The Confederacy: America’s Worst Idea

By Stephanie McCurry 10/04/2010

In December America will mark a unique and largely embarrassing anniversary: 150 years ago a group of South Carolina politicians called a convention of "the people" and voted themselves out of the Union. Within weeks, six more states in the Deep South joined them and the United States was brought to the brink of war. The secessionist states hazarded all: their own future and that of their children and their children's children; slavery itself, on which the bulk of their wealth depended; and the fourth largest economy in the world.

Jefferson Davis and other Confederate leaders cast secession as a wholly constitutional move designed simply to restore government to what the Founding Fathers had in mind. Davis would enshrine that version of the South's motives in his postwar memoirs and it became a staple of the mythology of the Lost Cause. The goal of secession was merely to protect the rights of "sovereign" states from "tremendous and sweeping usurpation" by the federal government, Davis wrote. "The existence of African servitude was in no wise the cause of the conflict, but only an incident." All too many historians fell for the pitch. In doing so they lost sight of the true nature of what the Confederates attempted to do: build a modern antidemocratic nation dedicated to the proposition that all men were not created equal. There can be no doubt about their intentions. What they wanted was a proslavery country.

If Confederates really started out to make a new nation, not restore an old one, there was also little reliable about their claim that the states had a guaranteed right under the U.S. Constitution to peacefully secede—a right, it is worth noting, that they did not extend to states in the Confederate Constitution. As Jefferson Davis knew all too well, secession was tantamount to a declaration of war.

In March 1861, the Vice President of the Confederate States of America, Alexander Stephens, offered a political manifesto for the slaveholders' new republic. The original American republic "rested upon the assumption of the equality of the races," Stephens explained. But "our new government is founded upon exactly the opposite ideas: its foundations are laid, its cornerstone rests, upon the great truth that the negro is not equal to the white man; that slavery is his natural condition. This, our new government, is the first in the history of the world based upon this great truth."

When representatives of the new nation sat down in Montgomery, Ala., to write their constitution, proslavery proposals were rendered concrete. They purged the document of euphemisms adopted in the original U.S. Constitution, brazenly using the term "slaves" instead of "other persons" and binding the Congress and the territorial governments to recognize and protect "the institution of negro slavery." They also guaranteed citizens the right of sojourn and transit in any state and territory with "their slaves and other property." The centerpiece of the Confederate Constitution—the clause that upends any attempt to cast it as simply a copy of the U.S. Constitution—was a wholly new clause, which eliminated any opportunity for the new government ever to change the law of slavery. "No bill of attainder, ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed."

The power to define "citizens" fell to the individual states in their sovereign capacity and they embraced the task with energy. Most defined citizenship as the right to vote and limited that right to white men born or naturalized in the U.S. before 1860. Alabama went further by allowing all white male residents, including foreign nationals, to vote. "Let there be but two classes of persons here—the white and the black…keep all

the white men politically equal—the superior race—let the negro be subordinate and our government will be strong and our liberties secure."

Secession was the South's big gamble. Proslavery Southerners could have played a wait-and-see game, as many unionists advised. But for those mostly Deep South Southerners who orchestrated secession in the fall of 1860 and winter of 1861, the election of Abraham Lincoln presented a risky but desperately sought opportunity to bring the crisis of slavery to a head. They went all in.

With war came the reckoning. The South's proslavery and antidemocratic experiment was tested at every point, not just by the enemy armies arrayed against them but by the very people—the slaves and the white women—who the Confederate founders had counted out. Indeed one of the most compelling parts of the Civil War story, and perhaps the least well understood, was the way Confederates' vision of the political future was tried—and found wanting—by its own people in the war. The Confederate project faced a political as well as a military testing.

It could hardly have been otherwise. The new nation was built on a very slim basis of democratic consent: Of the roughly 10 million people who lived in the Confederate States of America at the beginning of the war, 3.5 million were enslaved and disenfranchised and another 3 million, white women, had none of the political rights of their male counterparts. Only about 1.2 million people—the total number of adult white males qualified to vote—had ever been consulted about the wisdom of secession and willingness to risk war. That is what politicians meant when they talked of the consent of "the people." But that vision of the people proved utterly inadequate to the nation-building project Confederates launched in 1861, as the chrysalis state confronted and attempted to surmount the structural problems of a slave regime at war. In attempting to escape history, Confederates had lowered themselves into its most dangerous currents.

War immeasurably upped the ante in the white man's new republic. As the new Confederate government turned to its white citizens to support and defend the bid for national independence, it faced the necessity of building support among those whose consent for war had never been solicited. Then began a relentless process in which government officials and military men all the way up the chain of command scrambled to execute policies designed to build a state and wage war, while preserving slavery and feeding and protecting a civilian population of women increasingly denied the support of their men. There would be far more of "the people" to contend with in the making of history in the Civil War South than the Confederate founders bargained on.

Chief among the problems that reared up in the context of war was the way the institution of slavery limited the power of the federal government itself and compromised its sovereignty. As Jefferson Davis once said, slavery was a form of government for those not fit to govern themselves: Slavery was the slaves' state, and masters the authority to which they owed allegiance. In other words, slaves were beyond the reach of the state; the government could access them only as the property of their masters. A state that could not claim the allegiance of a big segment of the adult male population faced inherent dangers, ones that were exacerbated by war.

At one level the problem was obvious: The Confederacy's population of 10 million was dwarfed by the Union's 22 million and, in addition, 40 percent of the adult men were enslaved and not available for military service. By 1862, as a result, the Confederacy was driven to take drastic measures by instituting widespread conscription. When all was said and done, Confederate armies enlisted a staggering 75 to 85 percent of the white military age male population. To say it stressed the limits of popular support for war is an understatement. When combined with exceptions the government was forced to make for slaveholders—

including the exemption of one white man for every 20 negroes on a plantation and the decision to allow the purchase of substitutes—conscription quickly raised cries of rich man's war, poor man's fight.

The social and political impact on the home front can hardly be exaggerated. This was an agrarian society, whole regions of it populated by yeoman and poor white families. There had never been any expectation that women could make subsistence on those farms without the labor of men. And they could not. By 1863, with husbands and sons in the war and the countryside stripped of men, the food crisis in the Confederacy reached starvation proportions. At that point it also turned into a political and policy crisis, provoked by women who mobilized to insist on the fulfillment of promises made to them by government officials when they took their men. This politics of subsistence, and the new political class of "soldiers' wives" who made it, was one entirely unanticipated element of the Confederate reckoning war had wrought.

In the spring of 1863, soldiers' wives took direct action in a wave of spectacular food riots. Mobs of women—numbering from a dozen to more than 300 and armed with navy revolvers, pistols, repeaters, bowie knives and hatchets—carried out at least 12 violent attacks on stores, government warehouses, army convoys, railroad depots, saltworks and granaries. The attacks occurred in broad daylight, and were all perpetrated in the space of one month, between the middle of March and the middle of April 1863. It was truly a Confederate spring of soldiers' wives' discontent.

That wave of riots had a measurable impact on Confederate war policy, forcing revisions of conscription and tax policy. It also prompted the development of a massive welfare program by the states that, in allocating scarce funds and foodstuffs to the relief of soldiers' wives and children, dwarfed anything undertaken in the North. In the heart of Confederate national territory, the mass of Southern women had emerged as formidable adversaries of the government in the long struggle over its military policies. By insisting that the state live up to its promises to protect and support them, even taking up arms to do so, these poor white women, who had never participated in politics before, stepped decisively into the making of history.

If the political assertiveness of poor white Southern women did not bring down the Confederacy, it did represent a powerful challenge to the Confederate vision of "the people" and the republic and speaks directly to the pressures and ruptures of war in a slave society. Any state that took their men would ultimately have to answer to them.

The reckoning with Confederate slaves was even more direct and consequential. At the birth of the republic Thomas Jefferson had warned that slavery destroyed slaves' love of country and made them allies of any foreign power that sanctioned their emancipation. Slavery, he predicted, turned slaves into enemies and nurtured traitors at the American breast. Secessionists seemed heedless of the dangers. They gave no thought to what slaves would do, discounted entirely the matter of slaves' allegiance. But moving decisively to grasp the opening history offered, slaves made their loyalty and allegiance count and created a significant problem of treason in the Confederacy.

The problem was evident first to masters on plantations, who, as early as January 1861, found evidence of "sedition": powder and guns in slave quarters, insurrectionary plots and networks of slave communication providing valuable intelligence to the enemy. These slave activities had crucial consequences not just for owners, but for the Confederate government and military as well. Confederate politicians had begun the war boasting of slavery as an element of strength. But when they demanded the labor of male slaves to support the war—a policy called impressment—the government and military soon found themselves in a losing conflict with slaveowners unwilling to surrender valuable property. Even greater resistance came from

slaves themselves. An engineer in charge of building defensive works in northern Virginia said slaves refused to "do labor that will thwart the Federals, who they look upon as fighting for their freedom."

The mix of compromised state sovereignty and slaves' resistance created intractable problems for military commanders. They knew that slaves posed a danger to their operations but could not pursue them as they would other "persons" caught providing aid and comfort to the enemy. The dilemma came to an official head early, in Pensacola Harbor in March 1862, when a Confederate officer initiated a court-martial of six slave men caught escaping to the enemy at Fort Pickens. The charges? "Attempt to violate the 57th Article of War…holding correspondence with, or giving intelligence to, the enemy." "Who ever heard of a negro slave being arraigned before a court martial for a violation of the Articles of War?" their incredulous master railed. Who indeed? In charging slaves with treason, the officer posed profound questions about their political status and membership in the body politic. Did slaves owe allegiance to the state? Could they be traitors? Were they subject to military law?

Those questions reverberated all the way up the chain of command to the office of the secretary of war, but could not be resolved. Confederate commanders needed to be able to recognize slaves as traitors, if only to contain the damage they posed to the military. But how could that be adopted as official policy without profound damage to the status of slaves as property whose only allegiance was to their masters? If slaves were traitors, clearly they were no longer just slaves.

By a long circuitous route President Jefferson Davis and General Robert E. Lee eventually were forced to contend, as the Pensacola officer had, with the humanity of the slaves whose status as property they had seceded to secure. By 1864 and 1865 officials at the highest reaches of the Confederate government attempted to win slaves over to the cause—even considering emancipation to do so—because they needed their military service. Incredible as it might seem, they wanted to enlist slaves as soldiers.

In a tightly controlled top-down way that included the public solicitation of General Lee's approval of the plan, President Davis, Secretary of State Judah Benjamin and Virginia Governor William Smith struggled—but mostly failed—to gain the support of the public and Congress for the use of slaves in the Confederate Army. In the last days of the war, two companies of black soldiers were raised and drilled on the streets of Richmond, but the Confederate Congress refused to the bitter end to condone the emancipation of any slave men who might serve.

The story of arming slaves and how Confederates arrived at that juncture is the most dramatic kind of reckoning they had brought on themselves. It is also one potent measure of the political incoherence their national project had come to by the end of the war. Davis and his Cabinet had been forced to do the unthinkable: undermine owners' paramount claim to their slaves and move to enlist slave men to save the slaveholders' republic. That episode does not suggest that Confederates chose independence over slavery, as so many insist; it is, rather, a profound indication of the structural problems faced by a slave regime at war. And it is the ultimate measure of what slaves wrought in Confederate political life.

The Confederate political project was undone by the very people who had been taken for ciphers in it. Military defeat was coupled with political failure. Given the proslavery and antidemocratic aspirations of the Confederate States of America, there was a certain justice in that. By April 1865, the Confederacy was in ruins. A nation founded in a risky bid to render slavery and the power of American slaveholders permanent had failed spectacularly, bringing down the most powerful slave regime left in the Western world.

As we approach the 150th anniversary of the Civil War, it is critical for us to go back to that moment in time when the Confederate experiment was launched and take a clear-eyed look at what they attempted to do. It is not enough to stop at abstract discussions about the constitutionality of secession. More troubling is the question of why secessionists insisted on exercising that claimed right. What kind of nation did they aspire to build? And what kind of country would have resulted had they been allowed to go peacefully or had they, somehow, succeeded in war?

Ironically, it's unlikely that in December 1860 anyone North or South could have imagined a scenario in which, within four years, Southerners would face the total, immediate and uncompensated emancipation of 4 million slaves. Even as late as December 1862, Abraham Lincoln proposed an amendment that would have extended the life of the institution to 1900. But in seceding to secure the future of slavery, Southerners created arguably the only set of conditions—war-borne and state-sponsored emancipation—under which slavery could be totally and immediately destroyed as an institution in American life.

Had the Confederates succeeded—or had the war ceased with anything short of total defeat and un-negotiated surrender—African-American Southerners would have faced generations more of enslavement, with all the horrific assaults on their personal safety, human rights and dignity that institution guaranteed. When we remember the war, and talk about its causes, we ought to remember that. And we should count ourselves lucky that we were spared the future the Confederate States of America promised.

Stephanie McCurry is the author of Confederate Reckoning: Power and Politics in the Civil War South.