Civil War Congress and the Creation of Modern America

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Introduction

The Congress, the Civil War, and the Making of Modern America

The Civil War remains the central moment of American history. The ordeal by fire kept the Union together at the cost of some 630,000 deaths by bullets, disease, exposure, and the horrid conditions in both United States and Confederate prisoner of war camps. It was not merely America's bloodiest war, but as bloody as all other American wars combined. Wounded and maimed veterans came home bearing the outward scars of battle and carrying inner scars.

Our memory of the Civil War is mostly about warfare and battles, the carnage made glorious and meaningful by emancipation. Certainly the central meaning of the war is national unity and national freedom, followed by a critical (although incomplete) restructuring of the Constitution and the nature of the national government. But as the essays in this volume show, the war changed the nation in other ways as well. Indeed, beyond emancipation and the constitutional changes of the Thirteenth, Fourteenth, and Fifteenth amendments, the war permanently altered the American nation. The war forced Congress to expand the size of the government beyond anything imaginable before 1861. At the same time, the absence of senators and representatives from most of the slave states enabled Congress to pass legislation that allowed for internal improvements, expanded foreign policy initiatives, stimulated western settlement, and supported the general welfare of the nation. Southerners had blocked such laws, arguing that they helped

the North and the free states, threatened slavery, harmed the South, or overly expanded the national government.

The war effort fundamentally and permanently changed the nation in many ways. About two million Northern men served in the United States Army and Navy during the war.[1] These men constituted about 10 percent of the entire population of the North. The absence of so many men naturally affected day-to-day life, as did the more than 300,000 Northern men who died while in the military. Recruitment of troops also affected the home front, the nation, and the future of the nation. Initially the United States Army was made up of members of state militias, who were mobilized at the very beginning of the war, after a proclamation from President Lincoln.[2] After the Confederate attack on Fort Sumter, Lincoln called for 75,000 troops, thinking this would be sufficient to suppress the rebellion. But the war lasted longer and was more costly than anyone could imagine. By mid-1862 the United States had suffered more than 75,000 casualties (killed, wounded, captured, or missing). In the Militia Act of 1862, Congress opened military service to African American men,[3] reversing seven decades of discrimination and ultimately paving the way for black suffrage on the same basis as whites. Its immediate consequence was to alter Northern society, especially in black communities, as tens of thousands of African American men enlisted.

The recruitment and movement of troops affected daily life in many places. As Guy Gugliotta notes, "Housing in wartime Washington was at a premium." Living conditions were crowded and stressful. "Civility" had all but disappeared as people "routinely dumped garbage in the vacant lot[s]" and unruly children threw rocks at windows. The nation's capital was filled with civil servants, politicians, contractors, fugitive slaves, tens of thousands of soldiers, and all manner of other people. In the summer of 1862 Congress ended slavery in the District of Columbia, which dramatically altered

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[1]At least 300,000 Union servicemen were Southerners, including about 150,000 former slaves.

[2]Abraham Lincoln, "Proclamation Calling Militia and Convening Congress (Apr. 15, 1861)," in Roy P. Basler ed., *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick, N.J., 1953–55), 4:331.

[3]"Act to Amend the Act Calling Forth the Militia to Execute the Laws of the Union, Suppress Insurrections, and Repel Invasions, Approved February Twenty-Eight, Seventeen Hundred and Ninety-Five, and Acts Amendatory Thereof, and for Other Purposes [Militia Act of 1862]," Act of July 17, 1862, 12 Stat. 597 (1863).

social life in the capital.[4] Congress later provided civil rights protections for former slaves and began to provide them with schools and other benefits of freedom.[5]

In March 1863 Congress more dramatically altered American culture and society by establishing the nation's first system of military conscription.[6] This law gave vast powers to the national government. Ironically, the secessionists claimed that a powerful national government threatened their way of life and states' rights, but their acts of secession and treason facilitated and necessitated the enhancement of national power. Even more ironic, the Confederacy had implemented conscription in April 1862, thus for more than a year the Confederate government had more power than the United States government.[7] Conscription was a major change in American policy and national culture. Military service was no longer tied to patriotism and a desire to serve the nation. It was now becoming mandatory. In her essay "Conscription and the Consolidation of Federal Power during the Civil War," Jennifer L. Weber outlines the mechanics of conscription, noting that the law "resulted in a tectonic shift in the relationship between federal and state governments and between the nation and its people." Indeed, much of this book tracks this theme, as we see the exigencies of war giving Congress powers it never would have imagined using before the war.

Similarly, the sheer magnitude of the war—the expense in blood and treasure—forced other changes. The war effort required a vast industrial expansion—the war transformed the nation from one that was overwhelmingly agricultural to one that was increasingly industrial. While there were factories and some industry in the North before 1861, the war was the engine that truly brought the Industrial Revolution to the United States. In

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[4]"An Act for the Release of Certain Persons Held to Service or Labor in the District of Columbia," Act of Apr. 16, 1862, 12 Stat. 376 (1863). See Kate Masur, *An Example for All the Land: Emancipation and the Struggle over Equality in Washington, D.C.* (Chapel Hill, N.C., 2010).

[5]See Paul Finkelman, "The Summer of '62: Congress, Slavery, and a Revolution in Federal Law," in Paul Finkelman and Donald R. Kennon, eds., *Congress and the People's Contest: The Conduct of the Civil War* (Athens, Ohio, 2017).

[6]"An Act for Enrolling and Calling Out the National Forces, and for Other Purposes [The Enrollment Act]," Act of Mar. 3, 1863, 12 Stat. 731 (1863).

[7]Act of Apr. 16, 1862, *Statutes at Large of the Provisional Government of the Confederate States of America*, 1st sess., chap. 31, pp. 29–32; William Alan Blair, *Virginia's Private War: Feeding Body and Soul in the Confederacy, 1861–1865* (New York, 1998). See also Susanna Michele Lee, "Twenty-Slave Law," in Virginia Foundation for the Humanities, *Encyclopedia Virginia*, May 31, 2012, http://www.EncyclopediaVirginia.org/Twenty-Slave_Law.

addition to the obvious expansion of the production of military hardware, the nation had to produce vast quantities of preserved and canned food, boots, uniforms, bugles, drums, saddles and reins, and other equipment and accoutrements. Nonmilitary industrial production that was used for the war effort, such as rails for train tracks, engines for trains, and wire for telegraph lines, further changed and modernized the nation by creating new jobs, new factories, investments, and profits.

Similarly, the war cost money. Paying for the war was enormously complicated, as Jenny Bourne shows in "To Slip the Surly Bonds of States' Rights and Form a More Perfect (Financial) Union: One Legacy of the Thirty-Seventh Congress." Among other things, the war led Congress to pass the nation's first income tax and to print paper money for the first time since the Revolution. As Bourne notes: "Congress resorted to innovative schemes, including the first-ever income tax, widespread use of fiat money issued via newly created national banks, massive amounts of government borrowing, and debt sold directly to the public." The war allowed Congress to remake the national economy, in part because of necessity. Secession also made it possible. With the demise of the Bank of the United States in the 1830s, opposition to national economic policy—and even a national currency—had been a mantra of the Democratic Party, which usually controlled Congress and the White House in this period.[8] But with the absence of Southern states' rights legislators and the resulting huge Republican majority in Congress, nationalizing economic legislation was possible. The nation now had paper currency—greenbacks—that was backed not by gold or silver but by only the full faith and credit of the United States. Today we take such currency for granted, as we spend and receive Federal Reserve notes. But in 1862 and 1863 the laws creating this currency—the Legal Tender Acts—were revolutionary,[9] and we still live under the currency regime they helped create.

[8]The only exception to control of the White House was the four years of the Taylor–Fillmore presidencies (1849–53) and the first month of William Henry Harrison's presidency in 1841. Harrison's successor, John Tyler, was a states' rights slaveholder from Virginia and a lifelong Democrat who generally opposed Whig economic policies.

[9]"An Act to Authorize the Issue of United States Notes, for the Redemption or Funding Thereof, and for Funding the Floating Debt of the United States [First Legal Tender Act]," Act of Feb. 25, 1862, 12 Stat. 345 (1863); "An Act to Authorize an Additional Issue of United States Notes, and for Other Purpose," Act of July 11, 1862, 12 Stat. 532 (1863); and "An Act to Provide Ways and Means for Support of the Government," Act of Mar. 3, 1863, 12 Stat. 709 (1863).

In 1862 Congress created the Internal Revenue Service, and of course we live under that regime as well.[10] We live under a tax system created by the war.

The military's insatiable appetite for manpower, the use of greenbacks as a national currency, and the general expansion of the federal government in Washington led to another dramatic change in national culture: the employment of women. The diversion of more than two million men into the military forced Americans to rethink gender roles, and pointed the way toward a postwar world where women would be working outside their homes as never before. All of the war production affected the labor market and who worked. For the first time in American history the federal government hired women in large numbers, as Daniel W. Stowell explains in "Abraham Lincoln and 'Government Girls' in Wartime Washington." The "employment of female clerical workers in the federal government dates to the fall of 1861, when Francis E. Spinner, treasurer of the United States, began to employ women to cut and count treasury notes." As Stowell tells us, Spinner was appalled to find healthy young men cutting newly printed sheets of currency into individual bills. Spinner believed "these young men should have muskets instead of shears placed in their hands," and with these men fighting the Confederates, Spinner would hire women (at lower wages) to do what, to nineteenth-century men, appeared to be women's work—cutting things with shears. After the war, the nation realized that this single move led to a permanent change in the American labor market. Women could now be employed as clerks for the government. Paid less than men, women nevertheless realized that wielding scissors and working for the Treasury Department put food on their tables, allowed them to make an important and meaningful contribution to the war effort, and put more soldiers in the field to defeat the Southern traitors. It also set the stage for a far greater expansion of women workers after the war.

Legislation passed during the war for nonmilitary purposes promised to further alter Northern society. During the war, Congress passed a plethora of laws that reshaped the nation but had nothing to do with the military.[11]

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[10] "An Act to Provide Internal Revenue to Support the Government and to Pay Interest on the Public Debt," Act of July 1, 1862, 12 Stat. 432 (1863).

[11] See Finkelman, "The Summer of '62."

Thus, Congress created the Department of Agriculture,[12] passed the Homestead Act,[13] upgraded public education in the District of Columbia,[14] and passed laws for the creation of the transcontinental railroad[15] and land-grant colleges.[16]

While the war slowed down America's relentless westward expansion, it also stimulated it. The Pacific Railroad Act promised that those who moved west would be increasingly less isolated from their families and friends in the East, and the goods they grew, raised, mined, and produced would be more likely to reach favorable markets. The Land-Grant College Act, as Peter Wallenstein explains, also tied the East to the West during the war. By allocating western lands to provide money for eastern (and in the future, western) public colleges, the law gave easterners a reason to support western settlement. The new colleges would benefit the whole nation.

The West had of course always been a place of warfare. Before the Civil War the main occupation of the army had been to threaten or fight Indians, to force them to move farther west, and sometimes to protect them (however briefly) from overreaching white settlers. With the Civil War raging, the government had fewer resources to support a frontier army and less need. Thus, during the war, the United States was certainly not pushing for western migration or an aggressive policy toward Indians. But, as my own chapter on the Dakota War in Minnesota shows, white-Indian relations did not come to a standstill during the Civil War. The brief war ended in defeat for the Dakota and a forced migration out of Minnesota. After the war the military sought to execute more than 300 Dakota soldiers in a

[12]"An Act to Establish a Department of Agriculture," Act of May 15, 1862, 12 Stat. 387 (1863).

[13]"An Act to Secure Homesteads to Actual Settlers on the Public Domain [The Homestead Act]," Act of May 20, 1862, 12 Stat. 392 (1863).

[14]"An Act to Provide for the Public Instruction of Youth in Primary Schools throughout the County of Washington, in the District of Columbia, without the Limits of the Cities of Washington and Georgetown," Act of May 20, 1862, 12 Stat. 394 (1863). It is worth noting that only North Carolina had even a rudimentary system of public schools in the South.

[15]"An Act to Aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to Secure to the Government the Use of the Same for Postal, Military, and Other Purposes [The Pacific Railroad Act]," Act of July 1, 1862, 12 Stat. 489 (1863).

[16]"An Act Donating Public Lands to the Several States and Territories Which May Provide Colleges for the Benefit of Agriculture and Mechanic Arts [The Morrill Land-Grant College Act]," Act of July 2, 1862, 12 Stat. 503 (1863).

grotesque attempt at racist vengeance. Lincoln commuted (and effectively pardoned) 87 percent of those sentenced to die, just as he reprieved countless soldiers sentenced to the firing squad for failing to stay awake on guard duty, succumbing to their fears in battle, or believing, in an almost premodern view of military service, that they needed to return home for the funeral of a parent. The Dakota War was a reminder, in the middle of the War for the Union, that on the home front racism and oppression of Indians remained common and palpable. It is also a reminder of Lincoln's ability, in the midst of the awful carnage of the war, to prevent unnecessary killing wherever he could. Finally, the trials after the war and Lincoln's willingness to prevent the vast majority of the proposed executions, pointed to an age when the law of war would become part of military and political policy.

Emblematic of how the war changed the nation and the home front are the last two essays in this book. Jean H. Baker takes us into the Executive Mansion—what today we call the White House. Here the war and the home front intersected every day, all day long. President Lincoln lived his life, struggled with marriage and family issues, and tried to raise one young son and guide another who was on the cusp of adulthood. He also faced the war, every day, every night. As Baker writes: "The White House, with its multiple functions as a family residence, an executive office, and the location of endless ceremonies and rituals, complicated the sixteenth president's tenure in many, not always positive, ways." Lincoln met dignitaries, generals, and individual citizens in the White House. He invited Frederick Douglass to discuss policy with him, thus rewriting the rules of racial etiquette in America, as a president sought the advice of a black man. He considered political strategy and military strategy. He slept, often fitfully, worrying about the carnage of the war and the future of a nation "dedicated to the proposition that all men are created equal." It was there he drafted the Emancipation Proclamation, to finally end slavery, and promised the nation a new birth of freedom.

Just as Lincoln drafted the language of liberty and freedom at his home—the White House—during the war, Congress helped provide a symbolic message of freedom to the nation through the architecture of the Capitol. As Guy Gugliotta teaches us in this volume, with most Southerners no longer in Congress, the Capitol dome could now be completed. In the 1850s, Southerners in Congress had prevented the design of the iconic statue

"*Freedom*—a gorgeous, wraithlike figure wearing a 'liberty cap,'" sitting on top of the building. Powerful Southerners in Congress backed former Senator Jefferson Davis of Mississippi, who, as secretary of war, was able to prevent the national government from crowning Congress with an icon of "freedom" and a "liberty cap," because the cap was a cultural condemnation of slavery. He pushed for a new design of *Freedom* that Congress accepted, but the proslavery Buchanan administration and the Southern Democrats in Congress still prevented completion of the dome. But in 1861 Davis had embraced treason as the president of the Confederacy. Although he was a graduate of West Point, Davis had ordered his troops to fire on the United States Army at Fort Sumter and continued to make war on his former comrades-in-arms. But he could no longer stop the nation from embracing freedom with an icon to liberty at the top of Congress.

Thus, as Guy Gugliotta notes in his chapter, the symbol of the home front finally sat atop the Capitol dome in 1863—"a robust nineteen-foot Indian princess–Roman goddess with a buckskin skirt, classical drapery above the waist, European features, and a bird purporting to be an American eagle sitting on her head with its mouth open." The statue, called *Freedom Triumphant in War and Peace*, was "bolted in place atop the Capitol dome during the depths of the Civil War."

The message was clear: the American nation, backed by the Emancipation Proclamation, now stood for freedom. This freedom was being implemented by a gigantic army that included former slaves, free black volunteers, and conscripted whites, all paid in greenbacks. The war had permanently changed the nation, and these changes in turn made a victory for *Freedom* possible. As we know, in hindsight, it was an incomplete and imperfect victory, but it still brought the nation many steps closer to the "new birth of freedom" Lincoln promised in the Gettysburg Address.