, "every bosom must be emptied of its knowledge so that none may escape." While "society has very large claims upon its members," these claims were "not without limit."[73]

69. *Confederate States v. John Gilmer,* 7.
70. "Argument of James L. Petigru," *Sequestration Cases,* 23.
71. *Confederate States v. John Gilmer,*11.
72. "Argument of Nelson Mitchell," *Sequestration Cases,* 15.
73. "Argument of James Petigru," *Sequestration Cases,* 24.

Not surprisingly, the plaintiffs, as lawyers themselves, objected vehemently to the requirement to inform the government of the location of property belonging to clients. To obey the writ and answer the interrogatories would require "attorneys to violate the confidential relations of Attorney and Client, as Trustees to betray our trusts, as agents to ignore the rights of our principals, all of which in good faith and good conscience were confided to our charge."[74] Gilmer was particularly vociferous on this point. As a lawyer he was honor-bound to "resist this abominable writ of ravishment." The act penetrated "without authority and against all law the consecrated secrets of professional privacy." It forced attorneys, agents, factors, and trustees to betray to "assail every trust." Even executors of wills, who "had the confidence of the dead," were forced to break "a solemn declaration."[75]

The Charleston plaintiffs also argued that the Sequestration Act exceeded the constitutional limits of the congressional war power. The Confederate Constitution "simply invested Congress with the power 'to declare war'" and rather than provide a blank check, "the instrument itself declares that this is a limited grant by specifically investing Congress with other enumerated powers," such as the power to grant letters of marque and to raise and support an army. The broad "necessary and proper" clause, which had remained part of the Confederate Constitution, could not reasonably be read to include the power to confiscate the property and the debts of the enemy.[76] If this construction of the war power were accepted, it would allow "all that may by any extended chain of cause and effect aid in the conduct of the war." This power would soon "supersede everything" and "carry with it power over the public press, over the State Legislatures, and every form of corporate and local authority."[77]

In construing the congressional war power, Petigru drew a distinction between property seized by armies and property seized by legislatures. For him, the right to confiscate turned on the meaning of the word "capture" in the

74. "Argument of Whaley," *Sequestration Cases,* 10.

75. *Confederate States v. John Gilmer,* 15.

76. "Argument of Nelson Mitchell," *Sequestration Cases,* 14.

77. Ibid. Petigru warned against a too-expansive reading of the war power: "The Confederate Congress can only claim to make laws to carry into effect powers expressly granted. That the power in this case is not expressly granted is a palpable fact. Shall construction and implication be resorted to in defiance of the charter? Forbid it, Heaven. For if it is mankind have been deluded by a vain hope and paper Constitutions are no more than a cheat practiced on the credulity of poor suffering human nature." "Argument of James Petigru," *Sequestration Cases,* 25.

Constitution.[78] Petigru made the case that "capture" was best understood as physical material seized by an army in the field: "The word 'captures' refers to what is taken by an armed hand in the exercise of open war." The only property that Congress could constitutionally seize was that within grasp of an army, who gained title by taking possession of it during a war. To him, only "tangible property such as lands, goods or movables" was subject to confiscation by armies under the "captures" clause. All other seizures required a "great stretch of language" and were unconstitutional assertions of congressional authority.

Petigru singled out the seizure of debts as patently illegal. Debts "have no locality" and instead "follow the person of the creditor." The courts of the Confederacy simply had no jurisdiction over debt owed to creditors outside the limits of the Confederacy, and since the debt "belongs to the creditor and not the debtor," the courts had no legal power to seize it.[79] More than that, the abrogation of existing debts forced Southern debtors to behave immorally: "In debt there is a moral as well as a legal obligation, and he that has received a deposit or contracted a debt for money entrusted to him owes a recompense to his creditor, because he is a human being and this is part of his nature."[80]

The plaintiffs also argued that wiping out debt obligations was illegal as a matter of international law. This was a relatively technical legal argument that turned on the question of whether it was an accepted international practice for a state at war to seize the property and debts of citizens of enemy states. This was, the plaintiffs argued, no longer a sanctioned power under international law, and it had been rejected by civilized nations as a barbaric relic. When the Congress had "guaranteed to every party who shall pay over any money or deliver property to the Receiver that they shall be forever discharged from every legal responsibility," they "undertook to enact that which they had not the power to enact." This was "in violation of the law of nations," which "will not allow the right to confiscate debts." The Confederate government "has not the power as one of the family of nations to issue such protection from liability as would be acknowledged all over the world." Mitchell also cited Kent's Commentaries, which maintained that the confiscation of debts, although a power of the state, was "considered a

78. The Confederate Constitution adopted the captures clause from the U.S. Constitution. Both provided that Congress had the power to "make rules concerning captures on land and on water." Constitution of the Confederate States of America, Article I, Section 8.

79. "Argument of James Petigru," *Sequestration Cases,* 24.

80. Ibid., 12.

naked and impolitic right, condemned by the enlightened conscience and judgment of modern times."[81]

The plaintiffs were clear about the remedy they sought: judicial invalidation of the law. They proclaimed that "the judiciary stands between the legislature and the people, with the Constitution as the chart for both." They denied Congress "the power to pass this law" and maintained that "the Act of the Confederate Congress under which this proceeding is instituted is void." This type of despotism "is worse than war," and the plaintiffs asked that the "Court may relieve the citizen from the distress that would inevitably follow an arbitrary enforcement of this Writ."[82]

In Charleston, lawyers for the Confederate government vigorously defended the constitutionality of the law. The attorney for the Confederacy, C. R. Miles, argued, in direct contradiction to Petigru, that express authority for sequestration was located in the constitutional provisions granting Congress the power to declare war and to "make rules concerning captures on land and water."[83] This extended, he claimed, to rules "respecting enemy's property." The power was not only textually based, but was "an incident of the exercise of the sovereign right to make war." Under the Constitution, "absolute power" had been "given to Congress to declare war, and since forbidden to the States, the power of Congress in this particular is as full and unrestrained as that of the Emperor of France or the Czar of Russia."[84]

Miles was equally unimpressed with the argument that the compulsion of information from Confederate citizens amounted to an unconstitutional hardship. Since the Congress has the power "to operate its laws directly upon the citizens of the States," it "can declare the duty of the citizen in this behalf." If the citizen "holds property of an alien enemy he holds property to the possession of which the Government is entitled and it can compel him by all the means known to its laws to give up the property and also to disclose fully what he does control."

Miles was adamant that confidential promises made between Northerners and Southerners expressed in wills, contracts, and in relations between attorneys and clients, principals and agents, should have no legal validity in the Confederacy. The United States was another country, and its citizens were alien enemies entitled to none of the considerations due Confederate

81. "Argument of Nelson Mitchell," *Sequestration Cases,* 14.
82. Ibid.
83. Confederate Constitution, Article I, Section 6.
84. "Argument of Mr. Miles, District Attorney," *Sequestration Cases,* 16.

citizens: "The alien enemy has no rights, he is entitled only to such justice as shall be meted out to him by our country in accordance with her own sense of duty as becoming to herself." The defendant alien enemy had "no standing in court" and no legal personality that must be respected. Once considered in this light, "all the seeming hardships disappear." Alien enemy property belonged to the government, and it was within the power of Congress and the courts to "call upon its citizens to deliver to it certain property which it has become entitled to by act of law." Miles also took an entirely different view of international law than his adversaries. He concluded that at the time of his argument it was a general legal principle that "a state has a right to confiscate all property of the enemy found within its territory on the breaking out of war." Any decision to limit or abrogate this right, as in a peace treaty, was a policy consideration, not a settled requirement of the law of nations. Miles provided extensive legal authority for his argument, citing Wheaton's *Elements of International Law,* which itself cited the international legal treatises of Grotius, Puffendorf, and Vattel.[85]

Judge Magrath affirmed the constitutionality of the Sequestration Cases in their entirety. Judge Halyburton affirmed the act in part and struck part of it down—the earliest instance of the exercise of judicial review by a Confederate court. Together their opinions were declarations, early in the war, of the broad powers of the Confederate government. It was also a signal moment at which the federal courts upheld the curtailment of constitutional liberty for the sake of a more effective war effort. Mark Neely, in his valuable study of civil liberties in the Confederacy, has persuasively argued that the constitutional history of the Confederacy has, to a large extent, "remained frozen in the assumptions of the Lost Cause past," and has created a "historical image of the Confederacy as a haven of constitutional rectitude."[86] Neely shows, instead, that "the Confederate Constitution proved as 'flexible' as the Constitution of the United States."[87] The opinions delivered in sequestration litigation illustrate this flexibility and highlight the ways in which a supposed devotion to constitutional liberty at all costs gave way in the Confederate courts to the pressing demands of a modern war.

Magrath took an expansive view of the war powers of the Confederate congress. He strained to put his broad interpretation in literalist language,

85. Ibid., 15–20. Miles also cited case law, including *Brown v. U.S.,* 8 Cranch 120 (1820), and *Ware v. Hylton,* 3 Dallas 199, as well as several English cases. *Argument of Miles,* 15–18.

86. Neely, *Southern Rights,* 168–69.

87. Ibid., 169.

declaring that the power to confiscate property "must be found in the express terms of the Constitution; or its exercise cannot be justified by Congress." For Magrath, like Petigru, the constitutional question came down largely to an interpretation of the word "capture." For him, captures encompassed "all things taken in war" and amounted to "an express grant" to the Congress to exercise "entire discretion concerning the disposition of the property of the enemy." Such property included "persons who are prisoners, booty which may be taken by land forces, or prize which is that taken by naval forces."[88]

A capture, the judges held, was, in essence, whatever the Congress decided it was, and it could constitutionally include debt, land, bank accounts, or any other form of property the Congress decided to seize. Only Congress, moreover, and not the states, had the authority to interpret the meaning of the term "capture." Individual states could pass their own sequestration laws, but the understanding of the word "capture" needed to be uniform. Congress, not the states, had the power to "decide in all cases what captures on land and water shall be legal." South Carolina had already acceded to this form of oversight, having twice "united itself in the bonds of a new political Union," once by ratifying and adopting the U.S. Constitution, and once by ratifying and adopting the Confederate Constitution.[89]

If anything, Judge Halyburton went even further than Magrath in his interpretation of a wide-ranging constitutional war power. For the Virginia judge, the congressional power to declare war contained a broad power to carry on war as Congress saw fit. Such a war was "of any kind and in any shape which the discretion of Congress may dictate; war in its sternest aspect, accompanied by all its horrors, or in the mildest form." Property confiscation was a legally recognized right of belligerents at war, and "to seize the property of the enemy is as much an exercise of the powers of war . . . as the capture of the enemy would be, or the killing of the enemy."[90]

Both Magrath and Halyburton were almost entirely unsympathetic to the arguments that the act forced the illegal violation of confidential legal and personal relations: "Whatever may be the moral rule which society adopts, and religion approves, for the government of individuals in their social relations."

88. Ibid.

89. Magrath, interestingly, called attention to the new and experimental nature of the Confederacy. The new Constitution represented an attempt on the part of the new government "to protect itself against the weakness which was exhibited under the Articles of Confederation and the aggressions which were developed under the Constitution of the United States." "Opinion of Judge Magrath," *Seqestration Cases,* 55.

90. *Confederate States v. John Gilmer,* 21.

Magrath declared that the law "everywhere recognizes retaliation" as a legal right in wartime. The Sequestration Act was "the public recognition of this principle . . . in regard to property." Halyburton told Gilmer that lawyers had no immutable claim to privilege, and that "physicians, surgeons, clergymen, and the most familiar bosom friends of a party" were also "compelled to reveal matters confided to them under the most solemn promises of secrecy." Alien enemies had no legal standing, no rights to protect, and to allow their property to remain hidden was to give constitutional protection "to those men who are invading our country and seeking to desolate and desecrate our homes."[91]

For Magrath it was crucial that the Sequestration Act had taken title to alien enemy property as of its passage on August 30. As of that day, "the Government has succeeded to all the estates and interests of the alien enemy. Its title is complete." Judicial proceedings to take possession of the property "only establish the fact such an estate or interest, by virtue of the Act, belongs to the Government." Giving information about property subject to sequestration was not "an odious and immoral service." Instead, "the refusal to give information" was "the concealment from the State of that which belongs to it." Indeed, to obstruct the claim of the government to alien enemy property "is to deny the title which the Government has claimed to establish." This amounted to a denial of the government's "power and authority to confiscate and sequester the property of its public enemies." To hide the location of alien enemy property was "withholding it from the public use and in so doing denying a public right."[92]

Finally, Magrath turned to historical precedent to justify the harshness of the act, making explicit connections between Confederate sequestration and Revolutionary confiscation laws. In both South Carolina and Georgia, the government was empowered to demand any person to appear before commissioners and answer questions about the whereabouts of loyalist property, and command the production of any books, papers, or any form of records that might aid in its discovery. Important for Magrath, debts were also sequestered in the colonial era. He also noted that in the 1782 South Carolina confiscation law, the penalty for aiding loyalists in the removal of their property was not imprisonment, but death. Thus, "however stringent may be the provisions of this Act of the Congress; they are not equal in stringency to those provisions which were in force in this state when once before

91. Ibid., 28–29.
92. "Opinion of Judge Magrath," *Sequestration Cases.*

it was considered necessary to resort to this extreme measure."[93] Taken as a whole, the sequestration decisions were ringing judicial endorsements of the extraordinary powers of the Confederate government

At almost the same time lawyers were challenging the constitutionality of the Sequestration Act, demands for change from other quarters were increasing. In October, a group of eighty Southern business leaders and cotton planters met in Macon, Georgia, at what was called the Commercial and Financial Convention. There delegates from Virginia, South Carolina, Georgia, North Carolina, Alabama, Florida, Mississippi, Louisiana, and Texas gathered to discuss the pressing financial needs of the Confederacy.[94] In Charleston, a grand jury was responsible, along with the Receiver, for instigating sequestration proceedings. In the fall of 1861, the grand jury began to meet regularly to hand down indictments. In October, both the Commercial Convention and the grand jury called for dramatic changes to the Sequestration Act.

Within the Convention, and within the grand jury, there was some sentiment, cautiously expressed, that achieving some measure of commercial reconciliation with the Union, including the maintenance of debt, was ultimately a necessity. The Macon delegates cautioned: "It becomes us to remember the intimate relations in which we have lived with the people of the North. Until December 1860 we have not lived near each other as separate nations, but as one people; and our free intercourse and absolute free trade with each other has drawn us closer together than has ever happened between partnerships between different nationalities.[95]"

Both bodies expressed fear that sequestration would be potentially ruinous for Southern merchants. In making itself the creditor for debts owed Yankees, the Confederacy had put Southern businesses in a terribly difficult position. Debt to Northerners was prevalent throughout the South. To demand payment at the same time Southern businesses had, with secession, lost their biggest source of capital and trade was unjust. In Charleston, the grand jury told Judge Magrath: "We have to remember that our most energetic and enterprising men should be sheltered and protected, not worsted and oppressed." The grand jury was worried that Congress had been too anxious to make the act

93. Ibid., 52.

94. "Proceedings of the Commercial and Financial Convention Associated with the Convention of Cotton Planters" (Macon: S. Rose & Co., 1861), in *Confederate Imprints.* Among the most prominent in attendance, representing Louisiana, was James D. B. DeBow, the New Orleans editor of *DeBow's Review,* the most widely circulated Southern periodical at the time of the Civil War.

95. Ibid.

efficient, and so as a result Southern merchants had "not been represented as carefully as would have been the will of the legislature, if the experience of the members had made them familiar with the conditions of trade."[96]

In Macon, the delegates made precise recommendations to lessen the blow to Southern debtors and merchants. A Standing Committee on Finance, which included James D. B. DeBow, offered a number of resolutions, all of which were adopted. Most significant, the Commercial Convention called for a moratorium on debt payments to the Confederate government for the duration of the war, a step that would cut the government off from a major potential source of revenue. Instead, the government should require "only the evidence of indebtedness to be returned and placed upon record by the Receiver, without security demanded." While the Sequestration Act had allowed the court, at its discretion, to accept collateral, or security, in lieu of full debt payments, the delegates rejected even this.[97]

The grand jury agreed: "To give security for large sums, upon a very ill-defined obligation, in the confusion of revolution, must be difficult in any case—impossible in most cases. It would be better in the Government to abandon altogether the confiscation of the debts of alien enemies than to insist upon the demand of securities for the partnership effects or for the debts outstanding here."[98]

Even the *Mercury,* an early proponent of harsh sequestration, softened its stance when the impact of the law became clear. In pursuing Northern debt in Southern hands, the act was exacting too high a toll: "We take it for granted that the object of the law was not to bankrupt and destroy our merchants. It is not just or fair to place this class of our citizens in a worse position than any other class." The paper described the plight of merchants under sequestration:

> The war found them [merchants] in possession of money, as partners or agents, belonging to our enemies. The war at the same time paralyzed their business, and took from them the means of paying this money; whilst it destroyed credit. . . . In this state of things, not produced by the merchant, but by the Government, the Government steps in and says,

96. *Charleston Mercury,* Oct. 1861. The proceedings of the grand jury were often published in the *Mercury.*

97. *Commercial Convention,* 13.

98. *Charleston Mercury,* Oct. 22, 1861.

> pay the debt due to the alien enemy to me, or give me security for paying it. The merchant answers: if I am compelled to pay this debt in this time of war I am ruined and no one is willing to be my security, and I am unwilling to ask it, for no one can tell me how long the war will last. Ought the government to press the collection of the debt, and ruin the merchant? We think not.[99]

The editorial ended with a call for the suspension of the law, asking Receivers to wait "until Congress has the opportunity of again acting on the Sequestration Law, before they enforce the harsh provision we have noted against our people."[100]

Apart from calling for a debt moratorium, the Commercial Convention made other, smaller recommendations. First, it recommended that debts due to Northerners should be set off against property seized or damaged by Northerners. Thus, "in cases wherein the debtor to an alien enemy is also a claimant of indemnity for damages sustained by the act or acts of the government of the United States, or of the people thereof, the said claim shall be allowed as an offset, and the balance only shall be the subject of payment." This, of course, was the central goal of the Sequestration Act anyway, namely, to indemnify, or compensate, Southerners for damages to their property. This resolution, though, accelerated the process, in effect allowing debtors to indemnify themselves for lost property.[101]

Second, the delegates recommended that the courts be empowered to modify the retroactive aspects of the act on a case-by-case basis, to exercise greater discretion in protecting those considered innocent than the harsh terms of the law seemed to allow. The delegates were especially eager to exempt people who had made debt payments in ignorance of the May 21 law. The convention's resolution authorized the courts to "enquire into the *bona fides* of every transaction of our own citizens with alien enemies between the 21st day of May, 1861, and the date of the passage of the act." The Court was then to shield from the act "such transactions whose dealings with the enemy were of manifest benefit to the people or the Government of the Confederate States, or free from taint of disloyalty."

The Convention also took steps to protect those considered especially

99. Ibid., Oct. 31, 1861.
100. Ibid.
101. *Commercial Convention,* 18.

deserving from hardship resulting from the operation of the act and made a special recommendation for the benefit of soldiers. They urged that families with parents in the North and sons in the Confederate army should have property transferred not to the state, but instead to their soldier-sons. The delegates urged "that in the sequestration of the property of alien enemies, a due provision should be made to make the property of such aliens as have sons in the Confederate Army, sequestrated for the benefit of said sons."[102]

Apart from alleviating the hardships imposed on Southern business and Southern veterans, the delegates in Macon also sought to refine the definition of "alien enemy," or at least to exempt certain alien enemies from the act. The "Instructions of the Attorney General" had defined alien enemies as U.S. citizens as well as "all persons who have a domicile within the states within which this Government is at war." This hard line definition was relatively easy to maintain in theory, but it was proving too blunt an instrument in practice. The convention in particular feared legal injury or hardship to those considered innocent. There were some living in the North, most particularly women and children, who remained there because, the Macon delegates asserted, they had no choice. A literal reading of the Sequestration Act made them enemies. To protect this class of alien enemy, the convention passed a resolution designed to protect women and children who were domiciled in the Union against their will. They called on the Congress to amend the act to "exempt from its operation the property of persons resident in the States with which we are at war who are laboring under the disabilities of coverture or infancy, and consequently unable, though desiring, to change their domicile and who are not actually enemies to the South."[103]

Similarly, in other judicial districts, grand juries investigating alien enemies in their districts were, in an attempt to spare those they considered innocent, wrestling with defining the term "domicile." In Houston, grand jury was having difficulty with the cases of those born in the South and who claimed to be domiciled in the South, yet who were resident during the war in the North. At law, a person can have several residences, but only one domicile, or that place where a person is resident and has the intention to make his or her principal home. The test for locating a domicile is thus both subjective, turning on intent, and objective, turning on a factual inquiry into where one has manifested an intention to stay, by voting, paying taxes, or where their spouse and children live.

102. Ibid., 18–20.
103. Ibid.

The jury asked for guidance on how to deal with such cases from the presiding judge, William Pinckney Hill. In his second annual charge to the jury in 1862, Hill took a dim view of those who claimed allegiance to the South while residing in the Union. He instructed: "He that is not for us is against us." If a Southerner "desired to establish or to retain his domicile or citizenship here, and to prevent the status of alien enemy being charged against him, it was his duty, as soon as he reasonably could do so, to come into the Confederate states and bear his share of the burdens, and take his chances of the perils of this war." One could not stay voluntarily in the country of the enemy without becoming the enemy, notwithstanding his sympathies or his ties to the Confederacy: "To say of a person residing in the United States, that he is friendly to our cause and wishes our success, does not relieve him from the character of an alien enemy." The judge was clear: anyone who was domiciled in the United States as of May 21, unless they could show they were constrained or there involuntarily, and despite any "floating intention" to return South after the war, was presumed an alien enemy, and his or her property was subject to confiscation.[104]

Hill's hard line reflected resentment at Southerners' attempts to shield themselves from Northern and Southern confiscation laws by remaining in the North while claiming to be domiciled in the South. Hill rejected such hedging, suggesting that Southerners in the North at the outbreak of war, especially those with jobs, or land, or family located in the North, had a special burden and an agonizing choice to make. To which confiscation law, Northern or Southern, would they rather be subject? Returning to the South would be evidence enough of disloyalty for the Second Confiscation Act, and staying in the Union was potentially sufficient evidence of domicile for the Sequestration Act. Hill was aware of this dilemma but was unyielding in his stringent interpretation. If a Southern property holder remained in the North "for private business, pleasure or convenience, without the consent of the Confederate Government, or to prevent the confiscation of his property in the United States," then "the presumption of domicile there and of being an alien enemy is certainly strong against him."[105]

These cases concerned the treatment of those resident in the North but

104. William Pinckney Hill, *Charge to the Grand Jury* (Houston, Feb. 20, 1862), 22, in *Confederate Imprints.* Hill's charge came before the passage of the Second Confiscation Act in August 1862, but nevertheless it was issued at a time of widespread Southern fear of the broad application of the First Confiscation Act.

105. Ibid., 23.

arguably domiciled in the South. Corollary cases also emerged in the Confederacy that considered the treatment of those resident in the South but arguably domiciled in the North, and therefore alien enemies. In Charleston, one sequestration case, *Confederate States v. Joseph Spencer Terry,* was sent to a jury in Judge Magrath's court on exactly these facts. Terry had been residing in Charleston, doing business with Southern partners, and had declared his intention to make the city his permanent home. At the outbreak of the war, Terry had gone to New York. If he had become domiciled in South Carolina before the war, then he was, after secession, not a U.S. citizen, not domiciled in the United States, and therefore not an alien enemy. Judge Magrath told the jury, "If he came here with the intention of making this his permanent abode, and of not returning to the United States, then his domicilation conferred upon him the right of citizenship."[106]

Yet the right of citizenship "might be lost by a return to the North" even if Terry, before the war, had been sincere in his intent to make Charleston his permanent home. Magrath also was suspicious "that the course of Mr. Terry was such as to screen any property he might own in the North from the effect of the Northern Confiscation Act." As evidence of his ties to New York, the district attorney produced several witnesses who testified that Terry was, in spite of his stated intent, domiciled in New York because this was "where his parents reside, where his family reside, where his wife resides, and where the family of his wife resides." He was, the government claimed, a citizen of New York, who was "bound to acknowledge the government of the United States," and was an alien enemy.[107]

The jury agreed, upholding the Receiver's petition, and ordered the sequestration of Terry's accounts in the Bank of Charleston and the Farmers and Exchange Bank, as well as his office furniture. This case was a technical ruling on the definition of a domicile that also highlighted the intricate questions of citizenship revealed by sequestration during the Civil War. The court had in effect ruled that domicile, and hence citizenship, followed one's action and not one's words. Yet in the Alien Enemy Act of August 8, Confederate law had stressed the power of words, an oath of allegiance, to secure citizenship and avoid deportation. It seems clear that Terry was not in South Carolina as of August 8, but also that he had made clear his intent

106. *Charleston Mercury,* Oct. 11, 1861. See also *Confederate States v. Noah Wheaton* and *Confederate States v. W. B. Bristol,* in the *Charleston Mercury,* Oct. 14, 1861.

107. Ibid.

to remain a permanent resident in the South. If he had not, this would have been an easy case of a Northerner who fled and left his property behind. Here, unlike the August 8 law, the court made citizenship less a function of stated individual intent, and instead a legal status discerned and imposed in the face of words to the contrary.

Finally, especially as the war went on, cases and questions arose about whether the Sequestration Act could be applied to disloyal Confederate citizens. Generals in the field at points asked for Receivers to come to the battlefield to permanently seize the property of Southerners who were disloyal to the Confederacy. In March 1862, Robert E. Lee wrote to General Humphrey Marshall in Lebanon, Virginia: "With regards to sending you a Receiver, under the sequestration act, to your district, I will call your attention to the provisions of this act, which applies only to alien enemies and not to cases of disloyalty among our own citizens." Lee told Humphrey, "you have the power to arrest and detain disloyal persons" and "to seize for military purposes property left on their farms." Humphrey could not, however, legally apply the act to Confederate property.[108]

General Humphrey's frustration was soon gaining wider articulation. In September 1862, Benjamin H. Hill of Georgia introduced a bill in Congress declaring as alien enemies "all persons who have refused to support the Confederate government" or who "have sought the protection of, or taken the oath of allegiance to the United States." Hill's resolution treated these Confederate alien enemies as U.S. citizens, ordering them from the Confederacy within forty days.[109] While this bill did not pass, by the end of the war Congress had taken its first step toward declaring its own citizens alien enemies and attempting to sequester their property.

Despite legal challenges and objections from grand juries, business leaders, and the popular press, the Confederate sequestration regime remained mostly unaltered for the duration of the war. It fell to Congress either to address or ignore the social disruptions and legal questions raised by the Sequestration Act. The Confederate Congress for the most part turned a deaf ear to calls for reform and made only one significant change to the act. In a bow to the charitable resolutions of the Commercial Convention, the Congress on February 15, 1862, amended the act to provide that Southern families, and not

108. *Official Records of the War of Rebellion, [*series ??] (Washington, D.C.: GPO, 1880–1902), 10:374.

109. *Charleston Mercury,* Sept. 20, 1862.

the Confederate government, retained ownership of alien enemy property belonging to family members. Property located in the Confederacy, and belonging to alien enemies with relatives in the South, would pass to the next of kin as if the alien enemy were dead.[110] After this amendment became law, the focus of sequestration shifted entirely to Northern business assets as well as debts, both commercial and individual, owed to unrelated Northerners.

Receivers continued to enforce the act throughout the Confederacy—in some places to the final days of the war.[111] News of continuing sequestration, while it tailed off in the later years of the war, remained common. In Charleston, Judge Magrath continued to routinely hear sequestration cases in 1862 and 1863, the *Mercury* declaring that these cases were "of no special importance, except to the parties interested."[112] A Receiver in the Western District of Virginia announced that on October 27, 1862, he would sell at auction twenty-two thousand acres of land in Abington, "sequestered as the property of William Douglas, an alien enemy." Along with this land he also advertised the sale of three separate tracts of land of some six thousand acres each, belonging to alien enemies George Douglas, H. D. Cruger, and Cruger's wife. In Greensboro, North Carolina, the Receiver for the district court for North Carolina advertised that, on the first of January 1863, he would, at the courthouse door, sell at auction 133 acres of land in Guilford, 40 acres in Stafford, 46 acres in Deep River, and 68 acres in South Buffalo, all sequestered from alien enemies. In an indication of joint-ownership of property by Northerners and Southerners, "two thirds of a lot of ninety-four acres on Hickory Creek" belonging to an alien enemy was also sold.[113]

As the war went on, sequestration policy became even more severe. In the last years of the war, the Confederate Congress explicitly sought to use

110. "An Act to alter and amend an Act for Sequestration." Matthews, ed., *Laws of the First Confederate Congress,* 1st sess., 75–85. Pollard called this a "corrupt" amendment, "allowing the Confederate 'heirs' of alien enemies to rescue and protect property" and that it converted the Sequestration Act "into a broad farce." Edward A. Pollard, *The Lost Cause: A New Southern History of the War of the Confederates* (1866), 220. As usual, Pollard overstated the case considerably. A great deal of sequestration continued after February 1862. In January 1863, Judge Magrath ruled that this amendment, which protected property belonging to a particular class, was constitutional.

111. Sequestration records from the Western District of Virginia show Receivers were still active there as late as February 1865.

112. *Charleston Mercury,* Oct. 8–15, 1862; Jan. 7–10, 1863. Petigru continued to be a thorn in Magrath's side, representing defendants, and winning, in sequestration cases. *Charleston Mercury,* Oct. 9, 1862.

113. *Notice of Sale,* Abington, Virginia, Aug. 19, 1862. *Sequestration Sale,* Greensboro, North Carolina, Dec. 8, 1862. Both in *Confederate Imprints.*

sequestration as a weapon against domestic disloyalty. On December 1, 1864, in the Confederate House of Representatives, C. W. Russell of Virginia and the Judiciary Committee reported House Bill 242. This bill authorized the sequestration of property of those liable for military service who later left, or who had already left, the Confederacy without permission.[114] Such deserters were, the bill provided, declared alien enemies as of the time of their departure, and their property was "liable to sequestration in like manner as the property of other alien enemies." The *Mercury* approved: "Nothing can be clearer than that the man who runs away to avoid fighting for his property and his country deserves to be treated as an enemy, and his family or agent ought not to be allowed to cloak an estate which he has proven himself too cowardly or traitorous to defend."[115] The bill passed the House on December 20. It was printed in the Senate on January 5 and was under consideration at the time the Confederate Congress left Richmond before its fall to Grant.

There remains the enduring question of how much money was ultimately raised by sequestration. Robinson puts the number at roughly $7.5 million and John Schwab at roughly $6.1 million.[116] These numbers are in all likelihood low. Treasury Department records show that Receivers were quite often delinquent in their duty to provide receipts of all sales to Richmond every six months. This frustrated treasury clerks, who continuously wrote to Receivers reminding them of their record-keeping duties.[117] While sequestration was ongoing from October 1861, there is no mention of revenue from the Sequestration Act in the *Report of the Secretary of the Treasury* until December 7, 1863. In that report the Treasury noted $1,862,555 in revenue from sequestration. In the following report of May 2, 1864, the figure was $3,000,732.75, and, finally, in the report of November 7, 1864, revenue from sequestration amounted to $1,238,732.75.[118] We have no figures before 1863 or after 1865, times when sequestration was certainly ongoing, particularly so in 1862, the first year following the act's passage.

Drawing on the number $6.1 million, Schwab labels Confederate sequestration a failure financially. This assertion is flawed in at least two respects. First, we must ask, a failure compared to what? This was certainly more than

114. "A Bill to Provide for Sequestering the Property of Persons Liable to Military Service," Dec. 1, 1864, in *Confederate Imprints.*

115. *Charleston Mercury,* Dec. 31, 1864.

116. Robinson, *Justice in Grey,* 262–64. Schwab, *The Confederate States of America,* 120.

117. Robinson notes that in his estimation the amount reported by the Confederate Treasury is low.

118. "Reports of the Secretary of the Treasury, 1863, 1864," in *Confederate Imprints.*

the North confiscated during the Civil War. It was also money collected overwhelmingly by Confederate citizens enforcing the Sequestration Act against themselves—not within enemy country but within their own borders. Second, we need to place sequestration within the larger story of Confederate finance. Once the Confederacy took the disastrous step of printing $200 million in fiat money, a devastating inflationary spiral occurred. In this light, any number in the low millions looks like a failure. When the government started to print its own money in huge amounts, the incentive to continue confiscating alien enemy property, one debt or one estate at a time, certainly decreased. Yet sequestration continued almost until Appomattox. The wild estimates that there was $300 million to confiscate were speculations and cannot be used as a benchmark. Instead, in assigning success or failure to the sequestration regime, we should consider it as it was treated by the Confederacy, as a significant source of regular revenue for a government desperate for income.

To suddenly sever Northern and Southern property was an astonishing undertaking. In antebellum America, as now, families moved apart, marriages dissolved, parents loaned their children money or held onto their possessions for safekeeping. Family businesses or farms or houses often shared many owners, some resident, some not. Many owed rent to distant landlords. Local businesses aspired to national markets, and national firms employed local residents as their agents or members of their sales force. In these and myriad other ways, North and South were intimately intertwined. Yet as of the late summer of 1861, all Northern property located inside the Confederacy belonged to the government. For large debtors and small, the Sequestration Act brought scrutiny from Confederate judicial officials into private aspects of their lives. The demands of personal loyalty, commerce, and patriotism were thrown into conflict with the demands of Confederate citizenship. Yet in the new nation, when it came to property confiscation, loyalty to the new sovereign trumped all other commitments.

Book Reviews

The Boundaries of American Political Culture in the Civil War Era. By Mark E. Neely Jr. (Chapel Hill: University of North Carolina Press, 2005. Pp. 159. Cloth, $29.95.)

Three of the four essays in this volume are based on the Brose Lectures that the author delivered at Pennsylvania State University in 2002. They defend the importance of political history at a time when political history is often dismissed as unilluminating. Chapters 1 and 2 rebut the case presented by Glenn Altschuler and Stuart Blumin in *Rude Republic: Americans and Their Politics in the Nineteenth Century* (2000) that the American public was not interested in electoral politics (except, perhaps, for a few years at the height of the sectional conflict over extending slavery). Instead of taking the obvious line of argument based on high voter turn-out, Neely makes imaginative use of the popular consumer goods of the day, showing that, for example, Currier & Ives prints depicting politicians adorned the walls of many nineteenth-century American homes. Politics was not, he argues, relegated to a rigidly defined sphere separate from everyday life and only rarely engaged by the average free man.

Chapter 2 contains the most valuable of Neely's contributions in this volume. He explains why nineteenth-century politicians and parties worried so little about raising money in the form of campaign contributions. The answer is that they relied primarily on their party newspapers (virtually every little town had one for each major party), which were supported by the subscriptions of the faithful and advertising revenue from merchants who wanted to appeal to them. These same party loyalists were willing to buy other campaign paraphernalia (cartoons, photographs, medallions, etc.) as well, so these could be marketed commercially and not produced at the party's expense to be given away. Objects for the party's own use (such as banners for parades) were often produced inexpensively with donated labor. In sum, nineteenth-century American political parties rested firmly on a broad base of committed popular support, and did not need, as twenty-first-century parties do, to solicit big contributions from the wealthy to get their message across.

The other essays in this book deal with more specialized topics. Chapter 3 shows that the Union League was an association of middle- as well as upper-class New York City Republicans, contrary to its prevailing image among historians as a narrowly elite organization. Chapter 4 (the only one not based on a Brose Lecture) asks who comprised the audience for minstrel shows. The prevailing opinion of historians, based on work by Jean Baker and Alexander Saxton, has been that blackface minstrel shows, egregiously racist, appealed mainly to working-class white men who feared job competition from free African Americans. The minstrel show has been seen as a Democratic party form of popular culture just as the temperance and antislavery music of the Hutchinson Family Singers was Whig-Republican. Neely argues that popular culture, including minstrel shows, transcended party politics. Whig campaign song books sometimes made reference to minstrels, which seems to him to imply that minstrel show audiences were not so exclusively working-class and Democratic as hitherto supposed. I'm less ready to abandon the conventional wisdom in this case, however, at least with regard to class. In the first place, the word "minstrel" often means simply a traveling musician, as in Thomas Moore's song, "The Minstrel Boy," popular in antebellum America. A portable songbook called *The Clay Minstrel* primarily evokes this meaning rather than that of a blackface performance. A possibility that Neely does not consider is that those who attended blackface minstrel shows might have been mainly working-class males, even though American families of all classes enjoyed the songs and bought the sheet music to play if they owned pianos at home. The Whig party might have occasionally invoked associations with minstrel shows to appeal to its considerable number of working-class voters, men to whom the tariff represented job security, often old-stock American Protestants as suspicious of immigrants as of blacks.

This volume bridges the all-too-wide gap between political and cultural history with great profit. It sustains Mark Neely's reputation for highly original and well documented research findings. Neely is surely one of the most gifted historians of the Civil War era, and we are all, as usual, indebted to him for his unfailingly valuable contributions to our understanding of it.

Daniel Walker Howe
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Party Games: Getting, Keeping, and Using Power in Gilded Age Politics. By Mark Wahlgren Summers. (Chapel Hill: University of North Carolina Press, 2004. Pp. 352. Cloth, $59.95; paper, $22.50.)

Mark Wahlgren Summers, the author of several fine studies of nineteenth-study American politics, turns in his new book to perhaps the most legendarily corrupt period in the nation's history: the Gilded Age. He departs both from older scholarship portraying the era's political process as being run by tycoons and robber barons and from more recent scholarship emphasizing the massive voter turnout and highly participatory politics of the mid-nineteenth century. Nor does he, like Glenn Altschuler and Stuart Blumin, authors of *Rude Republic: Americans and Their Politics in the Nineteenth Century* (2000), see a public basically uninterested in political issues and with an ironic detachment from the election year razzle-dazzle of the major parties. Professional politicians, not "big-money men," controlled their organizations' agendas, according to the author, and they certainly made concessions to the interests and demands of their informed and (mostly) loyal supporters, at least insofar as they had to in order to assuage public clamor for reforms and maintain their stranglehold of power and offices (x).

As might be expected from a work with this unsentimental view of the era's political process, Summers pulls few punches in his examination of electioneering practices in the Gilded Age. His treatment of this chicanery is illuminating and little short of encyclopedic. He discusses the refinement of the cynical gerrymandering practices that enabled, and still enable, many Republicans and Democrats to ensure "safe" districts for themselves. Partisan pressures even affected the admission of states, Summers reminds us; the Republican Congress made Democratic Arizona and New Mexico wait unduly long for statehood, while Nevada and Idaho, along with other Western states, were rushed in to bolster Republican dominance of the Senate and Electoral College. The latter two states might not ever have been admitted with their existing boundaries had Republicans not resisted sensible efforts to combine them with other, more populous and geographically diverse states.

The author does not neglect the increasing role of money in campaigning, though he insists that wealthy businessmen entering the political process ultimately served the interests of their parties more than the reverse, at least if they were to maintain a hold on their offices. In a particularly potent chapter, Summers argues that the actual buying of votes on election day has been vastly underestimated by most scholars, and that both parties routinely disbursed significant amounts of money to "floaters," who could be bribed to vote (or not vote) for their side, a breathtakingly corrupt practice that not even the Australian ballot entirely halted. The author does not neglect the vicious tactics of Southern Democrats, whose shameless use of fraud, intimidation, and murder to win elections he sees as especially egregious, but hardly atypical. Rather, their tactics represented but another

aspect of a deeply flawed political system in which "winning was all that mattered" to the ruthless partisans whose gamesmanship drove the process (26).

Summers's work, like that of Michael Holt, deliberately focuses on the activities and motivations of professional politicians, with a special emphasis on their election-year efforts to maintain their hold on offices. Leaders in this scheme manipulate, but are not fundamentally driven by, popular beliefs and values. "Humbug defined the soul of politics" in this era, whose romanticization by scholars impressed by the massive voter turnout and issue-oriented campaigns he deplores (49). Summers's scholarship and arguments are careful and mostly convincing. One suspects that he might go a bit too far in underplaying the role of principle in the politics of even this undoubtedly sordid era. Did outrage over James Garfield's assassination by a disappointed office-seeker and the abuse of the "spoils system" have nothing to do with party leaders' eventual support of Civil Service Reform, as the author would have it? Even the scheming and skilled partisans of this era were no less capable of varying degrees of idealism and self-righteousness than were their predecessors and successors in the always, shall we say, morally complex and ambiguous world of American politics. Even conceding that survival and self-interest were the basic engines driving the parties in the manner that Summers portrays, one feels that ultimately his model might be a bit too rational to fit perfectly even this era, in which cynicism and idealism blended in bafflingly intricate ways. He might also be reading back the futility of postwar third-party challenges, both underestimating the contingency of outcomes and overestimating the inevitability and practical excellence of that fixture of American politics, the two-party system. Minor interpretive quibbles aside, this is a superb book. Immensely readable, exhaustively researched, thoughtful, and judicious, it should be welcomed as a major contribution to our understanding of American political culture.

Michael Thomas Smith
McNeese State University

Bitter Fruits of Bondage: The Demise of Slavery and the Collapse of the Confederacy, 1861–1865. By Armstead L. Robinson. (Charlottesville: University of Virginia Press, 2005. Pp. 293. Cloth, $34.95.)

This is a difficult book to review, being published some decade after the author's untimely death after extensive posthumous editing. When Armstead Robinson's much-cited dissertation appeared, it was at the forefront of the social interpretation of the Confederate experience, but the historiography has moved on. Despite this, Robinson's forcefully-stated analysis of Confederate defeat deserves attention.

The book examines the home front in the--broadly defined--Mississippi Valley. The argument is that the Confederacy found it impossible to reconcile the social interests comprising it. Upcounty nonslaveholders were unenthusiastic secessionists at best, and as the sacrifices of war mounted, many became disaffected. Simultaneously, the secession crisis prompted unrest among the slaves, which induced jumpy slaveholders to withhold arms and men from the Davis government. As the crisis deepened, the slaveholder-dominated government turned toward a draft that exempted planters, with damaging results on morale. The invading armies were welcomed by legions of slaves and draft resisters, only too eager to assist with information and sometimes physical assistance. By 1863, massive disaffection made military collapse all but certain. "Died of Class Conflict" is Robinson's forthright epitaph for the Confederacy (283).

This argument is familiar, and one problem with such a clear thesis is that it lends itself to ready oversimplification. Still, the case is laid out with considerable nuance. Robinson unearthed a good deal of underutilized evidence, including Smithsonian Institution weather tabulations to illustrate food production shortfalls; the author's evident industry somewhat explains the long intellectual gestation of the work. Particularly illuminating is the discussion of the aftermath of Vicksburg's surrender, in which Confederates forcibly reenlisted the former garrison in violation of their paroles. Thus fighting under a potential death sentence, which Confederate General Bragg unwisely announced on the eve of battle, these same soldiers spectacularly fled at Missionary Ridge. The episode is striking, and it nicely supports the book's broader themes. Moreover, Robinson is even handed in his treatment of the Confederate government, even sympathetic to its task of holding the home front together. Jefferson Davis's repeated "personal intervention helped put a human face on a war effort beset by charges of insensitivity" toward the poor (95). For a scholar who helped define the field of black studies, this is an impressive feat of historical empathy toward the much maligned Confederate president. Robinson's position does illuminate a central theme: slavery made the home front unusually fragile, and it placed a superhuman task before the most dedicated Confederate leaders.

As readers of this journal will be aware, the dominant tendency of late has been to emphasize the resilience of Confederate loyalties among whites. Historians like Gary Gallagher and William Blair come to mind. But this scholarship deals primarily with the eastern states, especially Virginia. Robinson's book should shift historians' attention to the west, where the Confederate forces instead experienced humiliation. Generals like Bragg, Pemberton, and Hood somehow didn't inspire the awe of Robert E. Lee. From this vantage point everything looks different: whole armies surrendered or disintegrated, and collapsing morale had much to do with

it. As someone who has mined many of these same primary sources for Alabama, the book's strongly argued interpretations seem faithful to the documents.

Not that there are not things to criticize. One notices occasional geographic imprecisions, like putting Huntsville in northwest Alabama, or Chattanooga between Missionary Ridge and Chickamauga (139, 254). The text was patched together from chapters written over a span of decades, and in places the interpretation or terminology is problematic. For example, the "dual economy" idea is the basis of Robinson's analysis, and his repeated use of "non-commercial" to refer to non-plantation areas is dated and misleading. More crucially, Robinson pursued the then current trend of cliometrics, and unfortunately some of his calculations cannot be replicated. Robinson contends that continued production of cotton by planters doomed many soldiers' families to hunger, but the evidence isn't fully presented and the relevant maps on pages 129 and 130 seem unintelligible. Since the editors couldn't find the explanation of the method, these materials would have been better dispensed with.

This is clearly not the book the author would have written had he lived. Even so, the result is better than one might expect; the thesis is cogently argued, and the book would work well as a provocative undergraduate textbook. Robinson's widow, Mildred, and his former colleagues at the University of Virginia and elsewhere are to be commended for undertaking the task. The book's emphasis on the social causes of defeat in the west will propel the debate in useful directions, and for that scholars should be grateful.

Michael W. Fitzgerald
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No Taint of Compromise: Crusaders in Antislavery Politics. By Frederick J. Blue. (Baton Rouge: Louisiana State University Press, 2005. Pp. 301. Cloth, $54.95.)

In *No Taint of Compromise*, Frederick Blue offers brief biographies of a disparate group of eleven antislavery reformers in "a study of the varieties of American antislavery political leadership" (x). Admirably embracing a broad definition of political antislavery, Blue's subjects include politicians, journalists, clergy, politically active women, and a prominent member of the African American convention movement. Ranging from the comparatively obscure to the familiar, Blue has selected subjects who, he argues, played critical, if not necessarily central, roles in the antislavery movement.

As a collective biography, this book does not so much engage in ongoing debates concerning the complex social and cultural context of antislavery reform. Rather, the work is tightly focused on the individual development of antislavery

thought and action among his leaders of the political antislavery movement. To this end he mines familiar sources, including diaries, speeches, and sermons, to ascertain his actors' antislavery motivations. Blue's methodology avoids the reductionism that has plagued some ethno-cultural analyses of antislavery reform as a mere proxy conflict between warring classes and ethnic groups. However, it also strips away some of the aforementioned context that helps explain the rise of antislavery and a host of other reform movements in the antebellum era. The result is a book that scholars of antislavery and antebellum politics will find most useful in its detailed reconstruction of the development of individual antislavery thought among crucial actors in the movement, some of whom we previously have known little about.

All this is not to say that this book does not also contribute to ongoing debates concerning the antislavery movement. As the title of this work suggests, Blue implicitly challenges interpretations of political antislavery as a mere temporizing of abolitionist principles. He maintains that the compromising of individual principles in the transition from the radical Liberty party to the more moderate Free Soil and Republican parties did not outweigh the steadfast commitment of his subjects to a political attack on slavery. Although his subjects came to support political antislavery at different times for myriad reasons, their antislavery convictions are largely intellectual, stemming from a shared belief that the moral evil of slavery could be mitigated and eventually blotted out only through political action.

While the shared moral opposition to slavery might be the unifying theme in this book, the collective experience of anti-abolition violence by no fewer than five of the subjects here might prove the most interesting theme. Antislavery activists pointed to such violence as the most extreme manifestations of a sinister Slave Power that, they claimed, sought to squash all criticism of slavery in the North. This is a theme ripe for further explication. Much literature on the Slave Power treats the concept as either a reality, such as in Leonard Richards's *The Slave Power* (2000), or an exaggeration borne of paranoia, such as in David Brion Davis's *The Slave Power Conspiracy and the Paranoid Style* (1970). However, Saidiya Hartman's Foucaldian analysis of the violence of slavery in *Scenes of Subjection* (1997) offers another possible view of the Slave Power. Hartman argues that the violence of slavery was omnipresent and multivalent, inhering not merely in physical violence but also in masters' coercion of expressions of contentment and carefree attitudes among slaves. Applying this analysis to anti-abolitionism, we ought to think of how anti-abolitionist assaults and riots were merely one manifestation of a violent hostility that sharply circumscribed early antislavery activity in the North. Such an analysis might go far toward explaining

why the Slave Power seemed to so many Northerners to be such a ubiquitous and personal threat. To be fair, though, this is not an avenue that Blue seeks to pursue in this work.

Yet, this book does raise other questions without answering them. For instance, it is clear that Blue sees the movement as a profoundly political one, but what does it say about the role of religion in political antislavery when all his actors saw slavery fundamentally as a moral evil? Similarly, he explores his subjects' commitment to black rights, but he seems largely untroubled by whether white men's interest in black rights represented relative moral and philosophical enlightenment or a paternalistic racism (or perhaps both), a question that Eugene Berwanger, Leon Litwack, George Fredrickson, and a host of others have treated. Still, these minor complaints do not detract from the overall quality of a book that offers useful insights into the antislavery ideals of such a wide range of individuals, from the powerful and influential to the socially and politically marginalized.

Matthew Isham
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In the Shadow of Slavery: African Americans in New York City, 1626–1863. By Leslie M. Harris. (Chicago: University of Chicago Press, 2003. Pp. 288. Cloth, $42.50; paper, $25.00.)

Blacks in New York City in the colonial and antebellum period have received a good deal of scholarly attention in recent years. *In the Shadow of Slavery* is the most comprehensive of these works. Leslie Harris covers the seventeenth and eighteenth centuries in two chapters based mostly on secondary sources. The book's focus is on the nineteenth century, especially on the 1830s and 1840s, which she sees as a key period for the city's African Americans. These decades are examined primarily through an insightful analysis of the city's myriad black voluntary associations.

Harris emphasizes, as have other scholars, how central slavery was to the city's colonial economy. Despite a coterie of middle-class African Americans, most members of the city's burgeoning free black population did not have any useful skills—most had been servants or slaves—and found themselves with unskilled, low-paying jobs. In such circumstances, the wisest path to personal security lay not in individual initiative but in cooperating with friends and neighbors in structuring a web of reciprocal obligations. Over time, these informal networks evolved into the formal institutions that did so much to structure black life in the city. There were black mutual aid societies, groups to help orphans, to cloth needy black children, teach literacy, to instruct blacks in mechanical skills, and

to aid poor black workers. African Americans were extremely active in pushing for faster emancipation in the state; when slavery finally was completely ended in New York in 1827, they shifted focus to eradicating slavery everywhere. City blacks worked closely with the Tappans and other white abolitionists. At first many of the white antislavery supporters viewed improving the condition of Northern free blacks as important as ending slavery itself. In the wake of the 1834 riots in which black and white abolitionists were the targets of violence, many of the whites in the movement moved away from the increasingly controversial concerns with the city's free black population and concentrated just on slavery in the South.

Black leaders continued to believe in the importance of helping members of their race in New York. Many came to see moral reform as the best hope both of elevating the African American community and of raising the standing of blacks in the eyes of whites. In the 1820s they began an attempt to "impart reform ideology to the black working class" by emphasizing the importance of black respectability (121). Emancipation Day should be celebrated not with parades but by lectures in churches. Black women belonged in the home. Harris's close examination of the policies of the Colored Orphan Asylum suggests the significance of these ideals. In the late 1830s and 1840s, some African Americans began to criticize efforts to "reshape the racial identity of blacks as a group along middle class lines" (202). Black moral elevation, "soft manners," as one critic put it, seemed of limited use in the daily struggle against white racism and slavery. In the 1840s a new group of black leaders shifted the emphasis away from moral uplift to the dignity of black labor. This meant, for some reformers, the indignity of African Americans working as servants or waiters, two of the most common jobs for blacks in the city. Serving others degraded those who did it and left them without the independence necessary for republican citizenship. Only "the mechanical arts" provided worthy employment for black men. This approach, Harris argues, as with the campaign for black moral reform, reveals the significance of class in the history of black New York. The book ends with a chapter on the multiracial Five Points neighborhood and a conclusion that examines the 1863 Draft Riot.

Harris stresses the centrality of the black struggle against slavery, first in New York State and then to free the slaves in the South. Harris's book is not social history. *In the Shadow of Slavery* is best described as a history of black reform movements in New York. It is intelligent, well organized, clearly written, and fair minded. This is an impressive addition to what has become an important body of work on New York's African American community in the antebellum era.

Richard Stott
George Washington University

Anna: The Letters of a St. Simons Island Plantation Mistress, 1817–1859. By Anna Matilda Page King. Edited by Melanie Pavich-Lindsay. (Athens: University of Georgia Press, 2002. Pp. 453. Cloth, $49.95.)

Not a deep or complex thinker and not a particularly perceptive observer, Anna Page King nevertheless creates a compelling portrait of Sea Island plantation life by retelling the mundane and quotidian. The richness is in the detail: medicine, travel and communication, parenting, education, extended family relationships, plantation finances, slavery, death, religion— these topics and more are dealt with on a daily basis, and that specificity provides important insight into the minds and lives of antebellum Southern women. While these over 150 letters span the years from 1817 to 1859, the bulk of them were written in the 1850s.

Born in 1798, Anna was married at the ripe age of twenty-six to a Northerner, Thomas Butler King; they had ten children. Although he became a well-known political figure, King seemed to lurch from one monetary disaster to the next. Ultimately, his family was dependent on Anna's inheritance, which her father had protected from her husband's control. Living on her St. Simons Island plantation, Retreat, and owning fifty slaves, Anna assumed responsibility for the family's financial security. Her management skills became increasingly important as her husband spent ever more time away from home in his attempts to find fortune.

Anna never mentions the growing rift between North and South and barely notices political issues, yet one comes away from her letters with a very firm conception of this southerner's sense of her difference from Northerners. She considered traveling in the North an unpleasant "mixing with strangers" (10). She was annoyed when Northern fashions required her to lengthen her hemline and found Northern food-ways inferior to Southern (162, 195). She was thoroughly convinced that the stereotypical sharp financial practices of "vile Yankees" were a constant threat to trusting southerners (175, 194, 250).

While slaves were central to economic life on Retreat Plantation, they remained at the margins of Anna's letters. Nevertheless the letters provide an important window to understanding Anna's convoluted attitudes toward her slaves and the peculiar institution. Reflecting on the many burdens that slave owning imposed on her, Anna claimed, as did many slaveholders, that she was "the greatest slave in Georgia" (139). Although she recognized that slavery exacted a moral cost from her sons, she had only contempt for those "vile abolitionists" of the North (341, 113). Even though she disapproved when a master beat his slave to death, she drew a clear distinction between her white and black families, stating, "It is painful enough to recount the death of a negro. God grant I may never have to tell you of the death of one of the family" (245, 359).

Among other topics that offer especially fascinating glimpses into Southern life is Anna's participation in séances and her description of the practice of table tipping. A continual theme in her letters is the difficulty and hazards of travel. Remarkably, she had never traveled on a railroad until 1852. As a mother of a large brood of children, she could be quite a scold and well knew how to use guilt as a motivating tool. Always supportive of her husband's constant striving, she could also be brutally honest, telling him, "It is too [*sic*] me really astonishing how you can be so sanguine after all your disappointments" (220). By concentrating on the minutiae of life, Anna Page King has succeeded in making a significant contribution to our understanding of the larger issues of antebellum Southern life. Well-edited, the volume also includes data on family members as well their slaves, all features that enhance the value of these letters.

Virginia J. Laas
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Henry Adams and the Southern Question. By Michael O'Brien. (Athens: University of Georgia Press, 2005. Pp. 201. Cloth, $34.95.)

Michael O'Brien has long sought to demonstrate the antebellum South's intellectual vitality. O'Brien must not only contend with historians who think slavery derailed Southern thought. Henry Adams lastingly branded the South as anti-intellectual with his quip that "strictly, the Southerner had no mind; he had temperament." This quote inspires *Henry Adams and the Southern Question*, for the "Southern Question" does not refer to what Adams's contemporaries would have thought, Reconstruction and issues of race. O'Brien sets out to provide "a sustained analysis [of] the relevance of Southern culture to an understanding of Adams" (xiii).

O'Brien begins during the secession winter of 1860–61, when Adams was "vitriolic about Southerners" and "the idea of the Slave Power lay at the root of this fierce hostility" (7). His father's and grandfather's struggles against the Slave Power shaped the young Adams's animosity. O'Brien perceptively argues that Adams "wanted to achieve a sort of purified version of the antebellum republic, which he thought had been at its best before it was corrupted by Jacksonian spoils, the Slave Power, and the unconstitutional misdistribution of political power occasioned by the war and its aftermath" (16). Providing greater context for Adams's attitudes, O'Brien astutely notes that while the name Adams normally conjures thoughts of New England, there was a strong matriarchal connection to the South. Much of the first chapter establishes the cultural identity of Louisa Adams, Henry's grandmother, who was from a Maryland family and, according to O'Brien, helped to center the Adams clan in the southern city of Washington, D.C.

Perhaps because of his grandmother's influence, Adams lived the majority of his life in Washington. Adams became friends with Southerners and O'Brien suggests that he "began to see Southerners as real people, with histories and problems, not just as demonic abstractions of the Slave Power." This was "the social equivalent of the intellectual process that Adams was undergoing in these years," as he began writing histories of the early republic (72). Unlike his brother Charles, who wrote history from a New England perspective, Henry Adams's experience in the South made him a nationalist. In the 1880s he obscured the Slave Power to use Southerners like John Randolph in building a national story of democratic decentralization.

Like most scholars, O'Brien finds his wife's suicide in 1885 profoundly changed Adams, for "when Adams ceased to believe in such metahistorical patterns, when he came to think that the world made little or no sense, the status of the South in his imagination was to mutate" (113). Adams saw the South as "a counterpoint to the social damage of pell-mell American industrialization, with which Adams was growing disenchanted," though O'Brien stretches by repeatedly hypothesizing that Adams was a postmodernist (124, 141–44). O'Brien is on firmer ground arguing that Adams, no longer interested in details as long as the "*ensemble* is in scale," twisted the perception of the South in *The Education of Henry Adams* "to show how the truth of the twelfth century had ceased to be enactable as truths by the end of the nineteenth century" (130–31). The book's last few pages relate how twentieth-century Southern intellectuals, "troubled by the direction of industrial modernity," found it "logical to turn to Adams" (146). Hence, "Southerners took Adams's slur and made it a cultural asset, though few noticed that he always meant more than a slur" (151).

Scholars interested in Southern history will be disappointed because as O'Brien states in the preface this "is, mostly, a study in New England culture, albeit a study of how New England viewed the South" (xiii). Those seeking insight on New England, though, may also be disappointed, for O'Brien too successfully demonstrates Adams's connections with the South to consider him representative of New England. (Disclaimer—I am a New Englander living in the South.) Adams lived most of his life in self-imposed exile, living in New England for only eight of his last sixty years. Although Adams never became a Southerner, it seems doubtful he remained a New Englander, let alone a representative one, for even by the Adams family standards he was intellectually idiosyncratic. O'Brien does, however, provide a textured account of Adams's complex relationship with the South and successfully demonstrates how Adams's interpretations of the South changed to meet his needs.

Andrew L. Slap
East Tennessee State University

High Seas and Yankee Gunboats. By Roger S. Durham. (University of South Carolina Press, 2005. Pp. 185. Cloth, $29.95.)

Roger S. Durham's newest book provides a dramatic glimpse into one of the conflict's overlooked participants. While audiences may be familiar with infamous commerce raiders such as the *Alabama*, they rarely have the opportunity to read about the many vessels that quietly ran the Union blockade. Hundreds, if not thousands, of daring men challenged the blockade, and many were successful. James Dickson's journal, written aboard the *Standard*, offers readers a glimpse into one such event.

Although the *Standard*'s success did not alter the course of the war, Durham realizes the value of Dickson's efforts. Each ship that sailed through the Union blockade brought not only supplies and materiel but raised Confederate spirits and determination. Indeed, the arrival of the *Standard* off of the Georgia coast set into motion an interesting chain of events. As Durham rightly suggests, one action results in numerous reactions, which in turn affect others to create "the intricate fabric of life" (xiii).

The book consists of two parts: Dickson's journal and Durham's analysis of events after the journal ends. Chapters 2 and 3 comprise the bulk of Dickson's journal and detail his adventures from New Jersey to Nova Scotia in which he found passage on the blockade-runner, the *Standard*. While interesting, this chapter adds little to the book's overall purpose and could easily be condensed into the prelude. Chapter 3, "Bound for Georgia," will prove useful to maritime historians or those interested about life aboard ships in the nineteenth century. The first half of the chapter demonstrates the difficulties of life at sea. Dickson's numerous accounts of bad food, wet clothes, and rough seas remove any romanticism associated with sailing. As the *Standard* nears the Georgia coast, Dickson's journal begins to reveal the true danger of blockade running: close calls with unknown ships, shallow water, and the possibility of combat. In many ways the last stage of the voyage proved to be the hardest. Dickson's journal ends abruptly near the end of this chapter, allowing Durham to carry on the adventure. At this stage the book becomes something more than a travel narrative, and Durham weaves together several elements to demonstrate the wide-ranging connections concerning one shipment of medicine, assorted dry goods, lead, and gun caps.

While the journal itself is interesting, Durham does little with it, except for minor editorial changes. The journal section would be greatly assisted with the addition of context from secondary sources, to help flesh out the events as they occurred and to place them in a stronger historical setting. The author overlooks

several important books concerning blockades and blockade runners that have come out in recent years.

With that said, Dickson's journal and Durham's subsequent narrative are important additions to Civil War historiography. The book will be interesting to historians concerned with maritime and military history, as well as a general audience. Undergraduates, in particular, will find the book an instructive read.

Amy Mitchell-Cook
University of West Florida

"Fear Was Not in Him": The Civil War Letters of Major General Francis C. Barlow, U.S.A. Edited by Christian G. Samito. (New York: Fordham University Press, 2004. Pp. 247. Paper, $55.00.)

The Boy General: The Life and Careers of Francis Channing Barlow. By Richard F. Welch. (Kent, Ohio: Kent State University Press, 2005. Pp. 301. Paper, $24.95.)

At first glance, Francis Channing Barlow was an easy man to underestimate. Clean-shaven and looking like a lad barely out of his teens, Barlow offered no outward appearance of the fiber within, except for his penetrating eyes. Few volunteer soldiers of the Civil War achieved the success that Barlow did, rising from an 1861 private to major general in 1865. His upbringing hardly seemed that of a future warrior. Raised by his mother, Barlow spent his formative years among the educated and cultured of society. He graduated as class valedictorian in 1855 from Harvard University and embarked on a successful career in law in New York City. Those who knew him were struck by his keen mind and frank and often painfully blunt personality. He also possessed a fearlessness that prompted one young man who knew him to write, "I think I never knew anyone so perfectly without fear of personal injury" (Welch, 27).

When the war broke out, Barlow enlisted as a private in the 12th New York Volunteers, a three-month regiment. Within a short time he was a lieutenant, although by his own admission, "I confess I understand but little of an officer in battle" (Welch, 36). But Barlow was a quick learner. When the 12th mustered out, he reenlisted immediately, this time as lieutenant colonel of the 61st New York. The men of the regiment soon learned that Barlow was an exacting commander. At Seven Pines, in the Seven Days battles, and at Antietam, where he was severely wounded, Barlow proved himself as a soldier and earned his general's star. He led a division at Gettysburg, where he was again severely wounded. After recovering from his Gettysburg wound, he returned to command a division throughout

the 1864 Virginia campaign. By the end of the war, he was a major general and perhaps the most distinguished volunteer soldier in the Army of the Potomac.

Barlow returned to New York and civilian life after the war, resuming his law practice and entering the political arena, first as U.S. marshal of southern district New York, and then as attorney general of New York State. While his uncompromising principles and blunt manner rendered him unsuited for politics, he proved the nemesis of greed and corruption, taking on William Marcy Tweed and his Tammany Hall organization with the same fearlessness with which he led his regiment's assault at Antietam.

It is remarkable for a man of Barlow's accomplishments that aside from the New York Monuments Commission, *In Memoriam: Francis Channing Barlow, 1834–1896* (1923), he has had no biographer. The two books of this review have at last given him the attention he deserves. The first of the two, Christian Samito's *"Fear Was Not in Him,"* consists of Barlow's wartime correspondence from May 2, 1861, to July 19, 1864, the latter date only ten days before his wife, Arabella, died of typhus fever. This devastating event shook the seemingly imperturbable Barlow and contributed largely to a decline in his health that forced him to take a leave of absence from the army, which lasted until March 1865. Samito has done a marvelous job of editing the letters and has further complemented them with a fine preface and postscript to Barlow's life before and after the war. Students of the war in the East or the Army of the Potomac will be prompted to consult it often for Barlow's sharp-witted and honest comments on its operations, soldiers, and leaders.

Richard Welch's *The Boy General* provides Barlow with a standard biography. Eight of its ten chapters focus on Barlow's Civil War military service. It is a solidly researched and written volume, although Welch might have devoted even more attention to Barlow's postwar career, particularly his important fight against the corruption of Tweed and Tammany Hall. His treatment of Barlow is even and fair-handed throughout, and he avoids the practice of many biographers of Civil War generals who dwell more on the strategy and tactics of battles than they do on their biographical subject. He also addresses perhaps the most well-known story of Barlow's life, the Gordon-Barlow incident at Gettysburg, and concludes that while Gordon may have embellished his version of their encounter, it was not one of his fictions. Barlow knew Gordon's version well; he heard him tell it once during the twenty-fifth anniversary at Gettysburg, yet he never said or wrote a word about it. This, Welch notes, was entirely out of character for Barlow not to speak up about something he believed to be false.

D. Scott Hartwig
Gettysburg National Military Park

Retreat from Gettysburg: Lee, Logistics, and the Pennsylvania Campaign. By Kent Masterson Brown. (Chapel Hill: University of North Carolina Press, 2005. Pp. 534. Cloth, $34.95.)

Kentucky attorney Kent Masterson Brown has produced a narrative of one of the few aspects of the Gettysburg campaign that has not been written about ad nauseam. Following a prologue that sets the stage, the author traces in meticulous detail the movements of the Army of Northern Virginia from the afternoon of July 3 until the last Confederate soldier re-crossed the Potomac. His work differs from pervious studies because of its depth. Brown spent twenty years in research, and it is hard to imagine that he failed to consult any significant primary or secondary material. He demonstrates conclusively that the retreat from Gettysburg required as much or more skill from Lee and his lieutenants as the movement into Pennsylvania and the battle itself. His account of the plight and suffering of the Confederate wounded is particularly moving. To the degree that sources allow, he also describes how the retreat impacted women and African Americans (both the slaves accompanying Lee's army and the free black population of Pennsylvania).

Brown's special interest, however, is logistics, and here his work both pleases and disappoints. No one could ask for a better description than Brown provides of the trials and tribulations the Confederates encountered in shipping back to Virginia the supplies they garnered from the Pennsylvania countryside. This went far beyond food, cattle, sheep, horses, and mules, to include almost the entire contents of country stores and blacksmith shops encountered en route. Brown reminds readers that this, rather than battle, was the primary focus of Lee's campaign, and that the acquisition of supplies continued throughout the retreat. Obtaining this material was a remarkable feat, and thanks to Brown we know the story in more detail that before. Brown concludes that "with stores available to take them through the balance of the summer and early fall, it can be argued that the retreat from Gettysburg, at a minimum, turned a tactical defeat—and a potential strategic disaster—into a kind of victory for Lee and the Army of Northern Virginia. It restored the balance of power between the two great contending armies in the eastern theater of the war" (390). He provides no analysis to support this claim, however. He does not discuss in substantial detail how Lee used the supplies, how long they lasted, or how Lee solved his logistical challenges thereafter. Nor does he weigh the campaign's gain in supplies against the strain on the Confederate medical system or the permanent loss

of leadership among the army's NCOs and officer corps. Such analysis would make an important contribution to the historiography of Lee and Gettysburg.

William Garrett Piston
Missouri State University

The Nature of Sacrifice: A Biography of Charles Russell Lowell, Jr., 1835£64. By Carol Bundy. (York: Farrar, Straus and Giroux, 2005. Pp. 548. Cloth, $35.00)

After Charles Russell Lowell's death at the Battle of Cedar Creek in the Shenandoah Valley on October 19, 1864, his wife, Josephine Shaw Lowell, spent the rest of her life in public service to live out her husband's ideal of the "useful citizen." Lowell was further memorialized in the poetry and novels of Herman Melville and in his friend Henry Lee Higginson's dedication of Soldiers Field to Harvard. Now Carol Bundy has produced a beautifully written narrative biography of the young man that Phil Sheridan called "the perfection of a man and a soldier."

Lowell was part of the Boston Brahmin clan network that controlled the institutions of Boston and the emerging industrial order of New England, but his father had been a failure and he grew up in genteel poverty. He was deeply affected by national politics in the 1850s and became a critic of the political failures of his parents' generation. Bundy characterizes this phase of Lowell's life as a tension between his "commitment to be of use to society and the temptation to be a free spirit (91)." Physical illness and a search for a career in railroads and ironworks would not resolve this tension. And then the war came.

Lowell, unlike most young men his age, sought a commission in the regular army and was commissioned Captain of the 6th U.S. Cavalry. After service with that unit and a stint on McClellan's staff, Lowell would accept the colonelcy of the 2nd Massachusetts Cavalry. In the war Lowell found purpose. He rejected his youthful belief in self-culture in favor of a philosophy that found meaning in action. In war, unlike in civilian life, he felt he could see what needed to be done and could do it.

Lowell's Second Massachusetts spent its first months of the war in Virginia trying to handle John Singleton Mosby. Lowell experienced all the frustrations of irregular warfare as he experimented with ways to fight this unconventional enemy. The nature of the regiment's assignment contributed to tensions between Massachusetts men and a California contingent that petitioned for a transfer. As problems mounted, desertion in the regiment rose, and Lowell resorted to a drumhead court-martial and summary execution of a deserter. Bundy simply comments, "Something about insubordination drove him to a particular fury" (366).

Bundy explores the evolution of Lowell's attitudes toward war and his participation in the emergent hard war of the Shenandoah Valley. As a professional writer but not a professional historian, she does this in the context of a narrative biography rather than a work of analytical scholarship. Her discussion is relevant to the debate between Gerald Linderman and James McPherson over whether or not the volunteers lost early ideals of courage and self-discipline, for example, but she never compares her own analysis with theirs. Lowell's actions against Mosby are never placed in context of the literature on hard war. How did Lowell's actions compare to Union policy at the time? Other historians have used Lowell to make arguments about the shift to hard war in the minds of Union officers. What does Bundy think of these interpretations? These comments are not a criticism; Bundy's book is not meant to be a work of academic scholarship and these kinds of questions and arguments would detract from the narrative flow she so successfully employs.

Once Lowell's regiment is transferred to Sheridan's command and Lowell acts in the capacity of brigadier general, he emerges as one of the Union cavalry's exceptional battlefield commanders. Bundy aptly demonstrates his innovative thinking and his quick tactical ability during the stress of battle. Lowell was especially successful in his use of dismounted men. Lowell's abilities earned him the respect and instant obedience of his men. Bundy argues that the key to Lowell's leadership was a mask of indifference and coolness he used for the purpose of command. It was easy for him to do this, she believes, because he had always worn a mask that disguised his rage, his reformer's zeal, and his real emotions.

The reader understands Bundy's point because she has so effectively shown us the inner life of a young man whom others could find enigmatic. This is a very personal study of one of the most interesting men from an interesting age. The great strength of this book is its vivid portrayal of both Lowell and the world in which he lived.

Lorien Foote
University of Central Arkansas

Grander in Her Daughters: Florida's Women during the Civil War. By Tracy J. Revels. (Columbia: University of South Carolina Press, 2004. Pp. 205. Cloth, $29.95.)

Noting that Florida usually appears in studies of the Civil War only in relation to salt making, cattle production, blockade running, and the small battles of Olustee and Natural Bridge and is essentially absent from studies of the history of women, Tracy C. Revels sets out to contribute to the social history of the Civil War and of the state of Florida by telling the story of its women during the war years.

In addition to her focus on gender, Revels has paid attention to race, class, town/country distinctions, and Confederate/Unionist/neutral political stance. Beginning by painting a picture of Florida as a frontier area on the eve of secession, she describes—often in the words of the women themselves—Florida women's experiences, hardships, hopes and fears, contributions to the war effort, struggles to hold family together, and in some cases inability to find sufficient food. The reader comes to know Confederate plantation mistresses and town dwellers, Unionist women of all classes, and slave and free black women. A central theme of this book is that some Florida women "eagerly and aggressively supported the Confederate cause, but others were a mixture of the traumatized, the apathetic, and the vehemently opposed. . . . Eventually, even the hottest female firebrands extinguished the Confederate flame, called for peace, and pondered what insanity had motivated them from the start" (xii–xiii). Other lesser themes emerge throughout the work.

Revels has grounded her study in a wide variety of solid primary sources—manuscript collections in Florida's libraries, newspapers, the WPA slave narratives, some military records, and published letters, memoirs, and other records produced by Federal and Confederate soldiers and Florida's white and black men and women. Thoughtful utilization of these primary sources and the classic as well as recent secondary literature on the history of Florida, the history of southern women, and the Civil War in Florida has resulted in an excellent study of Florida's women during the Civil War. It is possible that others may be able to add to this portrayal by utilizing more systematically the published official records of the Union and Confederate armies and navies, by exploring U.S. army and treasury records in the National Archives, by utilizing the *Papers of Jefferson Davis* (1971-) and other sets of published papers, or by seeking additional correspondence or other manuscripts in repositories outside Florida, but the groundwork has been laid and a strong structure has been built.

Grander in My Daughters is an important contribution to the growing literature on Unionists in the Confederacy and adds to our understanding of the interactions between U.S. occupying forces and Confederate civilians, slaves, and Unionist white civilians. As a study of women on the home front, it details the experiences of Florida elite women but adds little to the usual picture of active support of the Confederacy during the first two years of the war. It adds considerable information regarding understudied Unionist plain folk and elite women and informs us of the great variety of experiences and responses to the wartime conditions faced by slave women and, to a lesser extent, free women of color. Finally, this study provides additional evidence in support of the growing

consensus that white Confederate women of all classes, even as early as the second year of the war, began calling on husbands and sons to come home: fearing the death of their loved ones and being overwhelmed by their expanded responsibilities, experiencing increasing hardships (especially among "crackers" and those of middling means), fearing for their own safety due to visits from Yankee and Confederate soldiers and the general lack of law and order, and (among planter women) fearing what increasingly surly and angry slaves might do.

A small photographic collection, short discussion of the historiography of Southern women, excellent endnotes, and a substantive bibliography contribute to the value of this book, which is a pleasure to read.

Judith Fenner Gentry
University of Louisiana at Lafayette

The Ongoing Civil War: New Versions of Old Stories. Edited by Herman Hattaway and Ethan S. Rafuse. (Columbia: University of Missouri Press, 2004. Pp.164. Cloth, $32.50.)

This collection of essays provides a representative sample of articles that appeared in the short-lived journal *Columbiad: A Quarterly Review of the War Between the States*. Throughout its four year history, the guiding principle of the *Columbiad* was to couple the standards of the trained historian with a style that appealed to general readers.

As Mark Grimsley points out in "The Professional Historian and 'Popular History,'" the harmonizing goal of Columbiad often evokes ambivalence if not outright hostility on the part of scholars. His contemplative article traces the rise of the popular history genre in America and the condescending response by the guardians of "scientific history." Grimsley encourages historians to praise any effort that enhances their influence over the way general readers understand the past. If academics shirk this social responsibility, they abandon their role as shapers of public memory, leaving this important work in the hands of untrained enthusiasts. Dominated by practicing historians, the essays in this volume pay homage to academic rigor. A number also serve as instructive models of historical empiricism weighing interpretations against evidence.

Historians in the field may not consider these works path-breaking but general readers will be rewarded by the book's more positive aspects. It presents recent scholarly approaches and reevaluates figures often maligned or under-appreciated in popular history. Lay-readers will notice a shift away from battlefields and military biography. One effective theme focuses on the significance of wartime

administration and logistics, casting bureaucrats and intelligence officers as the unsung heroes of the conflict. William A. Tidwell's "Before the Wilderness: What Lee Knew" pieces together and evaluates the patchwork of the little-known Confederate intelligence. He asserts that in spring 1864 Lee had an effective understanding of Union army operational plans and developed the Wilderness attack as a rational counter. In a similar fashion, two essays on Union administration and logistics suggest that Northern victory resulted in large part from West Point professionalism and bureaucratic management. Herman Hattaway and Archer Jones praise the dour Henry W. Halleck for his ability to deflect political pressures while running the Union war machine with an engineer's attention to detail. Mark A. Snell adds Halleck's departmental chiefs to the list of able administrators.

Several essays reexamine wartime figures, such as the unappealing former president Franklin Pierce and the ever-controversial George B. McClellan. While McClellan may be perennially damned in and out of academia, Ethan S. Rafuse presents a sympathetic portrait of McClellan on his own terms. Rafuse attempts valiantly to exorcise McClellan's demons by depicting him as a pragmatic general keenly in tune with political and military realities. He argues that McClellan's conservative strategy was the product of the West Point curriculum and echoed the fundamental tenets of Napoleon's most influential interpreter, Carl von Clausewitz.

Despite the work's positive aspects, it exhibits significant unevenness. It is not bound together by a coherent theme or guiding focus and the title of the book as well as the essays are somewhat enigmatic. Rafuse's "McClellan, von Clausewitz, and the Politics of War" admits that there is no evidence McClellan ever read or was influenced by von Clausewitz. Michael J. C. Taylor's "Franklin Pierce and the Civil War" is a mysterious title for an essay that fails to satisfy any type of reader. If engaging a non-academic audience is the goal, several of the articles fall flat or go against the grain of popular interest. They labor over individuals condemned or ignored in popular history, Halleck and McClellan included. Albert Castel's "History in Hindsight: William T. Sherman and Sooy Smith" looks again at one of Sherman's less-gifted subordinates leaving an impression that the man is not worth the look. Another problem is one of conception. Who is the intended audience? Readers are confronted with academic prose that often presupposes a level of background knowledge. A number of the articles present no obvious thesis in the opening paragraphs or end in conclusions not entirely borne out by the narrative. Snell does yeoman's work to describe the officers, challenges, and accomplishments of the Federal supply departments but does not drive a convincing point home that the wealth of supply was the critical component

of Union success at Gettysburg. In fact, his closing statements suggest that the bloated supply line of the army prohibited rapid pursuit of Lee's retreating rebels - a fact which sorely vexed President Lincoln. Despite this critique, there are quite a few articles that are engaging and effective.

In summary, it is fair to say that this volume contains both chaff and wheat. While these selections undoubtedly represent the best of *Columbiad*, the project reflects the limitations and challenges of competing for reader's dollars in a market saturated with thousands of new titles every year.

Robert M. Sandow
Lock Haven University of Pennsylvania

Civil War Time: Temporality and Identity in America, 1861–1865. By Cheryl Wells. (Athens: University of Georgia Press, 2005. Pp. 195. Cloth, $39.95.)

According to Cheryl Wells, the Civil War changed American Society from the perspective of "time." This richly researched and well-written study adds to the historiography of "time scholars" and further develops arguments by previous historians dedicated to symbols of a modern societies; for Wells, it is well represented by capturing the importance of time, along with her subjects who attempted to gain control over it in their increasingly regimented lives—who were reminded of it by clock towers, work bells, and personal timepieces. Wells argues that the path of Northern and Southern antebellum societies had been emerging toward modernity but was temporarily interrupted by war, their course coming to a proverbial standstill as "battle time" began to rule the day. Before, one's day was represented with different types of time that vied for control, such as "clock times, natural times, God's time, and personal time" (1). However, the initiation of battle time upset the natural order of traditional timekeeping. In so doing, battle time might result in less time for sleep, leisure, and the Sabbath but longer time dedicated because of the exigencies of war or perhaps new forms of employment. It might challenge gender roles, where women saw such a shift in hospitals or perhaps in prisons, where time control extended incarceration of captives.

Wells writes that the Civil War was a "new complicated time to the American people, as events on the battlefields impinged on, overrode, and rearranged antebellum schedules. Clocks and watches, modernity's symbols, lost some of the authority they had increasingly possessed in the antebellum era. . . . However, booming cannons superseded watches' and clocks' ability to order society, and God's time became increasingly secular in the face of battle" (5). The author allows cotemporaries to clarify the fog of battle by placing battle time in con-

text with examinations of First Bull Run and Gettysburg. In Virginia, Yankee generals hoped the clock might regulate coordinated attacks, but it only led to failure, while in Pennsylvania, Confederate subordinate commanders met similar circumstances—at the same time, civilians had been dramatically affected by battle time, well represented in the story of Jenny Wade.

Next, Wells moves away from the battlefield and goes behind the lines. A strict adherence to the clock during the monotonous camp life might be interrupted occasionally by elements, the Sabbath, or battle time. Indeed, Wells explains that battle time might dominate God's time, indicated at Bull Run, Shiloh, Vicksburg, Chickamauga, Chattanooga, Spotsylvania, and Appomattox. Moreover, time in battle and its aftermath disrupted the natural order of the clock not only from hospitals being crowded with incoming patients but also with the evacuation of those convalescing before the fight. Gender roles were complicated in hospitals with women gaining more authority, only to be relegated to their antebellum status after the conflict. Although their lives were altered, it was still better than the author's next topic, the plight of the prisoner of war.

After detailing the rehabilitative nature of prewar prisons and penitentiary systems, the author admits that Civil War prison "fulfilled a different function" (92). Here, battle time again dominated natural time, mechanical time, and religious time as the consequences of battle (after the prisoner exchange breakdown) inundated prisons. The drudgery of prison routine is well highlighted, although Wells does miss out on the importance of the varieties of employment by prison administrators and how that "time" functioned within their specific prison communities. In addition, Wells had an opportunity to investigate prison escapes, with some plans set on "clock time," leading to the importance of the timepiece for coordinated break outs. Despite overlooking such matters, Wells has put together an important work that investigates battle time and its subsequent aftermath. Indeed, as she sums up its consequences after the conflict, "With the silencing of the cannon, battle time lost its authority to order and reorder life. . . . Soldiers, nurses, civilians, and prisoners returned to a society governed by multiple and interpenetrating times based largely on the clock" (111).

Michael P. Gray
East Stroudsburg University

Masterful Women: Slaveholding Widows from the American Revolution through the Civil War. By Kirsten E. Wood. (Chapel Hill: University of North Carolina Press, 2004. Pp. 281. Cloth, $45.95; paper, $19.95.)

Popular nineteenth century southern literature and popular opinion limited women's influence to domestic concerns. At the same time, ideals of masculinity dictated men's roles as head of household and participant in civil affairs. Despite such directives, slaveholding women, once widowed, would enjoy many of the same rights as white, southern patriarchs. As one former bondswoman put it, "de real trouble start for us when ole marsa died" (37).

In this complex and deftly crafted work, Kirsten Wood seeks to dismantle a prominent slaveholding fiction: that white men held sole claim to the political construct of "mastery." Spanning from the American Revolution to the Civil War era, Wood's revisionist narrative posits that slaveholding widows in the southeastern United States were "masters" over their households. Surveying women's activities in both the lower and upper South (Virginia, Georgia, and the Carolinas), Wood demonstrates how widows managed household property, including slaves; negotiated assistance, cooperation among family members which often transgressed traditional patriarchal relationships; and engaged in public commerce – both as consumers and producers. This privilege, while in some ways similar to white men's, was contingent upon women's distinct status as "ladies." Gender profoundly informed widow's legal, economic, and social prerogatives and position within slaveholding society. And as Wood argues in the concluding chapters, the weight of such gender ideology affected the degree to which widows viewed themselves as powerful.

Wood begins by illuminating how slaveholding widows acquired legal, economic, and political resources within and beyond their domestic "sphere." Dower law and husbands' wills provided women substantial pieces of property and authority. Despite a decline in executorships assigned to widows by their husbands after the Revolutionary War, the expectation of women as household managers persisted into the nineteenth century. Widows' former roles as deputy husbands allowed for this continuum as women were expected to manage land, slaves and other holdings competently. Like men, women did not shrink from administering heavy work loads or punishments. Subject to sale or dispersal among other family members, slaves often gained little under a widow's stewardship.

Welding their gender status with their class privilege and kin networks, slaveholding widows' responsibilities eclipsed the household and expanded into the public domain. These public forays included exchanges of commerce outside and inside the home. Widows solicited antebellum shopkeepers, and within the home, conducted business (agricultural, legal and land transactions) through proxies, agents and letters. As a result, Wood follows other historians' challenge to the "separate spheres" ideology as she argues for the simultaneous domestic and commercial quality of widows' affairs.

Many widows sought to remain dependent, expecting men to care for them. Yet other demands – maternal, financial, family pride – coerced widows to assume new tasks. The Civil War also impacted slaveholding widows' identity. Widows felt financial strains and experienced difficulty maintaining their slave populace, which had demonstrated increased defiance. In all these respects, Wood alertly situates the women within their particular spatial and cultural boundaries. Though "masterful women," slaveholding widows tended to modify, rather than subvert gender expectations. They did not challenge the existing patriarchy nor were they considered men's equals. Indeed, the relative success or failure of these women to translate their resources into political and economic power reflects the contingent, and fictive, nature of mastery itself. For men and women, the notion of "perfect mastery" proved illusory. As Wood observes, "mastery hinged on the contradictory fictions that subordinates willingly consented and that masters could dominate others' hearts and minds" (193).

Masterful Women is a welcome addition to studies of women, gender, slaveholding and the Civil war in the American South. Wood's analysis is consistently multi-layered, yet concise. The voices of slaveholding widows here are dominant and compelling. One wishes that Wood might have scoured for evidence (a challenging enterprise to be sure) or at least hinted towards the possibilities of mastery for free African-American women. Her qualifications about slave women's exclusion from 'lady' and widowhood status are justly noted. However, increased scholarly attention is being paid to the phenomenon of black slaveholders in the South, and Wood's innovative analysis would have been deepened by her attempt to ruminate on this angle of the narrative, if only to suggest the need for studies complementary to hers. The author also might have devoted more comparative analysis to the influence of geography in governing the type of mastery widows' employed in the upper and lower South. Still, Wood has produced a masterful account of the varied, and sometimes contradictory, ways that slaveholding widows exercised agency in a southern economy that, while stressing race and sex subjugation, also proved malleable regarding white women's gender roles.

Angela Hornsby
University of Mississippi

Brothers One and All: Esprit de Corps in a Civil War Regiment. By Mark H. Dunkelman. (Baton Rouge: Louisiana State University Press, 2004. Pp. 344. Cloth, $39.95.)

In *Brothers One and All: Esprit de Corps in a Civil War Regiment*, Mark H. Dunkelman uses the 154th New York Volunteer Infantry as a model in his pursuit to understand the manifestation, development, and persistence of regimental

esprit de corps during the Civil War. Dunkelman defines esprit de corps as "the common spirit existing in the members of a group, a spirit that inspires enthusiasm, devotion, and strong regard for the honor of the group," and he maintains that "the strongest organizational esprit was found at the regimental level" (5). Dunkelman analyzes the historiography of the Civil War's common soldiers and points out that "historians in pioneering works have acknowledged the importance of regimental esprit de corps, but their analyses have been tentative and inconclusive" (11). It is his expressed goal to correct this problem.

While Dunkelman's focus throughout *Brothers One and All* is the 154th New York, a regiment composed of companies from Cattaraugus and Chautauqua counties, the implication remains that readers can apply his conclusions concerning the nature of esprit de corps to many other Civil War regiments. According to Dunkelman, the foundation for regimental esprit de corps was the soldiers' strong attachments to shared home communities. Since the members of a regiment normally came from the same geographic area, they often "possessed strong esprit de corps based on common geographic ties" (19). Moreover, the men of individual regiments usually shared ethnic and occupational backgrounds as well as familial relationships. Such strong similarities in background led soldiers to consider their regiment a surrogate family, and this relationship, when coupled with their constant contact with the home front through care-boxes, photographs, and letters, fostered an environment conducive to sustaining high levels of esprit de corps.

Aside from sharing common backgrounds and uniting around their communal identity, the men of Civil War regiments found other ways to bolster esprit de corps during the conflict. According to Dunkelman, the "greatest single factor in the development of esprit de corps among the soldiers of the 154th was their mutual struggle to endure a variety of physical and psychological hardships and to survive the lethal order of battle" (98). The intensity of combat reinforced relationships within a regiment, and "after each battle, the reduced ranks drew closer together, tightened by the bonds of esprit de corps" (94). The soldiers of a regiment also endured burdens of war aside from battle and often cared for one another when sick or wounded. Effective leadership is another essential ingredient in Dunkelman's assessment of esprit de corps, for a capable and respected officer corps was vital for sustaining unity within a regiment. Surprisingly, Dunkelman also credits shirkers and deserters with buttressing esprit de corps since they "removed an unknown number of undesirables from the regiment" and gave devoted soldiers yet another cause to rally around (93).

In discussing the threats to esprit de corps in Civil War regiments, Dunkelman turns rather unexpectedly to religion and morality. According to his research,

the "practice of religion drew some men together, but distanced them from their skeptical comrades" (170). Also, he writes that conflicting "moral standards were a matter of contention among the men" (186). Thus, he concludes that disputes over religious conviction and moral responsibility represented impediments to esprit de corps.

Mark Dunkelman's *Brothers One and All* is a well-researched and engagingly written account of the 154th New York Volunteer Infantry and its experiences with esprit de corps, but his work speaks to a much larger audience than those interested in the history of a single New York regiment. It is study in microcosm, and both professional historians and amateur enthusiasts can project his findings onto other Civil War regiments. Relying on an abundant array of primary source material, including more than one thousand letters, twenty-four diaries, and sixteen photographs, Dunkelman has produced a monograph that fits nicely into the exiting historiography of common Civil War soldiers.

Jason Mann Frawley
Texas Christian University

The Legend of John Wilkes Booth: Myth, Memory, and a Mummy. By C. Wyatt Evans. (Lawrence: University Press of Kansas, 2004. Pp. 288. Cloth, $24.95.)

For many years after World War II, tabloids reported Adolph Hitler sightings. Here, someone spotted Hitler delivering mail; there, painting a house. John Wilkes Booth, too, was seen alive long after official confirmations of his death. C. Wyatt Evans's superb book is the first effort to make sense of such survival legends. His "cultural historical perspective" assumes that popular legends are the means by which ordinary people "appropriate, contest, accept, and reject dominant economic, social, and political institutions" (10).

As the Civil War's dust settled, Northerners began to tell one another about Booth's crime, his escape and its cover-up. Southerners, by contrast, extolled Booth's gentlemanly virtues and the sheer romance of his deed. The story assumed a new wrinkle in 1903, when a drifter, David George, committed suicide in an Enid, Oklahoma, hotel. George had revealed to a resident that he was the man who killed Lincoln, and the Enid newspapers picked up the report after George's death. The local mortician, for his part, mummified George's corpse for posterity. Four years later, Finis L. Bates explained that David George was known to him as John St. Helen during the 1880s, almost twenty years after he had shot Lincoln. Bates's highly popular *Escape and Suicide of John Wilkes Booth* (1907), published as racial caste crystallized throughout the country, converted a story sustained orally through local tradition into grist for the national media.

When Bates died in 1923, his acquaintance purchased the George/St. Helen/Booth mummy and toured the Southwest's sideshows and carnivals. During the next twenty years, the appeal of Booth's legend peaked, then faded after the 1940s. *The Lincoln Conspiracy* (1977), among other brief revivals, proved popular, but not popular enough to preserve Booth's dying legend.

Why do Booth's alleged post-1865 adventures interest so few people today? According to Evans, the strength of the Booth legend waxes and wanes according to racism's virulence. Of this story the Radical Republicans are the heroes; their opponents and critics, the villains. Since Booth symbolized resistance to racial equality, his legend resonated with the bigotry of revisionist historians and their denial of Lincoln's commitment to racial justice. "The [Booth] legend served as the guttural cultural equivalent to what [Lincoln scholar James G.] Randall had written," while Otto Eisenschiml's "revisionist" claims against Radical Republicans "was a direct echo, across two generations, of Civil War copperheadism of the virulent midwestern strain" (161).

To equate the significance of Randall's revisionists to their alleged racism is problematic at best, but whatever Evans's merit, four points are warranted. First, no evidence exists that supports the claim that revisionist historians affected the general public's view of Booth, Lincoln, or the Civil War. Second, revisionists' influence within the academy emerged during the 1930s and grew through the 1950s, a thirty-year period distinguished not by increased racism, but by unprecedented official concern for racial justice, improvement in race relations, and rapid progress in the conditions of African American life. During this time, Booth's visibility independently dimmed, brightened, and dimmed again, which means that his appeal is connected less closely to revisionist scholarship and American racial attitudes than Evans believes. Third, Booth's prominence could not have been based on the denial of Lincoln's earlier status as a symbol of racial equality, for prior to World War II Lincoln was revered as an emancipator but rarely as a champion of racial equality. Fourth, the content of the Booth stories, whether Northern or Southern, were for the most part neither pro-slavery nor racist—unless racism is inherent in criticism of Radical Republicanism. Evans seems to think so. Since Radicals stood for racial equality and the total dismantling of racist institutions, the book assumes the quality of a cautionary tale of how "malignant subpopulations" sought to turn back the clock on slavery. "It is a process that is, unfortunately, ongoing; and vigilance is required lest the traumas of America's very recent past come in for similar treatment" (218).

Although Evans fails to account persuasively for the vicissitudes of the Booth legend, his descriptive account is rich, informative, and timely. As Lincoln scholars are at once viewing the Civil War through the lens of the civil rights

movement and renewing interest in the assassination, this work assumes special significance, contributing not only to the growing body of material on the Civil War in American memory but also, through its linkage to cultural sociology, extending the general body of collective memory scholarship. Social scientists and historians alike will profit from C. Wyatt Evans's well-researched book, whether or not they agree fully with its argument.

Barry Schwartz
University of Georgia

Women's Radical Reconstruction: The Freedmen's Aid Movement. By Carol Faulkner. (Philadelphia: University of Pennsylvania Press, 2003. Pp. 208. Cloth, $39.95.)

This relatively brief book deftly illustrates the pivotal role of women in the Reconstruction South. Women were much more than school teachers and fundraisers—they worked as agents for the Freedmen's Bureau, bought land to sell and rent to freed people, lobbied the federal government, founded freedmen's relief societies, and started both traditional and industrial schools. Long before they won the vote, women were activists in the public sphere, agitating for justice and equality for former slaves. Their role, however important, was not an easy one—organizations attempted to marginalize their participation (with varying success), and some Freedmen's Bureau officials viewed them as troublemakers. Carol Faulkner tells the stories of these reformers while making a compelling argument for gender solidarity across the racial divide.

The successes and failures of these women are largely absent from most histories of the freedmen's aid movement, where the Yankee schoolmarm represented Northern women's activism and the freedmen's aid movement was (seemingly) a male preserve led by abolitionists, missionaries, and military officers. Faulkner argues that a "great silent army" of women, both black and white, kept the movement from floundering (2). Their efforts are documented in the records of aid societies and the Freedmen's Bureau, in abolitionist and suffrage newspapers, in published pamphlets, and in personal accounts. In *Women's Radical Reconstruction*, Faulkner thoughtfully revises the history of the freedmen's aid movement and illuminates the intersection between Reconstruction and women's reform.

Women active in the freedmen's aid movement argued that the participation of women in the war effort had earned them the right to participate in the reconstruction of the nation, both as administrators and as voters. These abolitionist-feminists pressed for universal suffrage, land confiscation and redistribution, and an activist federal government. The private benevolence of Northerners and

the public protection of the freedman's bureau, they maintained, would help repay the debt the nation owed to former slaves. Such assistance would enable freed people to become self-supporting citizens, while sustaining those—such as widows and the elderly—who could not survive without some aid. Republican politicians and Freedmen's Bureau agents, however, embraced a very different view of Reconstruction in which economic independence could be gained only through the revival of the Southern economy and the creation of a free class of African American laborers. This free labor plan predominated, but did not go unchallenged.

Male and female reformers active in the freedmen's aid movement disagreed over organization and policies. While abolitionist women believed they had an important contribution to make to Reconstruction, they were excluded from the leadership of some organizations and singled out for criticism. Despite this, the movement proved an important stage in the dynamic development of women's postwar political culture. Their critics, Faulkner persuasively argues, were undoubtedly aware of (and threatened by) the powerful connections between freedmen's aid and women's rights.

No matter how benevolent and sympathetic, these white middle-class Northerners were sometimes prejudiced and paternalistic. They frequently portrayed freed people as supplicants, criticized their housekeeping skills and dress, and emphasized the importance of wage labor when freedwomen desperately wanted autonomy from whites. Although race and class limited their definition of women's rights, white women remained tireless advocates for their newly-freed sisters, criticizing the inadequacies of Reconstruction and expressing compassion for the poverty and exploitation of former slaves, when few others did. After Reconstruction, these women continued their activism in charities, benevolent associations, women's clubs, temperance, suffrage, and educational reform.

The book includes six illustrations, including a striking 1862 photograph, used on the cover, of a group of freed people in Cumberland Landing, Virginia. Detailed endnotes reflect dedicated digging in letters, memoirs, newspapers, and the records of women's organizations, antislavery societies, and the Freedmen's Bureau. By bringing to life those women who worked "comforting, cheering, advising, [and] educating the *freed* men, women and children" of the South, Faulkner has made a valuable contribution to the scholarship of women's history, the Civil War, and Reconstruction (16).

Jennifer Davis McDaid
The Library of Virginia

For Free Press and Equal Rights: Republican Newspapers in the Reconstruction South. By Richard H. Abbott. Edited by John Quist. (Athens: University of Georgia Press, 2004. Pp. 296. Cloth, $39.95.)

Before his death in 2000, Richard H. Abbott had become a significant historian of the Reconstruction era. Beginning with his 1986 study, *The Republican Party and the South, 1855-1877* and ending with this final book, Abbott has provided important insights into the role Republicans--be they politicians, military, or newspaper editors--played during Reconstruction. *For Free Press and Equal Rights* was almost complete when Abbott passed away. John Quist assumed the important task of seeing that Abbott's work was completed. The book is the first to identify and examine Republican newspapers in the South between 1863 and 1877.

Abbott's study begins with the earliest newspapers published by federal troops in conquered territories and traces the spread and influence of the Republican press throughout the South until 1877. To accomplish this task, Abbott identified more than 430 Republican newspapers published in the post-Civil War South. A list of those newspapers is included in an appendix. Most Republican newspapers had short life spans. Established in counties with a significant black population, the newspapers struggled to survive where freed slaves were too illiterate and too poor to subscribe, and businesses refused to advertise. Abbott's analysis looks at each of the Southern states, year-by-year to show how Reconstruction politics affected the survival of newspapers in individual states.

While the identification of Republican newspapers is a significant contribution to the field, so too is the analysis of the political variations found among those newspapers. Abbott is careful to avoid typecasting either the editors or their newspapers as radical, moderate or conservative except in the most obvious cases. Instead, he describes Republicans—politicians as well as editors-- as not only inconsistent in their basic political beliefs, but full of contradictions. For example, a newspaper that supported the radical plan of land confiscation, did not necessarily support black enfranchisement; the newspaper that supported black enfranchisement, probably did not support black office- holding.

Abbott also provides a thorough state-by-state analysis of patronage at both the federal and state levels and its importance in keeping Republican newspapers alive as well as in line with the local, state and federal party. Just as the Republican Party's enthusiasm for courting the South began to wane in the early 1870s, so too did the patronage dollars. By the mid-1870s, a newspaper lucky enough to have federal patronage dollars could not survive without state and local patronage.

Survival in many cases meant that moderate and conservative newspapers became even more conservative, distancing themselves from the Republican Party. Adding to the demise of the Republican press were the escalating printings contracts of Republican state regimes. Some state printing schemes led to scandals that the Democratic press was more than willing to expose as just another example of Republican corruption.

Patronage, however, was a necessary evil for both Democrats and Republicans. In fact, without a broad base of patronage support from both parties the Southern press would have barely existed after the war. During this critical period, the party press promoted political identity, educated citizens in their political responsibilities, and pressed the party line. Abbott concludes that whatever Republicans were able to accomplish during the Reconstruction years was due in great part to the Republican editors who, in the face of violence and economic hardship, managed to keep a party press alive in order to promote economic, racial and sectional equality.

If there is a fault with this book it is the title. One would expect a book titled *For Free Press and Equal Rights* to have a heavier emphasis on free press issues. Indeed, a few Republican papers and editors experienced violence, and some newspapers that did not closely toe the current Republican line lost their patronage. But censorship was less of a problem for Republican newspapers than it was for the Democratic newspapers. Democratic editors who criticized military rule and rulers were far more likely to suffer direct censorship and repression during the early period of Reconstruction than did their Republican counterparts. Abbott's work is thorough and groundbreaking, and should inspire further examination of the Republican press in individual states and more studies of individual editors.

Donna L. Dickerson
University of Texas at Tyler

Texas after the Civil War: The Struggle of Reconstruction. By Carl H. Moneyhon. (College Station: Texas A&M University Press, 2004. Pp. 237. Cloth, $45.00; paper, $19.95.)

The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836–1916. By William D. Carrigan. (Urbana: University of Illinois Press, 2004. Pp. 308. Cloth, $35.00.)

One could wonder why reviews of either of these books would appear in a publication entitled *Civil War History* since neither is devoted specifically to that

conflict. If one regards the middle of the nineteenth century, say 1850 through 1877—dates familiar to all Civil War scholars as inclusive of prologue and epilogue of the war itself—then the connection is obvious. For Moneyhon, the war is the starting point of a story that offered Texas an opportunity for dramatic positive change in social and economic interactions between the races and that white Texans succeeded in preventing through "Redemption." For Carrigan, the war is but part of the accumulation of violence as a solution for settling differences that led to tolerance of lynchings and other extralegal activities.

Moneyhon's study questions previous assumptions about a specific period in Texas history, but it is cast in a narrative form similar to studies of the state's Spanish era or its revolution from Mexico. Carrigan's work addresses a specific topic—lynching and violence in a seven-county area of central Texas. Despite such differences, they have much in common. Both authors acknowledge roles played by historians such as the late Barry Crouch and Randolph Campbell and archivist Donaly Brice in encouraging their work. Both authors criticize the outcome of their studies, that is, the continued dominance of Texas society with whites who ruled their state by violations of human and civil rights of African American Texans. The viewpoints and attitudes of each author on the subjects covered are obvious from their texts, though Moneyhon is more traditional in his presentation and Carrigan more transparently judgmental—with justification. I might add that I largely agree with the conclusions of both.

Considered separately, Carrigan begins where he ends, dramatically recounting the lynching of Jesse Washington in Waco immediately following Washington's trial for murdering Lucy Fryer by a mob unwilling to await the execution of Washington decreed by the jury. The lynching's brutal aspects shock and remind the reader that the facts and details that follow may seem dry and detached but are as immediate and personal as life and death. Carrigan's book is about much more than the death of Washington; it is, he says, about the development of violence as an immediate response to threats to public order by a dominant majority.

Carrigan's seven chapters are crafted, he says, around four historical developments to show why violence seemed acceptable in the seven-county study area, and, I assume, in other areas as well. The factors are the frontier experience; slavery based on race; resistance to white dominance by Indians, Mexicans, slaves, and eventually freedmen; and the degree to which legal institutions tolerated such violence. Carrigan's purpose is to contribute to the literature on lynching by going beyond a study of an individual case to consider the causes of lynching itself, and then to focus attention on collective memory as a causative factor in the occurrence and acceptance of lynching. I believe Carrigan is saying through his evidence that

the lynching of Washington in 1916 was deeply rooted in humanity's willingness to resort to violence in defense of one's self and property—and sometimes just to get one's way. So European Americans moving into Carrigan's seven-county study area meant inevitable conflict with Indians and Mexicans, and retelling the story made the Indians and Mexicans villains who deserved the violence visited upon them and heroes of those who delivered it.

In addition to Carrigan's emphasis on "memory," or the collective human experience, I suggest adding consideration of an author's perspective. The author of such a study, by the nature of it, renders judgments. So the reader is entitled to know the author's perspective, his stake, in the story. In this case, Carrigan is an expatriate of the study area, which he discloses. I am admonished not to mention typos but must comment that I hope that is a gremlin that allows page 21, ironically, to state that the Battle of San Jacinto occurred on April 11, 1836.

Moneyhon believes, and I agree, that Reconstruction offered Texans an opportunity for a race-consciousness-less society, which it rejected, and that the costs of that rejection continue.

Archie P. McDonald
Stephen F. Austin State University

A Shattered Nation: The Rise and Fall of the Confederacy, 1861–1868. By Anne Sarah Rubin. (Chapel Hill: University of North Carolina Press, 2005. Pp. 319. Cloth, $34.95.)

In *A Shattered Nation,* Anne Rubin examines periodicals, letters, and diaries to argue that white Southerners, bound by collective commitment to political independence, white supremacy, and a sense of distinctiveness, shared a genuine Confederate nationalism during the war, and continued to cling to it afterward. Because "Confederate identity and nationalism . . . were exquisitely sensitive to events," Rubin analyzes the interplay between ideology and events (7). Eager to demonstrate that disaffection did not signal a lack of Confederate nationalism, Rubin urges, "war weariness should not be conflated with a withdrawal of support for the Confederacy" (246). Instead, readers should see Confederates as "pragmatic" rather than inconstant in their nationalism (50–68, 164, 166).

A Shattered Nation enters several historiographical conversations. It explores interactions between homefront and battlefield, analyzes the role of gender, and discusses early underpinnings of Lost Cause mythology. Most significantly, the book advances debate from questions about whether the weakness of Confederate nationalism led to Confederate defeat (Rubin says no) to examination of Confederate nationalism's resilience during and after the war.

A Shattered Nation makes many valuable contributions. It highlights the centrality of print culture in creating Confederate nationalism. It identifies constituent parts of Confederate identity, including "fear and rage" (11), memory of the American Revolution, conviction of white southern moral superiority, gender roles, desire for political independence, and an "inborn and indestructible sense of racial superiority" (240). Importantly, the book shifts the time frame conventionally assigned to Confederate nationalism, in which that nationalism began before the war and ebbed after Pickett's charge. Instead, Rubin shows that understanding Confederate nationalism means starting and stopping the clock later. "There was no Southern nationalism without an actual nation –the Confederacy," she argues, (250 n. 4), but if secession and the subsequent war marked the birth of Confederate nationalism, war's downturns did not mean its death. In particular, 1863's "defeat at Gettysburg was not the crushing blow that we have come to believe it was" (80). Not even the collapse of the Confederate state in 1865 destroyed Confederate nationalism, which outlasted the war.

So successful is Rubin in demonstrating post-war Confederate nationalism that the book raises important questions as to whether the existence of distinctive Confederate identity *after* the war constitutes convincing evidence of a broadly shared nationalism *during* the war. For instance, Rubin cites the example of Gertrude Thomas, who applauds three defiant rebel soldiers *after* the war while admitting she would have shunned them during the war (146). In fact, when Thomas considered in 1864 whether she was willing to send her husband to defend Atlanta, she admitted she was not. Concerned that readers not interpret conflicts between the needs of individuals and the Confederacy as a lack of Confederate nationalism, Rubin alludes glancingly to instances in which individualism overcame willingness to sacrifice for the Confederacy, but quickly explains that self-interested Southerners really wished "they could do better and be better," which proves they really felt Confederate nationalism (65). Some readers may wonder if exploring the centrality of self-interest *to* Confederate nationalism might have allowed for discussion rather than avoidance of phenomenon such as bread riots, desertion, or withholding crops to avoid impressment or tax-in-kind, and in so doing more directly addressed concerns about the wartime existence of Confederate nationalism, while also leaving more room for non-elites, who make few appearances in the book's text or notes. Also related to questions of inclusion and exclusion, Rubin explains that the book "excludes Unionists and African Americans from its analysis of nationalism and identity," but some readers may question conclusions about how Southerners saw themselves that require the omission of two groups who together accounted for at least half of the South's population. Eliminating dissenters conveys an impression of unity,

but might it not also distort the picture? More important, might the elimination of white Unionists and the downplaying of dissent mask the intriguing question raised by Rubin's demonstration of post-war unity, namely, what factors allowed for the emergence of an impressively unified sense of Confederate nationalism *after* the disappearance of the Confederacy? Rubin forces readers to take Confederate nationalism seriously. She establishes that some elite white Southerners purposefully crafted a sense of Confederate nationalism. Most of all, she pushes readers to see Confederate nationalism as a work still in progress in 1865, and to consider questions of how shared experiences of war and defeat contributed to a distinctive white southern identity long after reunion.

Chandra Miller Manning
Georgetown University

Galvanized Yankees on the Upper Missouri: The Face of Loyalty. By Michele Tucker Butts. (Boulder: University Press of Colorado, 2003. Pp. 292. Cloth, $29.95.)

Michele Tucker Butts, Associate Professor of History at Austin Peay State University, focuses her attention on the First United States Volunteer Infantry, Confederate prisoners of war who were put into American military service in the Trans-Mississippi frontier between 1864 and 1866. Although these "galvanized" soldiers have been written about before by Robert Athearn, Dee Brown, and Richard Current, Butts provides the first complete account of this regiment, carefully quantifying, analyzing, and explaining how and why these Confederates became Federal troops.

These soldiers were detailed to guard the Minnesota-Dakota frontier, but the main contingent was sent to garrison the forts on the Upper Missouri. Butts graphically describes the soldiers' travails at Fort Rice in Dakota Territory. The fort was at the river crossing and prime bison hunting territory of the Sioux. Besides being unprepared to understand the culture of the Sioux, the soldiers had to contend with frigid temperatures that reached minus forty degrees Fahrenheit, dysentery, malnutrition, scurvy, and typhoid fever, as well as illicit trading with the Indians that increased frontier tensions. Remarkably, only when peace came in April 1865 did their duty to obey and follow their Federal officers dwindle in their desire to return home.

By thoroughly mining the records of the War Department (RG94) and the Office of Indian Affairs (RG75) at the National Archives and the Charles A. R. Dimon and Alfred Sully Papers at the Beinecke Library at Yale University, the author shows that the regiment largely carried out its assigned mission to guard the

Upper Missouri frontier, at least right through Lee's surrender at Appomattox. While federal officials were attempting to bring the South back into the Union, Butts shows that the Upper Missouri frontier was also being "reconstructed," being brought under more control by federal officials, who were preparing the groundwork for railroad development and white settlement.

Butts is best in two areas: (1) analyzing why the Confederate prisoners took their oath of allegiance to fight for the Federal army, and (2) describing the key role and career of the regiment's commander, Colonel Dimon. She shows the horrible conditions these Confederates faced while imprisoned at Point Lookout, Maryland. Although this was a factor motivating them to join the First United States Volunteer Infantry, this was by no means the only reason, as she details in her state-by-state analyses. For example, many of the soldiers from North Carolina, the largest number recruited, came from areas where there was significant unionist activity and draft evasion. Many of the Tennesseans came from areas opposing conscription or from parts of the state that voted against secession. In general, Butts shows that most came from "low-to-moderate slaveholding rural country or the central portion of his home state" (43). By 1864, the prisoners of war were also influenced by the declining fortunes of the Confederate war effort.

The author rehabilitates the military career of Colonel Dimon. Butts portrays him as an honorable man, loyal to his men, his mission, and to the army. He was a strait-laced New Englander who had been mentored by General Benjamin Butler. Dimon lobbied for more supplies, attempted to check the power and influence of corrupt traders, and brought cohesion and discipline to a wide assortment of former Confederates. Although Dimon made mistakes and was censured for them, Butts finds that much of the criticism leveled on him has been unfair. He was caught in turf conflicts between the War Department and the Office of Indian Affairs. In order to keep his word and maintain peace with the Indians, he bent the rules, making informal agreements with tribal leaders. He instructed his officers "to convince Native Americans to camp near military posts and to trade only with authorized traders there, thus interfering with the Indian Office's licensing authority" (135).

Butts's excellent book should be of interest to historians of the Civil War as well as those interested in the history of the American West. It is a model case study, well written and well researched, that challenges past views about these "galvanized" soldiers and their leadership.

Laurence M. Hauptman
SUNY New Paltz

Sacred Debts: State Civil War Claims and American Federalism, 1861–1880. By Kyle S. Sinisi. (New York: Fordham University Press, 2003. Pp. 208. Cloth, $50.00.)

In *Sacred Debts*, Kyle S. Sinisi examines the post–Civil War efforts of Missouri, Kentucky, and Kansas to secure federal indemnification for state wartime expenses. Sinisi sees the postwar claims system as a window into the "administrative operations of U. S. federalism from 1861 to 1880," because the claims "represented the most sustained and expensive intergovernmental contact of the three decades following the war" (xi, xii). From this vantage, Sinisi highlights the role of the state agent in the postwar federal system, emphasizes the ad-hoc nature of state interactions with the federal government in the Gilded Age, illuminates the origins of lobbying, and joins the chorus of studies that have challenged and qualified the "courts and parties" thesis of Stephen Skowronek, Richard McCormick and others concerned with U. S. state building in the nineteenth century. In the spirit of Morton Keller's classic *Affairs of State* (1977), Sinisi's monograph reminds historians not to overstate the effect of the Civil War on the expansion of the American state.

Sinisi spends four dense chapters showing that success in prosecuting the claims often depended less on the influence of courts or parties, and more on the industry and lobbying skills of ad hoc appointed, and well-connected state agents. Relying primarily on federal and state public documents and treasury records, newspapers, and relevant manuscript sources, Sinisi demonstrates that while state agents moved the claims process forward, paperwork demands, political infighting, various local pressures, and fraud often hindered the efforts of state governments to process their claims effectively. Facing an explosion of state claims on depleted federal funds, Treasury Secretary Salmon P. Chase established a stingy set of rules requiring the proof of vouchers and other documentation. While Chase's rules slowed the flow of federal money they also set the stage for a quarter-century of wrangling over the claims and created staggering paperwork demands on understaffed state governments. Sinisi recounts that to comply with Chase's rules Missouri state agent John B. Gray painstakingly gathered some 200,000 vouchers and 400,000 supporting documents to back Missouri's claim figure of $7.4 million. In terms of politics, the ambivalence of the major parties regarding the claims issue insured that no broad legislative solution would be found. Further, a national political climate that emphasized retrenchment led to allegations of profligacy even against the genuinely cost-effective efforts of the state agents. In Kansas, the distraction of Indian uprisings demonstrated just how local pressures could hinder the pursuit of claims. The discovery of

fraud in an 1874 Missouri auditing commission ultimately destroyed the state's chances of recovering some remaining $2 million in alleged claims.

However, after telling a story of frustration, fraud, and constant political intrigue, Sinisi concludes that the claims process, on balance, worked pretty well. Of the three states he examined, only Kansas was unable to recoup all of its claims. Thus, challenging what he calls the "indictment thesis" (172) of Gilded Age corruption, Sinisi argues instead for "a more nuanced view of postwar administration" (173) that more carefully tallies the corruption and virtue attendant to the processes of postwar federalism. He points out that despite numerous instances of fraud and corruption particularly at the state level, the potential of the claims "to be among the biggest pork-barrel bonanzas of the postwar period" (175) never materialized. State delegations did not cooperate to turn the claims into a logrolling extravaganza, and attempts to fashion a general solution to the issue came to naught. As for virtue, Sinisi suggests—with perhaps a hint of nostalgia for an era of smaller government—that the ad hoc use of state agents was an appropriate administrative response given widespread public clamor for frugality in government spending, and that such a response followed logically from the resilient idea of dual federalism that survived the defeat of secession.

Sinisi's tightly focused yet comparative study is impeccably researched and engagingly written despite the fact that the story centers mainly on the exploits of lobbying agents, clerks, and claims auditors. Sinisi doesn't explore the ideological context of the claims as broadly as he might have. Despite the Lincolnesque ring of his main title, he makes no attempt to examine the rhetoric of the claims in the context of postbellum nationalism or republican ideology. Nevertheless, scholars of Gilded Age federalism and state building owe a debt to Sinisi for reconstructing the manner in which the winning side in the Civil War balanced its war accounts.

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Endnotes

Announcements

The National Endowment for the Humanities named Penn State's George and Ann Richards Civil War Era Center as a recipient of one of its "We the People" Challenge Grants. The award provides a grant of $1 million to the center to help build its endowment for programming in the humanities and must be matched by another $3 million raised by the University within a 56-month period.

The Pennsylvania State University Libraries are pleased to announce a publicly accessible, full-text database of Pennsylvania Civil War Era Newspapers is now available at http://www.libraries.psu.edu/digital/newspapers/civilwar/. The site provides digital fascimiles of newspapers from 10 Pennsylvania communities, including Gettysburg, Chambersburg, and Philadelphia. The database allows searching and access to all the words, images, and advertisements from a selection of Pennsylvania newspapers published during the pivotal years before, during, and after the U.S. Civil War. Funding for this project was provided by the State of Pennsylvania. The project was coordinated by the University Libraries' Preservation Department under the leadership of Sue Kellerman; The Judith O. Sieg Chair for Preservation, in consultation with William Blair, director of the George and Ann Richards Civil War Era Center; and other key newspaper contacts from across the state. We are very pleased to expand access to this important record of the history of Pennsylvania. Watch for additional titles planned for 2006/2007. Please suggest titles via the "Contact Us" link on the site. Additional Pennsylvania Digital Collections can be found at: http://apps.libraries.psu.edu/digital/index.cfm.

Awards

The Organization of American Historians presented the annual Avery O. Craven Award to Anne Sarah Rubin of the University of Maryland, Baltimore County for her book *A Shattered Nation: The Rise and Fall of the Confederacy, 1861–1868* (Univ. of North Carolina Press, 2005). This prize recognizes the most original book on the coming of the Civil War, the Civil War years, or the Era of Reconstruction, with the exception of works of purely military history

Doris Kearns Goodwin won the 2006 Lincoln Prize for *Team of Rivals: The Political Genius of Abraham Lincoln,* her study of Lincoln and his cabinet. Administered annually by the Lincoln and Soldiers Institute at Gettysburg College and endowed by Richard Gilder and Lewis Lehrman, the Lincoln Prize is the nation's most generous award in the field of American History.

The Museum of the Confederacy is pleased to announce that *While in the Hands of the Enemy: Military Prisons of the Civil War,* by Charles W. Sanders Jr., published by the Louisiana State University Press, is the recipient of the 2005 Jefferson Davis Award. Sanders is professor of history at Kansas State University. His book is a volume in LSU Press's "Conflicting Worlds: New Dimensions of the American Civil War" series.

LONGMAN AD

KANSAS AD

VIRGINIA AD

FLORIDA AD