ESSENTIAL CIVIL WAR CURRICULUM

Confederate Government

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The delegates who met in Montgomery, Alabama, to form the Confederate States of America and establish a new government began by drafting a provisional and later a permanent Constitution. Despite explicit acknowledgement of state rights in the Permanent Constitution, it created a potentially powerful and sovereign nation. Even though this new government had fairly broad powers, there was a paradox woven into the Confederate Constitution. While the delegates forged a strong central government, they also restricted its authority in several politically significant respects. Ironically, however, wartime necessity would force the president and Congress to expand state authority in unprecedented ways that not only stretched their constitutional mandate but also anticipated more modern approaches to statecraft.

Laboring to improve on the old Union and perfect their own notions of republicanism, the Confederate founders applied lessons learned through painful historical experience. Fear of corruption, for example, conditioned their approach to taxation and spending. Many delegates believed that tariff laws and appropriations bills in the old congress had drained the treasury for private profit. Although Southerners differed sharply over trade policy, the new Constitution prohibited protective tariffs. The Constitution also eliminated bounties for industry and, except for rivers and harbors bills, prohibited expenditures for internal improvements. Equally important, a two-thirds vote in both houses was now required for the passage of any appropriations not requested by the executive. This bold attempt to end congressional logrolling and other traditional practices received wide support and seemed to portend a cleansing of Southern politics.

To curtail needless expenditures and control the congressional appetite for pork-barrel projects, delegates at Montgomery gave the President considerable budgetary authority. Besides the two-thirds majority restriction on appropriations initiated by the Congress, the president also received a line-item veto that further shifted budget decisions from the legislative to the executive branch. The Confederate Constitution would presumably halt the expansion of government interference in the economy and restore a more pristine ideal of state authority. Yet the new constitution also had the same kind of "necessary and proper clause" that had long produced sharp debates over the scope of national power and the balance between federal and state authority.

The Confederacy's founders increased executive authority but changed the political dynamic by restricting the president to a single six-year term. Many delegates at Montgomery hoped to insulate the president from congressional and outside political pressures, thus making him more independent. The president could administer the government for a substantial period without worrying about reelection and without having to respond to every momentary political pressure. The single six-year term would supposedly remove temptations of power and ambition. The new vice president, Alexander Stephens, optimistically predicted that the president would now single-mindedly seek "the good of the people, the advancement, prosperity, happiness, safety, honor, and true glory of the confederacy."

Besides reducing the president's political influence, the convention had struck an indirect blow against political parties and a direct one against popular democracy. For conservatives, presidential elections with their incessant canvassing, partisan warfare, and low tone, had long been a national disgrace. The hope was that the Confederate president--like that paragon of eighteenth-century republican virtue George Washington--should stand above petty, partisan politics. •

Merely reforming presidential elections, however, could hardly purify the government if the executive still controlled too much patronage. Even in Thomas Jefferson's day, the president already spent an inordinate amount of time dealing with importunate politicians about piddling appointments. By the 1850s, Southern revulsion against the spoils system (especially if it ever fell into the hands of Republicans) had profoundly shaped political and constitutional attitudes even among party leaders. The Confederacy Constitution therefore provided that the president could dismiss cabinet members and diplomats at will but could only remove lower officials on grounds of "dishonesty, incapacity, inefficiency, misconduct, or neglect of duty" subject to senatorial review. In addition, presidential appointees rejected by the Senate could not receive ad interim appointments during a congressional recess.

Historians have usually described the Confederate Constitution as merely a conservative gloss on the old Constitution. Yet even though the Confederacy's founding fathers revered the old Constitution, they were also remarkably innovative. They even created a new department, the Justice Department, which supported the Attorney General. The US Federal government did not create a Justice Department until after the Civil War. The most important changes in the new constitution, as some contemporaries agreed, dealt with the presidency. Students of these constitutional debates have either emphasized the strengthening of the executive's fiscal authority or the weakening of his political influence. • But both are essential to understanding Confederate politics. The Confederacy's founding fathers initially had few qualms about creating a powerful presidency, or at least a powerful executive branch. The possibility of war naturally influenced their thinking, but antebellum political assumptions and experience also affected their decisions. There was general agreement that the president should not be a party leader but instead should stand as a patriot rallying the people to the cause of Southern independence. •

For the task of building a Southern nation, Jefferson Davis must have seemed almost too good to be true. West Point graduate, Mexican War veteran, Southern-rights spokesman, Mississippi planter, his career had sustained Southern society's most widely shared ideals. His polished manners and natural reserve impressed those meeting him for the first time, but more •

familiar associates found him sometimes aloof. Those looking for historical analogies or favorable portents might have noted that Davis's demeanor closely resembled the dignified and tightly-controlled model established by Washington. Too stiff and formal to be an effective speaker, too reserved and reticent to express powerful emotions, Davis lacked both the passion and eloquence of a revolutionary leader. Some contemporaries thought he also lacked the common touch, the ability to move crowds and inspire sacrifice. Yet for all his love of abstraction and legalism, Davis believed in the Southern cause with all his heart and could expound its basic themes with conviction and some fervor. Davis threw himself into this cause with all his energy. Davis's unquestionable patriotism and statesmanlike demeanor at first appeared to make him an ideal leader.

His first tasks involved delicate matters of administration. For a man like Davis with great confidence in his own abilities and little faith in others, choosing a cabinet must have been agonizing. In the absence of political parties, Davis decided that each state of the Confederacy should be represented in the cabinet. Although he would have hotly denied any lingering partisan prejudices, the President favored Democrats and original secessionists in making the first appointments. Secretary of State Robert Toombs was singularly ill-suited for his post. Secretary of the Treasury Christopher G. Memminger was competent but unassertive in a position demanding considerable energy, initiative, and imagination. Davis sent through six secretaries of War, and his last John C. Breckinridge was perhaps the best. The cabinet never functioned especially well as a group, and Judah Benjamin who held two other cabinet positions before finally becoming secretary of state was the President's closest confidant. In addition to the always troublesome question of military appointments, the President had to deal with far more personnel matters than delegates at Montgomery envisioned. Constitutional safeguards notwithstanding, the scramble for major and minor offices in the Confederate government proceeded apace. The Confederacy may have been founded in a reaction against partisan politics, but old habits died hard.

Politics naturally influenced military policy. For the time being, strengthening public devotion to the Confederacy meant adopting a defensive strategy that minimized sacrifice. Though Davis tried to balance military and political qualifications, his personnel decisions, at times clouded by unreasoning hostilities and unshakable friendships, pleased no one. The Confederate commitment to states' rights further complicated the task. The President's division of the army command into small geographical departments and the dispersal of troops along the perimeters of the Confederacy may not have made much military sense, but it reflected the political constraints felt by the leader of a decentralized government. Any time he made an appointment, Davis risked upsetting some powerful state politician. And the governors not only offered plenty of advice but also kept their hands in Confederate military affairs. •

• The decision to move the Confederate capital to Richmond, Virginia, not only altered military strategy, but just as importantly shifted the center of both administrative and political power. Along with the government's official papers and other baggage, political machinations and even petty social rivalries followed Confederate officials and their families. • The President soon discovered that patronage problems only multiplied. Congressmen scurried from office to office seeking appointments for friends and relatives; the War Department became a hive of military preparations, buzzing with talk of commissions and intrigue. Not surprisingly, the War Department would eventually employ more than eighty percent of the government's civil servants. The Davis administration looked for men with experience under the United States government to fill many jobs. As a practical matter, federal postmasters in the seceding states simply began working for the Confederate government; and many former United States Treasury officials joined Memminger in Richmond.

Economic problems proved just as pressing and perhaps even more intractable than military questions yet Davis's and Memminger's financial policies showed little economic or political imagination. Relying on several loans and a modest revenue tariff that proved adequate only until the middle of 1861, the administration failed to prepare the country for the economic dislocations and mounting costs of a rapidly expanding war. There was a considerable delay in imposing even modest forms of direct taxation. More ominously, the Confederate government began funding larger and larger portions of its mushrooming national debt through the issue of Treasury notes not redeemable in specie.

Such caution stood in rather stark contrast to the government's greatly expanding role in the economy. Indeed the Davis administration, with the acquiescence if not always the approval of the Congress, intervened in the economy in ways that clearly contradicted longstanding claims in favor of limited government and state rights. Despite a clear constitutional prohibition, for example, Davis requested and Congress approved subsidies for railroad construction. By the middle of the war, the government assumed substantial control over rail operations and even impressed railroad property and employees. The War Department itself became directly involved in producing clothing, shoes, weapons, ordnance, and powder, among other items. The accomplishments of Josiah Gorgas in the Ordnance Bureau were especially impressive. •

New economic regulations inevitably stirred controversy and provoked resistance. The discouragement of cotton planting (following what amounted to an embargo on sales to Europe) touched a tender nerve among those who coveted their long-established independence and power. To tell Southerners what to grow in their fields infuriated men (and some women) used to lording it over their households and cutting a proud figure in their neighborhoods. Talk of peace along with Confederate military success in the spring of 1863 encouraged planters to grow more rather than less cotton. Yeomen criticized wealthy slaveholders who still cultivated staple crops while refusing to help feed soldiers' families. After Congress adopted a weak resolution urging reduced production of staple crops such as cotton and tobacco, Jefferson Davis called for increased food production to feed the hungry armies.

The tax-in-kind generated even more anger and opposition. When Confederate officials seized produce and livestock from farmers and planters, they trampled on both individual liberty and community autonomy. Public meetings in several North Carolina counties denounced the new levy as "unconstitutional, anti-republican and oppressive." These and similar protests showed the alarming strength of local, libertarian opposition to Confederate policies. •

By its nature, any impressment of food and clothing caused even more serious disaffection. Army foraging parties became symbols of all that had gone wrong with the war. Yet the government turned to impressments for essential military supplies, and the official price schedules appeared laughable given the astronomical inflation rate. Impressment appeared little better than official robbery, a despotic milking of the people's subsistance by an oppressive government. Impressment threatened to reduce once proudly independent citizens to vassalage. In response to public outcries, many state legislatures passed laws prohibiting irregular seizures of goods and hamstringing legal ones.

Opposition to slave impressments was more narrowly focused but just as intense because those most affected tended to be powerful and articulate. Confederates viewed slaves not only as symbols of wealth and status but also as vital to the domestic economy and to their new republic's identity. For the government to interfere with the property rights of slaveholders made Confederate leaders seem little better than Yankee despots. Impressment undermined the •

intimate relationship between masters and slaves, striking at the heart of the Southern domestic order. As one senator sadly observed, many Southerners seemed more willing to give up their sons than their slaves. By the spring of 1863, economic weaknesses, unpopular policies, and class divisions had accentuated differences between those who supported a stronger nation and those who favored a stout defense of state, community and individual liberty. Idealized definitions of Confederate nationalism often clashed with the daily reality of selfishness, speculation, and general sinfulness.

Whatever the threat the government's economic policies posed to state, community and individual liberty, the greatest exercise of centralized authority came in the allocation of manpower. In April, May, and June 1862 the terms of service for the twelve-month volunteers would expire, and in the spring of 1862 military affairs had reached a point of desperation in both eastern and western theaters. To sacrifice liberty in order to preserve it: this paradox summed up the Confederate dilemma. The competing and sometimes contradictory emphases on national authority and individual liberty set the terms for the debate over conscription. •

As was his wont, Jefferson Davis approached these matters a bit awkwardly. He abruptly proposed that all white males between the ages of eighteen and thirty-five "shall be held to be in military service of the Confederate States, and that some plain and simple method be adopted for their prompt enrollment and organization." The First Conscription Act (adopted April 16, 1862) generally followed Davis's sketchy recommendations. All white men between the ages of eighteen and thirty-five would be placed in Confederate service unless exempted. Those already enlisted would serve for three years dating from their original enlistment and would retain the privilege of electing officers. With the consent of the governors, the President could use state officers, or if necessary Confederate officers, to enroll men. • Subsequent acts adopted in September 1862 and February 1864 extended the draft age to forty-five and finally to fifty.

Despite continuing skepticism and worries about military despotism, the debate in Congress increasingly centered on the operations rather than the legitimacy of a draft. Shortly after the initial adoption of conscription in April 1862, Congress had provided exemptions for public employees, mail carriers, river pilots, railroad workers, ministers, teachers, printers, and even •

apothecaries. Nor did widespread abuses arising from this law prevent Congress in October from expanding the list to include millers, tanners, salt-makers, and shoe-makers. All told, it required two and one-half finely printed pages to list all the exempted classes. Requests for additional occupational exemptions, however, still poured into Congress, and each member, it seemed, had one or more pet categories, leading wags to suggest that lawmakers had exempted more able-bodied men than had been drafted. Responding to legitimate requests for allocating •

skilled manpower, Congress had created a legal and political nightmare but had at the same time strengthened the authority of the Confederate state to allocate manpower. •

While the law's unwieldiness prompted criticism, the appearance of class favoritism stirred more serious discontent. The most controversial provision exempted the owner or overseer on plantations with twenty or more slaves. Soon derisively dubbed the "twenty nigger law," this measure was a response to numerous pleas from plantation owners, governors, and frightened citizens. Yet here and in later conscription laws, Congress and the Davis administration also sought to adjust the demands placed on various social classes to minimize class conflict.

Along with conscription, the suspension of the writ of habeas corpus marked a great expansion of government power over the lives of citizens. Patriotic enthusiasm quickly bred intolerance for dissent; political opposition was too readily seen as disloyalty. Worries about internal divisions, and especially about "spies" and "traitors," led Congress on February 27, 1862, to authorize the President to suspend the writ of habeas corpus in areas of the Confederacy threatened by enemy invasion. With McClellan's army on the Peninsula, Davis immediately suspended the writ in Richmond, Petersburg, and several Virginia towns. In the next few months, he added counties in western Virginia and East Tennessee along with coastal districts in South Carolina.

These actions were primarily aimed at men using every legal trick to avoid conscription, though many ardent Confederates hesitated to support blanket declarations of martial law. The Confederate Senate easily passed a resolution declaring that "martial law is unknown to the Constitution." In a general order issued on September 12, 1862, Jefferson Davis voided all proclamations of martial law made by Confederate generals. The President balked at broad constitutional construction on this question and always requested congressional authorization to suspend the writ, and generally this was in specific geographical areas for limited periods of time. Unlike Federal authorities, Confederate officials did not suppress publication of newspapers. The President was well aware of how sensitive Southerners would react to encroachments on traditional liberties. He refused to suspend the writ throughout the Confederacy, carefully weighing the claims of military necessity and political expediency.

Historians have pointed out that Davis's approach to this issue illustrates his essential caution, conservatism, and commitment to state rights. Although the President could be a stickler for constitutional procedures, he also realized the difficulty of expanding national authority in a society obsessed with individual liberty. More than timidity, indecisiveness, or lack of imagination, the President's behavior showed an intelligent awareness of the central and sometimes contradictory values of Confederate politics. Stressing the homogeneity of interests in the Confederacy while easing the fears of highly individualistic and parochial Southerners presented a formidable challenge to his political leadership. The Confederate Congress debated the most sensitive issues in secret session, and though itself a source of controversy, this practice undoubtedly helped the President push through the most politically risky measures that further centralized state authority. In one significant respect, however, the Confederacy failed to establish a powerful national government. Debates over jurisdiction ultimately prevented the Congress from establishing a Supreme Court, though state courts generally went along with the measures adopted by Congress and the Davis administration.

Throughout the war, the advocates of centralization argued military necessity and beat the drums for patriotic sacrifice. • Indeed the expansion of government authority in a nation supposedly committed to states' rights was nothing short of extraordinary, and Confederate officials had not only directly intervened in Southern economic life but also had adopted military and other policies that affected the daily lives of most citizens. Indeed they created bureaucratic structures that could resist political influence. But what appeared like a remarkable achievement to Jefferson Davis and to later historians spelled danger to many Confederates. With great vehemence, outspoken leaders presented what they considered the only reasonable and principled alternative to the twin dangers of Yankee oppression and Confederate despotism: the rights of individuals, communities, and states must be maintained at all costs. For these politicians and their constituents, any sacrifices of principle meant that the Southern nation was no longer worth saving. Yet this dissent never coalesced into an organized opposition, and Jefferson Davis made no effort to form a political coalition to support his administration. Indeed he was not supposed to be a party leader, and he usually shunned political negotiation. Both the Confederate Constitution and prevailing notions of executive authority held that the

President should lead the nation through example, with Congress and the people deferring to his wisdom. •

To many historians, the absence of a party system has seemed a serious handicap to the Confederacy. This interpretation has often rested more on assumptions than on evidence. The main arguments are deceptively simple and plausible. Parties would have strengthened the political system by making dissent more cohesive and responsible. A well organized opposition could have pressured Davis either to change his policies or give way to a more effective leader. Yet new nations--especially those born in revolutions--hardly ever develop sophisticated political mechanisms in the short run and often not in the long run. Just as the war reinforced Southerners' already strong aversion to partisanship, so also it inhibited the development of a political party system. •

Some historians have likewise asserted that a party system would have somehow helped Jefferson Davis and would have strengthened the government and the war effort. If the administration had united its supporters into an effective political organization, more people might have rallied to the Confederate cause. So too an administration party might have formed a cohesive voting bloc in Congress to push through necessary legislation. The development of a party system would have further centralized authority in the Confederacy by encouraging people to sacrifice their outmoded political principles. On the other hand, there is considerable evidence that the absence of organized opposition helped Davis and his supporters strengthen the Confederate state. As it was, Davis got most of what he wanted from Congress (at least up until its final session) and had but one veto overridden. Congress remained throughout the war relatively weak and unassertive. Reluctant lawmakers were even persuaded in March 1865 to authorize the enlistment of slave soldiers. Indeed throughout the war, the Confederate government took unprecedented steps, most notably with conscription and impressment, in mobilizing men and materiel. And this government was still functioning as Robert E. Lee was forced to abandon his lines at Petersburg.

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