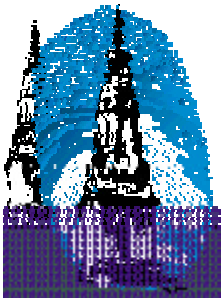


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**Secession, the EU, and Lessons from the U.S. Civil War:
Why Didn't the U.S. Civil War Go On and On?**

Richard J. Sweeney

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Secession, the EU, and Lessons from the U.S Civil War:

Why Didn't the U.S. Civil War Go On and On?

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Abstract: The post-Civil War reconciliation between the North and the South is a very rare event in the history of civil wars. The South was thoroughly beaten. Top generals, particularly Robert E. Lee, saw further fighting as "useless effusion of blood." There was no call by top Confederate leaders for continuing the fight with the type of bushwacking that occurred in Missouri and Kansas. Reconstruction is often thought of as harsh, but compared to the standards of history Confederates were by and large treated well after the Civil War. Within a decade or so of the end of the Civil War, conservative white elites had established political, economic and social dominance in the South. They had lost their "slave property" and the "government of our own." They could never get back slavery, and a government of their own was not worth fighting for. There was little reason for the kind of persistent low-level guerilla warfare that often occurs after civil wars, or the organization of a succession of rebellions.

Essay 5

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Secession, the EU, and Lessons from the U.S Civil War:

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“With malice towards none, with charity for all ... let us strive on ... to bind up the nation's wounds, ... to do all which may achieve and cherish a lasting peace among ourselves and with all nations.”

Abraham Lincoln, *Second Inaugural Address* [March 4, 1865]

“The attempt to establish a separate and independent confederation has failed... You have been good soldiers, you can be good citizens. Obey the laws, preserve your honor, and the government to which you have surrendered can afford to be and will be magnanimous.”

Nathan Bedford Forrest, Lt. Gen., CSA, *Farewell Statement* [May 9, 1865]

The country miraculously avoided the bloody reprisals that commonly follow civil wars. The victors were amazingly lenient ... The leaders of the southern “rebellion” not only saved their own necks, but after a brief period of “reconstruction” regained their dominant social, economic, and political positions.

George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* [1984]

Sweeney (2003) argues that, in designing a new constitution, the European Union should take great care to remove issues that might lead to future attempts at secession. He argues that, in some plausible circumstances, secession might be a disaster for the EU. Secession by Ireland or Estonia need not be serious and could be handled amicably. The danger arises from the possibility that the EU will split into large, hostile federations; this is what happened when the Confederacy split from the Union in 1860-1861. In particular, if the EU should split into multiple federations, with one centered on France and another on Germany, the possibility of hostile relations would be an important danger. He further argues that using force to keep a region from seceding is likely to

have severe consequences, because even victory is highly unlikely to lead to reconciliation; in the same way, war between regions that result from secession is likely to lead to periods of peace between wars, not reconciliation.

Attempts at secession often provoke civil war, as happened in the U.S. Defeat of the seceding region on the battlefield often does not end the conflict. Rather, the fighting may degenerate into guerilla warfare. In other cases, fighting dies down for a period, but underground resistance is organized, and rebellion occurs again. Neither form of continued fighting happened in the case of the U.S. Civil War. The reconciliation in the U.S. is a very rare result, however, and is not to be expected in most cases of secession that degenerate into civil war. This paper explores why the Civil War ended once and for all. It shows that the favorable circumstances the U.S. faced are unlikely to recur in the future. If the EU were to split into large, hostile blocs, warfare might well occur (Sweeney 2003), but this paper makes clear from examining the U.S. case that battlefield victory is unlikely to lead to reconciliation.

It is not clear at first glance why the North and South reconciled, and in particular, why the South did not continue hostilities with guerilla actions, or with underground organization, and then later rebellions. Put another way, a series of questions arise. Why did the South lose, in the sense of its armies surrendering in April-June 1865? Why did the South accept this defeat rather than continue to fight in a guerilla war in partisan bands? Why did the South not organize an underground resistance movement, aimed at eventually overthrowing the federal government on Southern territory and reestablishing the Confederacy? Why was there no later rebellion?

There is a huge literature on why the South lost, or the North won, in the sense that Confederate generals and the Confederate government were reduced to the desperate situation they faced just before Lee's surrender at Appomattox on April 9. This literature is unanimous that the

South was at that point unable to continue the war in the same style as before, with large bodies of men in the tens of thousands, set piece battles, and defense of fixed positions and large amounts of territory. None of the top Southern commanders believed that further conventional fighting would produce results worth the cost. Why did the South not turn to other forms of warfare, resistance and organization to continue its struggle? Instead, reconciliation started early to replace struggle, and the attempts at struggle that occurred were few, weak and short-lived.

The Polish Home Army fought on after defeat by the Germans and Soviets. Ireland experienced hundreds of years of rebellion. Both the Polish and the Irish continued to desire to establish independent countries. Similarly, when the Confederacy was founded, many Southerners looked on “a country of our own” as a good thing, in and of itself. Others, however, viewed it more as a means for avoiding the dangers they saw from remaining in the Union. Many of these dangers, though hardly all, were centered on the issue of slavery. The Union might cause the economic death of slavery, or might emancipate the slaves with or without compensation. Protecting their “slave property” was one reason Southerners contemplated secession. Further, most Southerners and many Northerners believed that free blacks and whites could not live together in peace. By April, 1865, it was clear that owners of “slave property” were going to lose this property, and that it was unlikely that it could ever be reclaimed, no matter what happened politically in the territory of the Confederacy. Even if a new Confederacy were to arise, it would be hard to re-enslave the black population and to re-allocate it among claimants, and all the harder the greater the amount of time before the new Confederacy arose. But, as noted, another part of Southern concerns about slavery turned on social, economic and political questions about the status of blacks. It soon became clear that southern states could be part of the Union and still keep white-supremacy control over blacks to an extent that satisfied even hard-line whites.

The remainder of this paper concentrates on two issues. The first is why the Confederate armies surrender and their men virtually all returned home in peace in April and May, 1865, rather than breaking up into small groups to continue the fight in the form of a guerilla war. On the one hand, Abraham Lincoln argued that once southern soldiers had surrendered and returned to their homes they would not fight further. "Let them once surrender and reach their homes, [and] they won't take up arms again." On the other hand, one might argue that even if Confederate leaders wanted to continue resistance in other ways, surrender made sense. If some of the troops were to continue with guerilla warfare, all the troops would be better off if the Southern armies were surrendered and the men and most officers paroled to return to their homes. The second issue, then, is why, having surrendered and returned home in peace, the former Confederates did not organize an underground and pursue both urban and rural warfare. This question is particularly relevant because the South underwent Congressional Reconstruction, viewed as particularly harsh, from 1867 to 1877.

1. Confederate Generals Surrender

The reconciliation started in part because of the behavior of the chief Confederate generals. They surrendered their troops, sent them home, and by and large urged them in going to be good citizens; Union generals by and large were helpful in this effort. At the time of Appomattox, April 9, 1865, Lee led the Army of Northern Virginia, and Joseph Johnston commanded the remaining Confederate troops in the Carolinas. Richard Taylor led the troops in Alabama, Mississippi and Western Louisiana, and Edmund Kirby Smith the troops in the Trans-Mississippi theater (Texas, Arkansas, Missouri and Eastern Louisiana).

Most historians conclude that Robert E. Lee played a substantial role in the reconciliation of North and South, starting with his surrender at Appomattox, and continuing with his steadfast

view that former Confederates should do all in their power to reconcile with the re-united U.S.

Lee was from a distinguished old Virginia family that had played a large role in the Revolutionary War and in the foundation of the United States. His father, Harry “Light horse Harry” Lee was a military hero in the Revolution. His wife Mary Custis was a great granddaughter of Martha Custis Washington, and thus a step-great granddaughter of George Washington.¹ Foote (1974, p. 942) writes that on April 9, 1865, Lee asked his generals, Longstreet, Mahone and Alexander their “opinion of on the question of surrender.

Countering with a question of his own, [Longstreet] asked whether sacrifice of the Army of Northern Virginia would in any way help the cause elsewhere. Lee said he thought not. ‘Then your situation speaks for itself,’ Old Peter told him. Mahone felt the same.... Alexander disagreed.... [H]e proposed that the troops take to the woods, individually and in small groups, under orders to report to the governors of their respective states. That way, he believed, two thirds of the army would avoid capture by the Yankees... Lee heard the young brigadier out, then replied in measured tones to his plan. ‘We must consider its effect on the country as a whole,’ he told him. ‘Already it is demoralized by four years of war. If I took your advice, the men would be without rations and under no control of officers. They would be compelled to rob and steal in order to live. They would become mere bands of marauders, and the enemy’s cavalry would pursue them and overrun many sections that they may never have occasion to visit. We would bring on a state of affairs it would take the country years to recover from. And as for myself, you young fellows might go bushwacking, but the only dignified course for me would be to go to General Grant and surrender myself and take the consequences of my acts....’ [Alexander long afterwards wrote], ‘I had not a single word to say in reply.... He had answered my suggestion from a plane so far above it that I was ashamed of having made it.’”²

¹ Nagel (1990) discusses the Lees of the Revolutionary War period: the brothers Richard Henry (who made the motion that resulted in the Declaration of Independence), Francis Lightfoot “Frank”, William, Arthur and Thomas Ludwell; their cousin Richard “Squire”; and their much younger cousin, Henry “Light-Horse Harry” Lee (1756-1818). Henry Lee led a combined cavalry-infantry unit in the Revolution, known as Lee’s Legion, and rose to be a colonel; he was appointed a Virginia militia major general during the Whiskey Rebellion. He was a strong supporter of adopting the Constitution at the Virginia ratifying convention (his cousin Richard Henry was a leader of the opposition). He contributed the memorable words “first in war, first in peace, first in the hearts of his countrymen” to a eulogy for George Washington, an old family friend, which John Marshall delivered in the House (Smith 1996). Robert E. Lee (1807-1870) was the ninth of ten children and the last son by his two wives. Robert’s mother Ann was born into the prominent Carter family. Robert’s father lost all his wealth, spent time in debtors’ prison, jumped bail, fled America and died in disgrace. He was, however, given a military burial with full pomp. Freeman (1936, vol. I, p. 23) argues that Ann inculcated in Robert “qualities which were the exact reverse of those his brilliant father had displayed...”

² Thomas (1995, p. 362n) notes that there are two (close) versions of Alexander’s story. Thomas (p. 362) quotes Alexander as planning “to scatter like rabbits and partridges in the woods...” Thomas (p. 362) says Alexander responds to Lee’s views by writing, “Then I thought I had never known what a big heart & brain our general had.” See also Freeman’s (1936, Vol. IV, pp.121-123) discussion. Freeman writes that, “Alexander proposed, as an alternative to surrender, that the men take to the woods with their arms, under orders to report to the governors of their respective

Grant essentially offered Lee only unconditional surrender. But Grant also played an important part in reconciliation. In the *details* of how the unconditional surrender was to be carried out, Grant was careful to spare Southern feelings, and made generous concessions. Officers were allowed to keep their side arms and mounts; in response to Lee's leading question, Grant also agreed that enlisted men could take home horses and mules they owned.

During the siege of Richmond-Petersburg, Grant and Sherman had met with Lincoln at City Point, starting March 24, 1865 (Winik, pp. 64-68), where Lincoln lodged on the *River Queen*.

There

Lincoln announced to Grant and Sherman what would become known as the *River Queen* doctrine, offering the South the most generous terms: "to get the deluded men of the rebel armies disarmed and back to their homes... Let them once surrender and reach their homes, [and] they won't take up arms again." And further, "Let them all go, officers and all, I want submission, and no more bloodshed... I want no one punished; treat them liberally all around. We want those people to return to their allegiance to the Union and to submit to the laws."^{3, 4}

Very likely based on these discussions, in the final sentence of the surrender document, Grant stipulated where the surrendered troops were to go and how they were to behave. He wrote,

states." Lee asked, "[H]ow many men do you suppose would get away?" the response is, "Two-thirds of us..." Lee said, "I have not over 15,000 muskets left. Two-thirds of them divided among the states, even if all could be collected, would be too small a force to accomplish anything. All could not be collected. Their homes have been overrun and many would go to look after their families." (Freeman 1944, vol. III, pp. 729-730 gives an abbreviated version of this.)

³ Donald gives a more nuanced discussion indicates its dependence on several sources. Donald writes (p. 574): "His [Lincoln's] worst fear, which he repeatedly expressed, was that once the Confederate armies were defeated Southern soldiers 'would not return to their homes to accept citizenship under a hated rule; and with nothing but desolation and want through the South, the disbanded Confederate soldiers would be tempted to lawlessness and anarchy.'" [Quoted from McClure (1902, p.296).] "Consequently his objective was to secure not merely peace but reconciliation. Bringing Grant, Sherman and Admiral David D. Porter together for a conference aboard the *River Queen* on March 28, Lincoln discussed the approaching end of the war and talked of offering the most generous terms in order to 'get the deluded men of the rebel armies disarmed and back to their homes.' [Quoted from Sherman's statement in Arnold (1885, p. 423n).] "Let them once surrender and reach their homes," he said, "[and] they won't take up arms again. Let them all go, officers and all, I want submission and no more bloodshed...I want no one punished; treat them liberally all around. We want those people to return to their allegiance to the Union and to submit to the laws.'" [Quoted from David D. Porter's statement in Segal 1902, p. 383.]

⁴ Others scoff that Lincoln's comments were part of a series of rambling, often anguished discussions rather than any sort of coherent plan, let alone doctrine.

each officer and man will be allowed to return to their homes, not to be disturbed by the United States authority so long as they observe their paroles and the laws in force where they may reside. (Foote, p. 947.)

This could be interpreted as giving amnesty to all soldiers in the Army of Northern Virginia (Simpson 2000, p. 435).⁵ Grant later insisted the Federal government interpret it this way, threatening President Johnson he would resign otherwise; Johnson acquiesced.⁶ For a number of years, prosecution of Lee for treason was still a possibility, but was then definitively ended under the Christmas amnesty of 1868.

⁵ In this last paragraph of the surrender terms, Grant appears clearly to have overstepped instructions he had received in March: "You are not to decide, discuss, or confer upon any political question. Such questions the President holds in his own hands; and will submit them to no military conferences of conventions." (Winik, p. 298.) [Donald 1995, p. 681, n. to p 573, states that, "though the letter is signed by Stanton, it is in Lincoln's handwriting."] Donald interprets this instruction: "Lincoln was not just ordering the generals to follow protocol: he wanted to make sure that any negotiations led not merely to a suspension of fighting..." (pp. 573-574.) "Again and again during his two weeks at the front, he expressed concern that Lee might break away from Grant, lead his forces into North Carolina, where they could join the remnants of the Confederate army again under Joseph E. Johnston, and either fight another great battle or escape south to continue the war." (Donald 1995, p. 573.) Consistent with this interpretation, Lincoln approved of Grant's terms after the fact. Grant attended a cabinet meeting where he explained the terms; Lincoln was in good spirits and approved, and no one in the cabinet objected to the leniency. (Simpson 2000, p. 441-442; Donald 1995, pp. 590-91; Foote 1986, p 975.)

⁶ Grant's final sentence in the surrender terms he gave Lee, and his stand behind it, had wide implications that he well understood. Catton (1954) writes:

They could proceed against Robert E. Lee ... only by violating the pledged word of U.S. Grant, who had both the will and power to see his word kept inviolate. If they could not hang Lee, they could hardly hang anybody. There would be no hangings. Grant had ruled them out.

In another place, Catton (1968, p. 466) makes a similar point:

Because of that final sentence, no Confederate soldier, from Lee on down, could be prosecuted for treason; in effect, this was a general amnesty. There could never be a proscription list to poison the peace with the spirit of vengeance and hatred. Grant had ruled it out.

Simpson (2000, p. 453) writes of Grant's threat, "'And I will keep my word,' he told his staff on his return to headquarters. 'I will not stay in the army if they break pledges I make.'" In a draft report (June 20, 1865, never submitted), Grant wrote: "Lee's great influence throughout the whole South caused his example to be followed, [resulting in] peace and quiet." Grant states his belief that if Lee had known at Appomattox that he would be tried for treason, "the surrender would never have taken place." (Simpson 2000, p. 454.)

Thomas (1995, pp. 370-371) provides background and timing:

On June 7, 1865, a federal grand jury in Norfolk, Virginia, indicted Lee for treason.... On June 13, Lee stated his case to Grant: 'I had supposed that the officers and men of the Army of Northern Virginia were, by the terms of the surrender, protected by the United States Government from molestation so long as they conformed to the conditions....' Grant agreed with Lee that the terms of surrender precluded trials for treason. Grant believed that such lenient provisions had forestalled a guerrilla war, and intended to honor his promise. Indeed, Grant threatened to resign if Andrew Johnson abrogated what Grant believed was his pledged word at Appomattox. The president relented and Grant was able to write to Lee on June 20 that he need not worry about standing trial for treason.

Further, during his meeting with Lee at Appomattox, Grant ordered provision of rations for Lee's defeated army. After the meeting, he also stopped celebrations by the Union army: "The war is over. The Rebels are our countrymen again." (Simpson 2000, p. 436.)⁷ The surrender ceremony (April 12) was dignified on both sides, and spared the Confederates humiliation. McPherson (1988, p. 850) reports Federal Major General Joshua Chamberlin's description of how the Federals gave the Confederates the most honorable salute by holding their rifles at the "carry arms" position, and the Confederates returned the salute in the same way. (Freeman 1936-1938, Vol. IV, pp. 745-752, also describes the surrender.)

In the meantime, Lee had distributed a farewell address to his army (General Order Number 9, April 10 1965) that urged his men to be proud of themselves and return home in peace, and he made as clear as possible that the war was over (Dowdey and Manarin 1961, pp. 934-935, italics added):

After four years of arduous service, marked by unsurpassed courage and fortitude, the Army of Northern Virginia has been compelled to yield to overwhelming numbers and resources.

I need not tell the brave survivors of so many hard fought battles, who have remained steadfast to the last, that I have consented to the result from no distrust of them.

But feeling that valor and devotion would accomplish *nothing* that would compensate for the loss that must have attended the continuance of the contest, I determined to avoid the *useless sacrifice* of those whose past services have endeared them to their countrymen.

By the terms of the agreement officers and men can return to their homes and remain there until exchanged. You will take with you the satisfaction that proceeds from the consciousness of *duty faithfully performed*, and I earnestly pray that a Merciful God will extend to you His blessings and protection.

With our increasing admiration for your constancy and devotion to your country, and a grateful *remembrance* of your kind and generous considerations for myself, I bid you an affectionate farewell.

⁷ McPherson (1988, p.850) supplies the continuation of the quotation, from Grant (1885-1886): "and the best sign of rejoicing after the victory will be to abstain from all demonstrations."

This statement contains no hint of any desire on Lee's part to fight on, let alone in a guerilla war.

Lee's stature in the South was great. Gallagher (1997) presents one view of his influence.

"On the Confederate side, Chancellorsville crystallized Lee's image as the nation's chief hope." (p. 139.) "Thus could a European visitor to the Confederacy report in March 1865 that Lee was 'the idol of his soldiers and the Hope of His country.'" (p. 140.) "Robert E. Lee and his Army of Northern Virginia eventually became the most important national image." (p. 8.) "Lee's surrender at Appomattox convinced virtually all Confederates that their attempt at nation-building had failed." (p. 9.)

This view may be an overstatement—how can it be proved or refuted? Nevertheless, the data are consistent with this view that Lee did have great influence.

Edward Porter Alexander, Lee's chief artilleryman, had urged guerilla war (see above).

Later, he concluded that "the exceedingly liberal treatment" in Grant's terms "could only be ascribed to a policy of conciliation deliberately entered upon." (Simpson 2000, p. 439.) Grant made further attempts at conciliation. For example, he declined to visit the defeated Richmond (April 12) lest his presence:

... might lead to demonstrations which would only wound the feelings of the residents, and we ought not to do anything at such a time which would add to their sorrows. (Simpson 2000, p.440.)⁸

Joseph E. Johnston. Johnston wrote to General William T. Sherman, asking for surrender terms, on April 14, 1865, Good Friday, coincidentally the day Lincoln was shot. Sherman's army was closing in on Johnston's; as Sherman later told Grant, he feared that

Johnston overtaken, might 'allow his army to disperse into guerilla bands' and thereby cause the war to be 'prolonged indefinitely.' In this mood, Sherman at first negotiated a surrender with Johnston that covered all remaining Confederate troops (April 18, 1865). Sherman's intention was that '[A]ll the gray armies ... would disband *en masse*, rather than *fragment* themselves into *guerilla bands* which might disturb and bedevil the nation for years to come.' (Foote, 1986, p. 993, italics added.)

⁸ Lincoln visited Richmond on April 4, the day after it fell, and his wife Mary Todd Lincoln paid a separate visit, followed by Grant's wife Julia, who urged Grant on April 12 to visit.

The surrender document that Sherman offered Johnston on April 16 went too far in offering generous terms by touching on political issues. Grant traveled to Sherman, and following instructions from the new president, Andrew Johnson, and his cabinet, informed Sherman that the surrender document was unacceptable to the federal government (April 24, 1865, the same day that Jefferson Davis finally informed Johnston that the terms were acceptable).⁹ Sherman informed Johnston of this rejection and stated that the truce was to be revoked in 48 hours. Johnston then agreed to surrender on the same terms as Lee (April 26, 1865). These negotiations were eased throughout by the admiration and sympathy Johnston and Sherman rapidly developed for each other (Foote 1986, pp. 988-996).

Other Confederate Military Leaders. Meanwhile, Lieutenant General Richard Taylor, Confederate commander of Alabama, Mississippi and Eastern Louisiana, asked (April 18, 1865) Union Major General Edward R. S. Canby for the same terms as Sherman's first agreement with Johnston, and the two agreed on this (April 30, 1865). They then ate a luxurious and cordial meal together, including champagne and band music (Foote 1986, p. 999). When the unacceptability of the Sherman-Johnston agreement was made clear, Taylor agreed to surrender on the same terms as Lee and Johnston. Taylor was a well-known figure, a slaveholder from Louisiana and the son of General Zachary Taylor, a hero of the Mexican War of 1846-1848, who was elected president as a Whig in 1848 and died in office in 1850.

Sherman had written to Grant a week before Richard Taylor's surrender that:

I now apprehend that the rebel armies will *disperse*, and instead of dealing with six of seven states, we will have to deal with *numberless bands of desperadoes*, headed by such men as Mosby, Forrest, ... and others who know not or care not for danger and its consequences. (Foote 1896, p. 1000, italics added.)

⁹ Grant wrote to Secretary of War Stanton that Sherman "was not surprised but rather expected ... rejection" of the surrender document. Grant argued to Stanton that Sherman had acted "entirely [on] what he thought was precedent authorized by the President [i.e., Lincoln]." (Fellman 1995, p. 246.)

Sherman, however, misunderstood and perhaps underestimated the moral position of Confederate cavalry commanders.

Colonel John S. Mosby, commander of a squad of cavalry rangers, was in a natural position to turn to guerilla warfare in Virginia; he never had more than 200 troops, and they operated in small platoons of a few to a few dozen troopers (Winik, p 156). In mid-April, Mosby sent a messenger to Lee, asking for advice; Lee responded to the messenger, “Go home, all you boys who fought with me. Help to build up the shattered fortunes of our old state.” (Winik, p. 325). On April 21, Mosby disbanded his rangers, remarking, “We are soldiers, not highwaymen.” (Foote, 1986, p. 1000.) Mosby himself did not surrender, but tried to reach Johnston’s army; when he heard of Johnston’s surrender, he soon asked for parole.

Lieutenant General Nathan Bedford Forrest, commanding all cavalry in Richard Taylor’s district, decided on May 8, 1865, to surrender rather than fight on, perhaps from Mexico. For one thing, Forrest despised actions by Quantrill and other bushwackers.¹⁰ On May 9, he issued a farewell statement to his troops that made clear that in his view the war was over, and his men should go home and be good citizens (Winik, p. 320-322). He wrote (Foote 1986, pp. 1001-1002, italics added):

Soldiers:

By an agreement between Lieutenant General Taylor, commanding the Department of Alabama, Mississippi and East Louisiana, and Major General Canby, commanding U.S. forces, the troops of this department have been surrendered That *we are beaten* is a self-evident fact, and any further resistance on our part would be justly regarded as the

¹⁰ For Forrest, as well as for Lee (see quote above), “bushwackers” and “bushwacking” were terms of opprobrium. The guerilla violence in Missouri appalled many Southern leaders (Fellman 1989). In addition, there was important evidence that citizens in occupied southern territory were, by spring 1865, not eager to engage in guerilla war (Ash 1995). W. Davis (1996), discussing John C. Breckinridge as Confederate Secretary of War, writes:

When complaints reached his ears from Nathan B. Forrest and others that men raising companies in the mountains of Kentucky refused to join regular volunteer service when ordered, Breckinridge sent his own cousin into Kentucky with orders that all Confederates who did not come out and join the army would be handed over to the enemies as guerillas.

height of *folly* and *rashness*... Reason dictates and humanity demands that no more blood be shed....

Civil war, such as you have just passed through, naturally engenders feelings of animosity, *hatred*, and *revenge*. It is our duty to divest ourselves of all such feelings, and, so far as we have it in our power to do so, to cultivate feelings towards those with whom we have so long contested and heretofore so widely but honestly differed. Neighborhood *feuds*, *personal animosities*, and *private differences* should be blotted out, and when you return home a manly, straightforward course of conduct will secure the respect even of your enemies.... The attempt to establish a separate and independent confederation has *failed*... You have been *good soldiers*, you can be *good citizens*. Obey the laws, preserve your honor, and the government to which you have surrendered can afford to be and will be magnanimous.

This clearly repudiates any desire on Forrest's part to continue the fight with guerilla war.

Other potential guerrilla leaders were rounded up. On May 8, General Joe Wheeler was captured in Georgia in his attempt to get to the Trans-Mississippi. On May 30, Confederate General John B. Hood, accompanied by only a few aides, and under orders to go to the Trans-Mississippi, was picked up by federal troops while still east of the Mississippi, and the next day was granted his parole.

Kirby Smith, commander of the Trans-Mississippi district, sent General Simon Buckner to Canby at New Orleans on May 25, and Buckner agreed the next day to surrender on the same terms as had Lee, Johnston and Taylor. On June 2, Kirby Smith signed the surrender documents on a federal ship in Galveston Bay, Texas. Not trusting the generosity of the Union government, Kirby Smith joined General Jo Shelby and other Confederate troops in escaping to Mexico. These troops never intended, however, to carry on the war from Mexico; many of them later drifted back to the U.S. Confederate Brigadier General Stand Watie, a Cherokee commanding Indian troops from several tribes, was the last Confederate general officer to surrender on June 23, 1865, at Doakville in Indian Territory (later Oklahoma).

2. Confederate Civilian Leadership

By early April, 1865, the high-ranking civilian leaders of the Confederacy had begun to think of surrender, all of them save Confederate President Jefferson Davis.¹¹ On April 2, Sunday, Davis fled Richmond by train towards Danville, VA. Davis planned to fight on. He wrote:

The design, as previously agreed with General Lee, ... , was that if he should be compelled to evacuate Petersburg, he would proceed to Danville, make a new defensive line of the Dan and Roanoke rivers, unit his army with the troops in North Carolina, and make a combined attack on Sherman. (Foote 1986, p. 891.).

Lee had proposed to Davis on March 4, 1865 (the day Lincoln was inaugurated for a second term), the plan of withdrawing from Richmond and Petersburg to join with Johnston and attack Sherman (Winik 2001, pp. 31-32). April 3, the day after Davis left, Union General Weitzel entered Richmond at 8:30am. Lincoln spent April 4 in Richmond, and then spent the night aboard a federal ship off Rockets Landing, near Richmond.

On Tuesday, April 11, Davis arrived in Greensboro, North Carolina. There, he received confirmation that Lee had surrendered on April 9. On Thursday, April 13, the day before Lincoln was shot, Davis was still hopeful. To cabinet officers and others travelling with him, as well as Generals Johnston and Beauregard, who met him in Greensboro, he presented (Foote, p. 968, italics added)

his views that resistance could and must continue until the Northern people and their leaders grow weary enough to negotiate a peace that acknowledges Southern independence. "Our late disasters are terrible," he admitted, "but I do not think we should regard them as fatal. I think we can whip the enemy yet *if our people turn out.*"

Davis left Greensboro on April 15, Holy Saturday; Lincoln had died in the early hours of that morning. By April 18, 1865, Johnston had surrendered under the terms of the "Memorandum, or

¹¹ The Confederacy had no organized political parties, as a matter of ideology (Rable 1994). Of course, there was opposition to many of Davis's measures, and informal groups of opponents coalesced; as time went on and the outlook darkened, opposition strengthened. Davis, however, mostly got his way, suffering only one meaningless veto; further, Davis dominated his cabinet almost to the end. During the last month of the war, however, he began to take cabinet votes and say he was basing his decisions of cabinet advice. (W. Davis 2001). Neely (1993, 2002) argues that organized opposition in the North from Democrats was unhelpful and ineffective.

Basis of Agreement” that Sherman drew up. In Charlotte, North Carolina, on April 22, Davis asked that each of his cabinet members submit in writing his views on whether to accept Sherman’s terms, and what to do if the terms they should decide to reject the terms. Each advised accepting the terms, arguing that there was no way to support an army east of the Mississippi, and most argued that fighting would likely degenerate into guerilla war, useless and (it appears, in their view) abhorrent. Because of the cabinet’s views, Davis reluctantly agreed to Confederate armies’ surrender on Sherman’s terms, and so wired Johnston on April 26; he believed, however, that the federal government would reject these terms, forcing the armies to fight on (Winik 2002, p. 259, W. Davis 2001, pp. 188-189).

By April 26, Davis and his cabinet had been in Charlotte, North Carolina, for a week; he met for the last time with his full cabinet. The new U.S. President, Andrew Johnson, had branded the Confederate political leaders as traitors, criminals not eligible for parole. Further, Johnson asserted that Davis had played a role in Lincoln’s assassination, and a reward of \$100,000 was offered for Davis’s capture. Davis decided to leave North Carolina, and as he moved, his six-member cabinet began to fall apart with one resignation, then another. The cabinet members realized that the war was over.

Johnston’s unauthorized, unconditional surrender, on April 26, caught Davis by surprise when he learned of it. Davis had with him perhaps 3,000 cavalry troops, and he pressed on into South Carolina; at this time, Davis apparently planned to join Taylor east of the Mississippi or Kirby Smith west of it. On May 2, the leaders of the cavalry escorting Davis informed him that, as Lee had asserted, the South was exhausted, and any attempt to prolong the war would be a “cruel injustice”; he responded, “Then all is indeed lost.” He broke up his group and pressed on to Georgia with his wife and family and a few officers and men, passing through Irwindale, Georgia.

On May 9, Davis had planned to leave Georgia after dark for Texas, leaving his family behind. Foote (1986) asserts that Davis slept through, however, and when he awoke was surrounded by Union troops and forced to surrender early on May 10. Cooper (2000) asserts that Davis stayed the night because he had heard rumors that his little band, including his wife and children, might be attacked that night. On May 22, Davis was imprisoned in the federal Fort Monroe in Virginia.

3. Fears and Threats of Guerilla War

Guerilla war was an obvious fear for Federal leaders to entertain, and an obvious, last resort for Confederate leaders to contemplate. Some Southerners did indeed favor guerilla war at various times and places. General Thomas Hineman, in the Trans-Mississippi, authorized guerilla warfare, sent a number of his officers to organize it behind Union lines in Missouri, and often strongly supported guerillas (Brownlee 1958). Many Northern leaders feared guerilla war. As Sherman later told Grant, Sherman feared that “Johnston overtaken, might ‘allow his army to disperse into guerilla bands’ and thereby cause the war to be ‘prolonged indefinitely.’” (Foote, 1974, p. 993.) Again, Lincoln feared that Confederate soldiers “would not return to their homes to accept citizenship under a hated rule; and with nothing but desolation and want through the South, the disbanded Confederate soldiers would be tempted to lawlessness and anarchy.” (Donald 2000, p. 574) Grant also feared guerilla war (Simpson, 2000). Though much of the literature’s discussion of Union leaders’ fear of guerilla war is connected to the meetings of Grant, Sherman and Lincoln at City Point in March, 1865, Union leaders had strong, additional reasons to fear guerilla war.¹²

¹² Certainly, both Sherman and Grant had had extensive experience with Confederate raiders and guerillas in their commands in the West. McPherson (1992, p. 28) notes, “Guerilla warfare behind Union lines in the pro-Confederate regions [i.e., the border states] occurred on a far larger scale than in the Unionist areas behind Confederate lines.” For example, for Sherman, see Fellman (1995, pp. 139-143). Archer (1992, pp. 62-63, 69-70) estimates that between one-third and in some cases one-half of Federal troops had to be committed to protecting supplies and communications from guerilla and other raids.

Certainly the history of guerilla warfare in areas Federal forces occupied during the war suggested the possibility of substantial violence. Ash (1995, p. 40) argues that during the war, Southerners viewed occupation as a “violation, pollution, and degradation.”

The Northern soldiers were not merely invaders: they were also advance agents of a corrupt and corrupting civilization. Many Southerners had endorsed secession as an act of purification, a withdrawal from the materialism, licentiousness, and disorder that supposedly infected the North. In their eyes, invasion and occupation threatened to pollute the South, to contaminate it irreversibly.

Ash (1995, p. 41) further argues that occupation was greatly resented during the Civil War:

[E]nemy occupation was deeply degrading, particularly of Southern men, for it violated devoutly held principles of personal honor and republican independence; Subjection to military rule was the apotheosis of the dreaded loss of liberty that made men dependent and servile; such men were without honor—they were slaves. Over and over, proud Southerners spoke of the humiliation of occupation, of the forced submission to arbitrary authority, the debasing sense of impotence, the mortifying subservience to inferiors.

Further, says Ash (1995, p. 47),

Nearly every section of the South held by Union forces eventually became a theater of guerrilla warfare. The perpetrators were armed and mounted men in civilian clothes operating in groups of no more than a few dozen (usually much fewer) who seemingly appeared from nowhere to carry out their attacks and then vanished into the countryside.... [G]uerrilla attacks eventually posed a grave threat to Federal control of some of the most strategic regions, including northern Virginia and middle Tennessee.

Union experience of guerilla war in “Bleeding Kansas” and in Missouri from 1861-1865 gave Union leaders much reason to fear and try to avoid continuation of Confederate resistance through guerilla war.

[Guerillas] set their own rules of war, a war in which little mercy was shown or expected. Although their methods were robbery, arson and murder—terrorism—they believed that they were noble American revolutionaries fighting for the liberation of Missouri from the Yankee invader...

Guerilla manifestoes were usually signed with an official-sounding Confederate title, despite the fact these troops were irregulars and rarely in contact with the distant Confederate army, much less under its control. Indeed guerilla bands included many Confederate deserters. (Fellman 1989, p. 136.)

Similarly, Ash (1995, p. 49) writes:

Guerrillas ... were not soldiers, but citizens; they were not an arm of the Confederacy, but of the community and were unresponsive to Confederate authority.

General Edward P. Alexander recommended guerilla war to Lee as an alternative on the day Lee surrendered. Indeed, some of Lee's men escaped rather than be subject to surrender, but none was of the top rank. Cavalry commanders such as Colonel John S. Mosby and Lieutenant General Nathan Bedford Forrest, who could have led a guerilla cavalry war, instead disbanded their troops, urging them to go home and be good citizens. Generals Johnston and Beauregard, and Secretary of War John C. Breckinridge, saw no purpose in continued resistance, and sincerely opposed guerilla war.

Why Did Most Southern Leaders Oppose Guerilla War? The appropriate definition of guerilla war depends on the purpose of the discussion. Ellis (1995) casts a wide net in discussing guerilla war, and offers a good reason. He argues, “

[M]y policy throughout the book has been to keep the exact definition of guerilla warfare as wide as possible, to show that it is not an absolutely discrete phenomenon, but that it merges into many other types of military activity.

For other purposes, in particular in understanding the views of Civil War military leaders, the distinctions between warfare with a mobile army, partisan warfare and guerilla warfare are of key importance. First, participants may have very different views of these types of warfare. Some may view guerilla warfare as desirable in itself; others may view it as abhorrent. Some view a “peoples’ war,” such as the Chinese Revolution of the 1930s and 1940s as having innately good ideological and political properties. During the Civil War, most West-Point educated officers disapproved of guerillas, many viewing them with contempt. Second, but often related, guerilla warfare ipso facto violates the “Rules of War”; some types of partisan warfare arguably do not; and generally a mobile army need not. Inter alia, the Rules of War require combatants to carry

their arms openly, to wear insignia or uniforms that make them easily distinguishable, and to be part of a chain of command in a regular military force. Guerillas violate the first two requirements and in the Civil War typically violated the third. Fighters who violate the rules of war are subject to summary execution. Combatants who obey the rules of war have rights that have become more defined over time, but Civil War commanders generally understood some rights. For example, regular soldiers who surrender, or ask for quarter in a fight, were not to be killed. When Nathan Bedford Forrest's cavalry troopers massacred some black Union Army troops at Fort Pillow, his most honorable defense (and one that reflected poorly on him) was that his troops were out of control and did so without orders.

Thus, for the purpose of understanding behavior of Confederate leaders towards the end and after the Civil War, distinctions between types of warfare are crucial. Ash (1995, p. 48, italics added) argues,

It is important to distinguish guerrillas from the other armed and mounted bands that bedeviled the occupiers. Throughout the war Confederate cavalry forces—those under Nathan Bedford Forrest and John Hunt Morgan being the most prominent—raided behind Union lines, capturing isolated garrisons and generally wreaking havoc. Though sometimes mistaken for guerrillas by the Federals, these were in fact regular military units that were under Confederate control and returned to Confederate lines when their mission was completed. Furthermore, in some regions the Confederacy commissioned “partisan rangers”—notably in northern Virginia under the command of John S. Mosby—to operate behind Union lines. Although the occupiers refused to draw any distinction between these forces and guerrillas (partisan rangers were generally residents of the region where they operated and *some doffed their uniforms and returned home between raids*), the rangers were enrolled soldiers formally organized along military lines and more or less responsive to Confederate authority.

He argues, that in contrast,

Guerrillas ... were not soldiers, but citizens; they were not an arm of the Confederacy, but of the community and were unresponsive to Confederate authority.

The federal government issued *Laws of War* in 1863 that made these distinctions clear to all, including Confederates, as a matter of U.S. military law.¹³

In the Shenandoah Valley in 1864-1865, Phillip Sheridan at first treated captured members of Mosby's Rangers as guerillas, and hanged them. (Mosby had approximately 200 men by the end of the war.) Mosby hanged a number of prisoners taken from Sheridan's troops, and sent a letter to Sheridan that implicitly suggested they stop the hanging; they did.

Guerillas in Missouri often assumed Confederate titles and spoke or issued pronouncements in the name of the Confederate government, but they were not members of the army and were not part of the Confederate chain of command (Brownlee 1958, Fellman 1989). They often attacked civilians, and often executed people they captured. In turn, captured guerillas were frequently summarily executed. After the Civil War, some Confederate guerillas in the mid-west continued essentially the same activities, but focusing solely on civilians and mainly on robbery. Many viewed them essentially as bandits, though some Southern supporters had sympathy.

Guerilla war was first named in the Peninsular war in Spain, 1807-1813, when guerrilleros fought Napoleon's armies. Between 1810 and 1812, by one estimate (Ellis 1995, p. 75), "the Spaniards killed an average of 100 Frenchmen every day."¹⁴ From this activity, guerilla war came to attention of military thinkers in Europe. Because the British also had an army of perhaps 10,000

¹³ *Laws of War*, 1863, Section IV,

Article 81: Partisans are soldiers *armed and wearing the uniform of their army*, but belonging to a corps which acts *detached from the main body for the purpose of making inroads into the territory* occupied by the enemy. If captured, they are entitled to all the privileges of the prisoner of war.

Article 82: Men, or squads of men, who commit hostilities, whether by fighting, or by inroads for destruction or plunder, or by raids of any kind, *without commission, without being part* and portion of the organized hostile army, and *without sharing continuously in the war*, but who do so with intermitting returns to their homes and avocations, or with occasional assumption of the semblance of peaceful pursuits, divesting themselves of the character or appearance of soldiers—such men, or squads of men, are *not public enemies*,

regular soldiers in Spain for much of the time of the guerilla war (in the later years, under Arthur Wellesley, who became the Duke of Wellington), it is difficult to sort out the extent to which regular troops or guerillas contributed to driving out the French. It is often thought that the Russians used guerilla warfare against Napoleon after he invaded on June 24, 1812. More correctly, they used a strategy of retreat with the tactic of a scorched earth policy. Ellis (1995, p. 83) notes that

[F]rom the very beginning, the Russian leaders ... were very worried about the partisans and the evils inherent in their freedom from the central command.... [D]espite the frequent spontaneous enthusiasm of the peasantry and a widespread desire to participate in the liberation of their country, the Russian leaders severely repressed their efforts. The only guerilla activity they were prepared to tolerate, and that most grudgingly, was the use of bands taken from the regular military establishment, commanded by regular officers, and as much under the control as possible of the high command.

Related, Ellis (1995, p. 103) claims that

Jefferson Davis was opposed to guerrilla warfare on principle, regarding it as mere banditry, but on April 21, 1862 the passing of the Partisan Ranger Act authorized him to commission the formation of guerilla units, wherever appropriate.

During the Franco-Prussian War of 1870-1871, French forces suffered early crushing defeats. The new government that took over as a result of these defeats turned to guerilla warfare, and a good many guerilla attacks were carried out, often successfully. But Ellis notes (p. 108)

[A]ll this activity never had any chance ... The Republicans only attempted to invoke the xenophobia of the French populace ... men were ... called upon to repel the invader, and as most people realized that the Prussians were not likely to remain in France after the cessation of hostilities, it seemed pointless to risk one's life for a goal that was already inevitable, and in the foreseeable future. Thus all that the bulk of the French peasantry wanted was for the war to end as quickly as possible. Waging a guerilla war seemed one sure way to defer this event, without it bringing any other concrete gains.

4. Union Treatment of Confederates, and Confederate States

and, therefore, if captured, are not entitled to the privileges of prisoners of war, but *shall be treated summarily as highway robbers of pirates.*

¹⁴ Surely this is an overstatement. It implies 36,500 per year for three years.

The Union treated former Confederates on the whole with magnanimity, certainly compared to historical precedents. By October, 1865, all secessionist governors and most highly placed national Confederate figures had been pardoned for any criminal liabilities for their participation in the Rebellion. On April 2, 1866, Stephen R. Mallory, bearing serious responsibility as Secretary of the Navy for Confederate commerce raiding during the Civil War, was released, and Admiral Raphael Semmes, the premier Confederate commerce raider was released on April 17, 1866. (Foote, p. 1032.) That left only Jefferson Davis. Francis Lieber, a premier Union lawyer and constitutional scholar and a Radical Republican, advised the federal government that Davis “will not be found guilty and we will stand there completely beaten.”¹⁵ Salmon Chase, Chief Justice of the Supreme Court, which would hear any appeal resulting from a trial of Davis, made it known privately to the government that there was no case, in his opinion. (Foote 1986, p. 1036.) On May 10, 1867, two years to the day after his capture, Davis was granted habeas corpus, and upon making bail, was released. His indictment was finally quashed in early 1869. As Rable (1984, p. 1) notes,

The country miraculously avoided the bloody reprisals that commonly follow civil wars. The victors were amazingly lenient and executed but one rebel, Henry Wirz, commandant of the infamous Andersonville prison. The leaders of the southern “rebellion” not only saved their own necks, but after a brief period of “reconstruction” regained their dominant social, economic, and political positions.

Reconstruction. For the former Confederate states, reconstruction lasted for twelve years, though for many states the effective period was substantially shorter. The first phase, Presidential Reconstruction imposed by Andrew Johnson, was mild and lasted approximately two years.

¹⁵ Donald (1995, p. 531) includes Lieber among “the extreme Radicals.” He met with others who wanted to find a substitute for Lincoln for the Republican candidate in the presidential elections of 1864. Lieber was heavily engaged in party propaganda (Donald 1995, p. 537). Lieber prepared the *Laws of War* that Lincoln issued as General Orders No. 100, on April 24, 1863. Lieber (1798-1872), often called father of American political science, rejected the Framers’ regard for social contract, consent, natural laws and (at least substantially) natural rights. (See Bloch n.d., and Samson 1996.)

Immediately after the surrenders in April-June, 1865, turmoil made many Southerners pleased to see Federal troops:

As the Rebel armies dissolved, civil officials of the Confederacy abandoned their posts and Confederate authority evaporated, too, as governors, legislators, magistrates, sheriffs and other officers ceased their duties and awaited the enemy's arrival. Meanwhile the Union army methodically extended its control, ... through the frontier districts and into the Confederate interior.... Not surprisingly, many of the frontier districts were some plagued with trouble Freed now from the threat of Rebel military forces, the Union army was able to turn its full attention to restoring order in the countryside. Troops eventually went into every district to suppress hooliganism and banditry; in many areas they also helped organize and arm civilian police forces, which were authorized to arrest disorderly persons and turn them over to the army for trial. (Ash 1885, pp. 225-226.)

Prominent white Southerners got a taste under Presidential Reconstruction of what life might be like once Reconstruction finally ended. As mentioned, virtually all Confederates were soon pardoned of all criminal liabilities for their participation in the Rebellion. Johnson, however, deprived approximately 14,000 people of the right to vote or to run for election—higher-level Confederate officers and office holders, and southerners who had owned \$20,000 worth of property or more before the war (lower ranking former Confederates could vote and run for office). He allowed those so deprived to petition for presidential pardons to remove these disabilities, and many received pardons.¹⁶ New state governments were set up in the former Confederate states, with appointed governors whom Johnson chose. These appointed governors had opposed secession, and most had not participated in Confederate government. By and large, however, they were conservative and were loath to grant equality to blacks, though Johnson required the states to hold conventions to write new constitutions, to accept the Thirteenth Amendment¹⁷ and outlaw slavery, and to repudiate secession and all Confederate debts.

¹⁶ Exceptions were few. Lee filed a petition for pardon on June, 1865; the petition was mislaid, and he was not pardoned before his death in October, 1870. Davis refused to ask for pardon, and his rights were not restored. Acts of Congress restored citizenship to Lee in 1975, and to Davis in 1978 (Warren 1980, pp. 93-94).

¹⁷ *U.S. Constitution*, Thirteenth Amendment:

Johnson and the governors did not give blacks the suffrage, so the governors had to depend on for political support on Unionists in their states, relatively small percentages everywhere, and also on secessionists who had been active in Confederate government. These appointed governors had large patronage resources; virtually all state and local offices were in their control, and in many cases, they appointed former Confederates, Democrats, and opponents of black civil rights. After the new constitutions were approved, elections were held in 1865 and 1866. Many state-level officials elected in 1865 and 1866 claimed they had opposed secession, but many had “followed their states” after secession and served in the Confederate government or armed forces. (Many of the 14,000 whose civil rights Johnson removed did not participate in the conventions or elections, because they had not yet received pardons to restore their civil rights.) Nevertheless, some eminent former Confederates also assumed top positions in some state government and were elected to Congress; for example, former Confederate vice president Alexander H. Stevens was elected to the Senate from Georgia, by the state legislature, though the Senate refused to seat him. These governments introduced black codes that restricted black social and, in particular, economic behavior. In some places, blacks were disarmed.

In 1867, Congress took over. Southern Unionists, Republicans and blacks complained that the Confederate states’ governments were dominated by old-style leaders with old-style views, and these governments were oppressing them. Many Republicans thought that, aside from ending slavery, the Confederate states were in much the same situation as before the war, and in many ways they were correct. After Republicans gained seats in the Congressional elections of 1866, Congress rejected all who had been elected to the House or Senate under Presidential-

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. 2. Congress shall have power to enforce this article by appropriate legislation. [Ratified Dec. 6, 1865.]

Reconstruction governments.¹⁸ Congress's *Reconstruction Act* (March 2, 1867), passed over Johnson's veto, imposed much harder terms than Johnson had. Former Confederate states (save Tennessee) were placed in military occupation regions and the Presidential-Reconstruction state governments were denied recognition.¹⁹ The white candidate pool was importantly restricted: Confederates who had taken an oath of allegiance to the U.S. *before* the Civil War could not run for local, state or federal office.²⁰ In effect, this ensured that most Southerners with pre-war leadership experience were ineligible for elective office. Freedmen, however, were enfranchised under (essentially) manhood suffrage provisions.²¹ These states had to meet a number of requirements before applying for readmission. Each state had to hold a convention to write a new constitution, which must explicitly permit blacks to vote on the same liberal terms as whites.²² Further, before being considered for readmission each state had to approve the Fourteenth Amendment, which defined citizenship and thus provided a guarantee of freedmen's rights.²³ In

¹⁸ Each house of Congress has absolute power over evaluating election results for its own members. *U.S. Constitution*, Article I, Section 5: "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members ..."

¹⁹ "... any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States to abolish, modify, control or supersede the same..." *Reconstruction Act* (March 2, 1867).

²⁰ These were the same restrictions contained in the Fourteenth Amendment, Section 3.

No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Each Confederate state was required to ratify the Fourteenth Amendment, and thus agree to these restrictions. In May, 1872, however, the Congressional Amnesty Act gave the right to hold office again to almost all Southern leaders who had been excluded from office by the Fourteenth Amendment to the Constitution (ratified in 1868).

²¹ Electors for the new convention were "male citizens of said State twenty-one years old and upward, of whatever race color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disenfranchised for participation in the rebellion, or for felony at common law..." *Reconstruction Act* (March 2, 1867).

²² "[T]he elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors for delegates [to the constitutional convention]." *Reconstruction Act* (March 2, 1867).

²³ In the relevant portion, *U.S. Constitution*, Fourteenth Amendment:

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person

addition, the Fourteenth Amendment continued the Congressional-Reconstruction restrictions on white candidates: Confederates who had taken an oath of allegiance to the U.S. *before* the Civil War could not run for local, state or federal office. Conventions were held in 1867 and 1868, and, “By June, 1868, seven states ... had been readmitted to the Union, and the process was well under way elsewhere.” (Keyssar 2000.) Readmission was generally achieved before conservative governments finally took office, in two cases, nine years before. The dates of readmission to the Union and reestablishment of conservative government are: Tennessee, 1866, 1869; Arkansas, 1868, 1874; Alabama, 1868, 1874; Florida, 1868, 1877; Louisiana, 1868, 1877; North Carolina, 1868, 1870; South Carolina, 1868, 1876; Georgia, 1870, 1871; Mississippi, 1870, 1876; Virginia, 1870, 1869; Texas, 1870, 1873. (At approximately the same time conservative government was established, Federal occupation forces were withdrawn.) After the disputed presidential election of 1876, the Republicans struck a deal ending Reconstruction the next year; Federal occupation forces were withdrawn in 1877 from Louisiana, Florida and South Carolina.

Conservative southerners had reason to believe that eventually each Confederate state would obtain home rule, and they had every reason to believe that under home rule, each state would eventually be able to return to a situation similar to what existed under Presidential Reconstruction. From their viewpoint, conservative, white southerners would have to endure Reconstruction until they could achieve home rule. In the meantime, under the new constitutions carpetbaggers and scalawags—Northern whites and Southern white Union sympathizers—filled many state and local offices, elective and appointive; further, blacks were given some patronage

of life, liberty, or property, without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws.

And, *U.S. Constitution*, Fifteenth Amendment:

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. 2. The Congress shall have the power to enforce this article by appropriate legislation. [Ratified February 3, 1870.]

and filled a relatively small number of elective offices.²⁴ These governments were fairly corrupt, though Foner (1988) argues they were not as bad as some Northern-state governments. Further, these Republican governments voted to increase spending and taxes substantially, causing real difficulties for taxpayers. Some of the extra spending went on patronage. Some of the ballooning spending went for subsidies by activist government for companies that built railroads and other internal improvements; many of these projects ended in failure. State debts expanded greatly.²⁵ Aside from racial antipathies, white southerners had some genuine complaints about carpetbagger rule. White Southerners typically viewed the good things that could be said for Republican rule as mainly good for Republicans and blacks.

In each state many Southerners worked hard to “redeem” state and local government from coalitions of Republicans, Northerners and blacks. As they did so, they forged the Democratic “solid South.” Their efforts involved using gerrymanders and a variety of political tools, as well as violence (see below) to disenfranchise a sufficient number of blacks and other Republican voters to allow victory for Democrats and their allies. In addition to wanting to seize political power, conservative whites were also concerned with establishing economic and social dominance over blacks; to this end, they re-introduced black codes, but took care to make them appear race neutral, unlike the codes under Presidential Reconstruction. As is well known (Keyssar 2000), Southern states did not begin large-scale disenfranchisement of blacks until the 1890s; it was also at that time that “Jim Crow” black codes were greatly strengthened.²⁶

²⁴ Under Reconstruction, only seventeen blacks served in Congress, most in the House, and most for a single term.

²⁵ Foner (1988, pp. 210-211) argues that state spending and subsidies of, for example, railroads, began under the Presidential Reconstruction governments.

²⁶ As Keyssar (2000) notes, for several decades after the Civil War, many leading thinkers in the North were skeptical of near-universal male suffrage, and in many places in the North, laws were passed to restrict voting by the poor, blacks and immigrants. These activities provided intellectual and political cover for southern actions.

White Southerners used economic and legal dominance, as well as common political tools, to “redeem” the South, but they also illegal violence, pre-eminently by the Ku Klux Klan. The Klan was mainly a collection of loosely connected local organizations (Rable, 1984). It used threats, beatings and murders to control blacks’ voting and also their social behavior. Rable (1984, p. 189) argues:

[B]y 1867 the violence became increasingly political as white southerners attempted to defy congressional mandates [under the Reconstruction Act and Civil Rights Act], overthrow the hated Republican state governments, and drive the “foreigners” from their soil.... As a body designed to destroy Reconstruction and all its works, the Ku Klux Klan was a failure.... By the mid-1870s changing political conditions and the redemption of several southern states had confined political violence to a smaller area but made it more desperate and intense.... Applying lessons learned from the failure of the Klan, Democrats used intimidation and force in a way carefully calculated to sap the strength of their enemies without provoking federal intervention. The new strategy also benefited from the waning public support in the North for military interference in the South.

In Gallagher’s view (1997, p. 206, italics added),

The Ku Klux Klan, rifle clubs, and other white groups that formed in the South during Reconstruction used violent means to achieve racial and political goals, but their action *did not represent a continuation of the Confederate war*. These organizations did not seek to *dismember* the United States, and they mustered a relatively insignificant percentage of the South’s white males and operated with *minimal interstate cooperation*. Employing the methods of thugs and assassins, they intimidated black and white Republicans and *hastened the return of Democratic rule* in some Southern states.

The actual policies followed by redeemer governments varied greatly, but they were based on a few core beliefs: honor, principle and white supremacy. As the following section shows, over time Southerners were able to argue that the South had fought with great honor in a losing cause where they were overwhelmed by superior resources. Further, Southerners framed the South’s battle as one of principle, the principle of states rights, with the preservation of slavery more or less incidentally involved. Finally, Southerners argued they fought for white supremacy, and for many years many Northerners were able to agree with that white supremacy was a worthy goal. Slavery was gone and could not be brought back; independence as a separate country had failed.

But honor and principle remained to the south, and the redeemers reestablished and preserved white supremacy.

Most Americans could let the South have “honor” and “principle,” and for many years many Americans agreed with white supremacy. Thus, sad to say, redeemer governments achieved what many in the North and South viewed as reasonable, legitimate political goals, though with an indefensible use of violence. It was only after the Second World War that the nationwide consensus on white supremacy broke down, with violence and great political upheaval in the South, but by then civil war was not an option in the minds of most Southerners.

Visible “Intrusions” of the Federal Government. When a state elected a white, conservative government, at about the same time Federal occupation troops were withdrawn. As more and more states fell to conservative governments and troops were withdrawn, much of the Federal military was progressively spread thinly over the West, and one of its main duties was to provide security for whites against Indians, and to enforce policies that mainly favored whites over Indians. Further, an important number of post-Civil-War Federal soldiers were from the South. Because the Federal *civilian* government was so small, Southerners’ contacts with Federal employees were largely in the form of postal employees.²⁷ Postal employees were a major source of federal patronage for the president and his party, but also for the parties that controlled Congress and for individual senators. The president was Republican until Grover Cleveland won the presidency in 1884, but soon after white conservative governments took over, the southern-states’ senators were not, and they had substantial influence over federal appointments in their states. Further, Democrats won control of the House and Senate in the 1870s, and thereafter, Republican presidents had to deal with them over patronage. Many postmasters were Southern,

even if some were objectionable as Republicans. Further, Civil Service reform substantially reduced the scope for political patronage in federal appointments in the 1880s. Thus, after conservative governments won, face-to-face federal “oppression” was tolerable to many and relatively rare to most.²⁸

Table 1 provides some evidence. At the start of the Civil War, if a person met 100,000 Americans outside Washington, DC, on average only 110 of these would be federal civilian employees, and these, 88% would be postal employees. In the midst of Reconstruction, in 1871, out of 100,000 Americans outside of Washington, DC, on average only 132 of them would be federal civilian employees, and of these, 82% would be postal employees. After Reconstruction had ended, in 1881 out of 100,000 Americans outside of Washington, DC, on average 173 of them would be federal civilian employees, and of these, 65% would be postal employees. The results for 1881 reflect the trend over time towards an increase in federal civilian employees relative to population, and an increase in the share of employees who are not postal employees. But the results for 1881 are far from what occurred in the period after the Second World War, as can be seen from the data for 1950-1970. Federal civilian employees were 7.5 times larger than in 1881 relative to population ($1.3033 / 0.173 = 7.532$). Postal employees were only 43% as large a share in 1970 as compared to 1881 ($0.2793 / 0.6493 = 0.43016$).

What Purpose for Guerilla War? Once the Confederate armies surrendered, guerilla war had no chance of re-imposing slavery. Further, there seemed little hope of reviving the Confederacy through guerilla war; the South had given independence its best shot and failed. The

²⁷ Mitchell (1992, pp. 114-115) argues that in mobilizing troops early in the war, the Federal government had to rely on state governments: “Many Americans had dealt with no other United States official than the local postmaster.” He notes (p. 174) that Paludan (1988, p. 12) “makes the point about the postmaster...”

²⁸ Even while Republicans controlled state governments, much patronage went to non-Republicans, in an attempt to increase the incumbents’ popularity and widen their base. Many incumbents decided they had to work with powerful people who were not Republicans (Foner 1988, Chps 5, 8).

remaining pressures toward guerilla war were social, either ongoing “oppression” by the federal government or ongoing tensions over race among blacks and whites in the South. Southern whites knew that eventually they would return to the circumstances under Presidential Reconstruction, which they had found acceptable, though they had complained greatly.

After federal troops were removed, and thus direct occasions of conflict with the federal government were greatly reduced, “redeemers” immediately began to mold state government, using both legal and illegal means to maintain white dominance over blacks. Even prominent Confederates eventually returned to power in the federal and state governments. Here are a few examples. John S. Mosby was appointed U.S. consul in Hong Kong. Confederate Vice President Alexander H. Stevens served in the House and the Senate, and was governor of Georgia when he died in 1883. Joseph E. Johnston served as a congressman from Virginia. Confederate cavalry General Wade Hampton served as governor of South Carolina. Zebulon Vance, last Confederate governor of North Carolina, was elected to the U.S. Senate.

5. Reconciliation and Civil-War Myth

By the time reconstruction ended (1877), Foote (1986, p. 1048) argues that the country was on its way to establishing a consensus view of the Civil War.

[T]he victors acknowledged that the Confederates had fought bravely for a cause they believed was just and the losers agreed that it was probably best for all concerned that the Union had been preserved.... [Robert E. Lee] encouraged all who sought his advice to take the loyalty oath required by the President’s amnesty proclamation as a prerequisite to recovery of their rights as citizens, and even did so himself, barely two months after Appomattox...

In this same vein, future President Woodrow Wilson, while a law student at the University of Virginia in 1880 wrote (McPherson 1988, p. 854):

Because I love South, I rejoice in the failure of the Confederacy Conceive of this Union divided into two separate and independent sovereignties! ... Slavery was enervating our Southern society [Nevertheless,] I recognize and pay loving tribute to the virtues of the

leaders of secession...the righteousness of the cause which they thought they were promoting—and to the immortal courage of the soldiers of the Confederacy.

Lee died on October 12, 1870. At a memorial service in early November in Richmond, Davis spoke. “Of the man, how shall I speak? His moral qualities rose to the height of genius.” Thus did Davis validate Lee, Lee’s moral stature and indirectly Lee’s views of the morality of reconciliation. Indeed, as W. Davis (1991, p. 302) writes,

Never during those years [after surrender] did Davis utter a single reproachful word about Lee for Appomattox, nor for any other episode of his career. Rather Davis became an enthusiastic contributor to the Lee legend, and one of his most ardent defenders.

Foote (1986, p. 1057) asserts that Davis had “strong nationalist feelings never far below the surface of his resistance.” He quotes Davis as speaking (October, 1887) of the North and South as indivisibly united. At a veterans' reunion, he said,

We are now at peace, and I trust will ever remain so.... In referring therefore to the days of the past and the glorious cause you have served...I seek but to revive a memory which should be dear to you and to your children, a memory which teaches the highest lessons of manhood, of truth and adherence to duty—duty to your State, duty to your principles, duty to your buried parents, and duty to your coming children.

He spoke a last time in public, to young men (Foote, 1974, p. 1058):

The faces I see before me are young faces of young men...Men in whose hands the destinies of our Southland lie, for love of her I break my silence to speak to you a few words of respectful admonition. The past is dead; let it bury its dead, its hopes and its aspirations. Before you lies the future, a future of golden promise, a future of expanding national glory, before which all the world will stand amazed. Let me beseech you to lay aside all rancor, all bitter sectional feeling, and to take your places in the ranks of those who will bring about a consummation devoutly to be desired—a reunited country.

Historians argue about how much national spirit the South had built up, or had left, in the last days of the war.²⁹ Robert Penn Warren (1980) writes of the last months of the war:

Merely some notion of Southern identity remained, however hazy or fuddled; it was not until after Appomattox that the conception of Southern identity truly bloomed—a mystical conception, vague but bright, floating high beyond criticism of brutal circumstances.

²⁹ Beringer et al. (1986) claim Confederate nationalist spirit was weak and that this weakness was a major contribution to defeat.

Warren may be overstating the lack of Southern national identity before defeat, but he captures an important part of the romantic view of the lost cause. Rable (1984, p. 188) presents a less romantic view:

[D]efeat produced a unity in the South that had never before existed, even during the halcyon days of the Confederacy [A] moderate ... asserted that, "an army of one hundred thousand men" could not maintain the Reconstruction governments in the South.

Indeed, reconciliation was far from complete and took generations:

White southerners who retained Confederate loyalties typically harbored deep resentment against Federal soldiers and northerners in general. Although compelled to acknowledge Union success in suppressing their struggle for independence, Confederates defiantly refused to forgive enemies who had inflicted such pain on their society Northern soldiers frequently commented about the insolence and animosity they perceived among former Confederates.... Time inevitably banked the passions that had animated white southerners during the war and in the early postbellum years. Virtually all former Confederates eventually accepted at least some degree of reconciliation with the North. (Gallagher 1997, pp. 166-172.)

Deep resentment is easy to harbor, especially if the haters do not often come in contact with those they hate. But hatred does not have to be acted on, and often gradually dies off. For example, Ash (1995, p. 218) provides experience from occupied areas during the war:

It was in the garrison towns ... that the blessings of Union occupation were most appreciated. There, where the Federal army liberally doled out food and medical aid, provided jobs, and preserved order, virtually every citizen was directly or indirectly dependent on the occupiers for sustenance and safety. Under such circumstances even the most ardent Confederate patriot found it hard to dehumanize the enemy and maintain a posture of utter hostility; thus, over time, most townspeople relaxed their antagonism toward the Yankees. The occupiers responded in kind, and before long citizens and soldiers in most garrisoned towns had worked out a comfortable and often even congenial *modus vivendi*.

Catton (1967, p. 434) relates the well-known romantic, sentimental and private reminiscences of a South Carolina veteran of Lee's army, who in approximately 1880 envisages reliving his Civil War experiences:

Who knows but it may be given to us, after this life, to meet again in the old quarters, to play chess and draughts, to get up soon to answer the morning roll call, to fall in at the tap of the drum for drill and dress parade, and again to hastily don our war gear while the monotonous patter of the long roll summons us to battle. Who knows but again the old flags, ragged and torn, snapping in the wind, may face each other and flutter, pursuing and pursued, while the cries of victory fill a summer day. And after the battle, then the slain and wounded will arise, and all will meet together under the two flags, all sound and well, and there will be talking and laughter and cheers, and all will say: Did it not seem real? Was it not as in the old days?

Catton notes: "No civil war ever ended quite like this. The men who lost at the Boyne or at Culloden did not write memoirs in this vein." Indeed, the men who won at the Boyne and at Culloden slaughtered the losers, proscribed the losers' supporters, seized much of the losers' property, and in general took revenge that served to oppress and to generate hatred rather than to reconcile.

The behavior of Union victors was quite different. Further, in a sense the losers seized control of the situation and "won" a substantial part of what they desired. This view should not be taken to condone the violence used or to offer any praise of the economic, social and political system constructed by the soi-disant "redeemers." Rather, it suggests that the Civil-War myth that led to reconciliation was built on a solid foundation of power held by conservative white elites in a society organized in a way that was satisfactory to the big majority of whites, elite and non-elite.

Table 1. Federal Government *Civilian* Employment

Year	Total	DC	All Others	Post Office	Population ¹	DC/ Total	PO/ All Others	All Others/ Population ⁴
1970	2,981,574	327,369	2,654,205	741,216	203.302	.1098	.2793	1.303 %
1960	2,398,704	239,873	2,158,831	562,868	179.323	.1000	.2607	1.338
1950	1,960,708	223,312	1,737,396	484,679	151.326	.1139	.2790	1.296
1940	1,042,420	139,770	902,650	323,481	132.164	.1341	.3584	0.789 %
1930	601,319	73,032	528,287	297,895	123.202	.1215	.5639	0.488
1920	655,265	94,110	561,155	242,400	106.021	.1436	.4320	0.618 ⁷
1910	388,708	38,911	349,797	209,005	92.228	.1001	.5975	0.421 %
1901	239,476	28,044	211,432	136,192	76.212	.1171	.6441	0.314
1891	157,442	20,834	136,608	95,449	62.979	.1323	.6987	0.250 %
1881	100,020	13,124	86,896	56,421	50.189	.1312	.6493	0.173
1871	51,020	6,222	44,798	36,696	38.558	.1220	.8191	0.132 %
1861	36,672	2,199	34,473	30,269	31.443	.0600	.8780	0.110
1851	26,274	1,533	24,741	21,391	23.191	.0584	.8646	0.107
1816	4,837	535	4,302	3,341	8.439 ²	.1106	.7766	0.052 % ⁵
1804	2,267	293	1,974	NA	6.274 ³	.1293	NA	0.032 % ⁶

¹ In millions. For 1970, 1960, 1950, 1940, 1930, 1920, 1910, 1900, 1890, 1880, 1870, 1860, 1850, 1820 and 1810, 1810 and 1800.

² Population is average of those for 1810 and 1820 (7.239 million and 9.638 million).

³ Population is average of those for 1800 and 1810 (5.308 million and 7.239 million).

⁴ In percent.

⁵ Average of ratios using populations for 1810 and 1820 (0.0446 and 0.0594).

⁶ Average of ratios using populations for 1800 and 1810 (0.02726 and 0.03719)

⁷ The federal employment figures for 1920 reflect after-effects of the First World War. If data for 1921 are used, the figure becomes 0.452%

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Appendix to

Essay 5, "Secession, the EU, and Lessons from the U.S Civil War:
Why Didn't the U.S. Civil War Go On and On?"

Evidence That Jefferson Davis Planned Guerilla War

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Abstract: The U.S. was very fortunate that the defeated Confederates did not turn to guerilla war. Some authors stress how close the U.S. was to guerilla war by claiming that Confederate President Jefferson Davis planned to turn to guerilla war, rather than have Confederate armies surrender and go home. The evidence that Davis planned for guerilla war is thin. Most of the evidence is built on interpretation of the proclamation he issued in Danville, Virginia, on April 5, 1865, but this can at best be interpreted as an oblique and subtle call for guerilla war. Davis had many occasions in the last month of the Confederacy that he could have used to call for guerilla war, but he never did.

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Evidence That Jefferson Davis Planned Guerilla War¹

From the discussion of the behavior of high Confederate military and civilian leaders, it is clear that there was little enthusiasm for guerilla warfare, and no official call for it. These leaders *might*, however, have decided for guerilla war; their decision was not a foregone conclusion. In light of Lee's personality and temperament, he seems unlikely ever to choose guerilla war, but his behavior at Appomattox and later was more reconciliatory than might have been expected even of him. Had Lee not encouraged Mosby and his men to surrender, Mosby might have led some type of partisan warfare in Virginia. Perhaps a bigger threat was Forrest; he was charismatic, famous, and had more men. He bitterly pondered alternatives to surrender for several days. His main alternative was to lead his men to Mexico (though it is not clear that he would have continued the fight from Mexico). The reasons because of which he decided on surrender and on making a strong appeal for good behavior (see paper) are not clear, though he had stated that he despised bushwackers such as Quantrill².

Confederate attitudes towards partisan war changed over the course of the war. The Confederate Congress passed the Partisan Ranger Act of April, 1862, allowing formation of partisan groups, but attempting to control such groups. On the one hand, the civilian and military leaders in Richmond were leery of guerilla or partisan warfare. On the other hand, a number of Confederate officers in the field supported guerilla warfare. General Thomas Hindman drew up

¹ Works cited in this appendix are found in the References to "Secession, the EU, and Lessons from the U.S Civil War: Why Didn't the U.S. Civil War Go On and On?"

terms authorizing guerilla warfare in Missouri that seemed to meet his superiors' concerns for regulation and control of the fighters, but essentially authorized and supported bushwhacking (Brownlee 1958). Hindman and his colleagues and successors, including Edmund Kirby Smith, resisted pressures from other Confederate officers and civilian leaders to clamp down on the guerillas.

As Winik (2002, pp. 163-164) notes:

By 1864, ... because of the heightened number of atrocities committed by bushwhackers in the West, as well as the penchant for plunder that virtually all guerilla bands displayed, powerful Southern voices called for repeal of the Partisan Ranger Act.... Finally, in early 1865, the Confederate Congress revoked the act and the government ended its sanctions of all partisan groups, with two notable exceptions: Mosby's rangers in the north [of Virginia], and McNeill's partisans in western Virginia.

Lee was among those who strongly favored repeal. Mosby's forces were by no means comparable to the guerillas in say Missouri, who were not part of the Confederate army and were under no Confederate control (Brownlee 1958). In Union General Phillip Sheridan's campaigns in the Shenandoah Valley, he came to agree to treat Mosby's men as he did with other prisoners of war (Foote 1986, pp. 805-806). Confederate commanders often complained that guerillas not in the army would not obey. Eventually, the Confederate government threatened to turn over to Federal forces those guerillas who would not join the Confederate army and accept army discipline.³

At the end, in April and May, 1965, minor Confederate civilian leaders urged continuing the fight with guerilla war, but virtually all Confederate national leaders opposed guerilla war. The major possible exception is Jefferson Davis, the subject of this appendix. A number of authors assert that Davis planned on, or at least entertained seriously, the idea of turning to

² See Brownlee (1958) and Fellman (1989) for discussion of guerilla warfare in Missouri.

³ Confederate Secretary of War John C. Breckinridge sent his brother to Kentucky to warn guerillas that, if they did not join regular units and accept army discipline, they would be turned over to federal troops.

guerilla war. Other authors do not explicitly address the issue of whether Davis planned on or seriously considered turning the Confederacy to guerilla war. Davis's intentions regarding partisan or guerilla warfare are not clear, and may well have varied over the period from his abandonment of Richmond on April 2 to his capture on May 9, 1865. The evidence is at best mixed that he ever seriously considered calling for guerilla war. Some authors interpret some of what Davis said and wrote as supporting the view he contemplated guerilla war. Other authors appear never to have considered such interpretations of the same evidence.

The Last Days of The Confederate Government. It was Lee who proposed to Davis that Lee and his Army of Northern Virginia abandon the defense of Richmond and Petersburg, and escape from Grant's besieging army. Lee would then join Johnston in North Carolina, and attempt first to defeat Sherman's army and then Grant's (Winik 2002, pp. 31-32). Lee put this plan into action on April 2, and Davis and the Confederate government left Richmond late that evening by train, for Danville, Virginia, the new Confederate capital.⁴ At Danville, on April 5, Davis issued an optimistic announcement to the public regarding the abandonment of Richmond. Towards the end of the statement, he wrote: (J. Davis 1923, pp. 529-531, italics added):

We have now entered upon a *new phase* of the struggle. Relieved from the necessity of guarding cities and particular points, important but not vital to our defense; with an *army* free to move from point to point and strike in detail the garrisons and detachments of the enemy; operating in the interior of our own country, where supplies are more accessible and where the foe will be far removed from his own base and cut off from all succor in case of reverse, nothing is now needed to render our triumph certain but the exhibition of our own unquenchable resolve. Let us but will it and we are free...⁵

⁴ Varina Davis and their children had left for Charlotte, North Carolina, on March 29.

⁵ In Woodworth's (1995, p. 320) view:

He had been right, of course, in his claim that southerners could win their independence if as one man they determined to fight until they succeeded or were all dead, though it might have taken decades. That, however, was out of the question. The resolve of the southern people had been thoroughly quenched and too few of them willed any longer the sort of freedom of which Davis spoke.

See the quote from Lee's April 20 communiqué (below) for the low state of morale among Confederate troops.

McPherson, in Boritt (1992) writes: "the will of either the northern or southern people was primarily a result of military victory rather than the cause of it." For a similar view, see McPherson (1988). Winik (2002) qualifies this view by pointing out that terror attacks can sometimes stimulate public will, e.g., allied strategic bombing of

In some authors minds, the phrase “new phase of the struggle” refers to guerilla war. Of course, this is only one possible interpretation. Further, Davis referred to the “army,” and forewent an opportunity to rally support for a guerilla war.

Davis told General Braxton Bragg on April 4 that his military goal remained the prevention of a junction of Sherman and Grant (Cooper, p. 524). Lee’s surrender on April 9 was a surprise and a major blow to Davis.⁶ Nevertheless, on April 12, Davis expressed the hope of gathering deserters and conscripts to create an army large enough to give the Confederacy a chance. Davis’s emphasis on gathering up deserters and conscripts to rebuild the size of Confederate armies was a theme in his thinking through the last months of the Civil War, and he appeared to pin much of his hopes on this rebuilding. On April 13, “I think we can whip the enemy yet *if our people will turn out.*” (Woodworth 1995, p. 324, italics added.) This appears to be a hope of rebuilding the size of the Confederate armies, through the return of stragglers and deserters, and a flood of new volunteers, rather than a hope of massive turn out for guerilla war.

When Davis met with Generals Johnston and Beauregard on Thursday, April 13, to plan strategy, he still held out hope: resistance could and must continue until the North tired and let the South go. Johnston, Beauregard and most of his cabinet told Davis, however, that the time had come to ask for terms from Sherman. In response, Davis authorized Johnston to seek terms from Sherman, and at Johnston's request wrote out a note of the terms that Johnston signed; the note authorized only discussion of “cessation of hostilities so that civil authorities in states could

Germany in the second world war. Wiley (1954, graph between p. 34 and p. 35) gives his qualitative time -series estimate of Southern morale, which he believes depended directly on the success and failure of the army.

⁶ On April 8, an officer reached Davis from Lee’s army, and said that he did not believe Lee could reach safety, and thought Lee’s surrender imminent (eighteen-year old Lt. John Wise, son of the Confederate ex-governor of Virginia Henry A Wise—see B. Davis, 1985, pp. 51-52, 57). On April 10, though he had had no official word, J. Davis informed Joseph Johnston that there was “little doubt” about Lee’s fate. Later on April 10, Davis received reliable information that Lee had surrendered, and prepared to move to Greensboro, North Carolina, near Johnston’s headquarters. (Cooper, pp. 525.) He did not receive official confirmation of Lee’s surrender until April 13, when Breckinridge arrived and informed him.

act to end the war.” (Cooper, pp. 525-526.) Davis said he had no confidence in this initiative, and believed that the federal government would reject it—but he followed the advice of his cabinet and generals.

Cooper (pp. 526-527) argues that at this time,

Davis hoped to reach Confederate forces in the Gulf States or even in the Trans-Mississippi where he could carry on the fight. To him, waging a guerilla campaign was not an acceptable option. His closest aide, William Johnston, reported him as saying, “Guerillas become brigands, and any government is better than that.”⁷

(The quote is from a speech of Davis’s close aide, William Preston Johnston, dated June 2, 1875.)

Joseph Johnston wrote to Sherman on April 14, asking to meet to discuss terms, and they met on April 15. Davis had forbidden Johnston to discuss surrender, and his U.S. civilian superiors had forbidden Sherman to discuss any arrangements but surrender. Nevertheless, the two decided to meet the next day with Major General John C. Breckinridge⁸, Confederate Secretary of War, to discuss a settlement that would encompass the surrender of all Confederate troops, not just Johnston’s army. At that meeting on April 16, Sherman drew up a generous document, the “Memorandum, or Basis for Agreement.”⁹ Johnston and Breckinridge accepted the generous terms, on the condition that the final decision rested with the Confederate civilian

⁷ Brownlee (1958) argues that Davis opposed guerilla warfare, and thus General Tom Hindman had to provide sham, ineffective instructions for guerillas as cover.

⁸ On Breckinridge, see W. Davis (1973, 1996).

⁹ Half an hour into the meeting, Johnston received a finished version of a memorandum from John Reagan, which Breckinridge and Johnston had earlier discussed with Reagan. (Reagan was Confederate post-master general, and was traveling with Davis’s group. (Johnston 1959) Despite Sherman’s later denials, the memo seems to have influenced Sherman’s terms (Fellman 1995, p. 244). Johnston (1959) states that he read the memo to Sherman, and that “Sherman wrote very rapidly the memorandum that follows [ie., the “Memorandum, or Basis of Agreement”], with the paper presented by me before him.”

government (ultimately, Davis); Sherman made clear that the terms were subject to approval by the Federal civilian government.¹⁰

Meanwhile, Davis had left Greensboro on April 15, Holy Saturday; Lincoln had died in the early hours of that morning, after being shot the night before, Good Friday. Davis arrived at Charlotte, North Carolina, on April 19. There, on April 22, having finally received Sherman's written terms, Davis asked that each of his cabinet members submit in writing his views on whether to accept Sherman's terms, and what to do if they should decide to reject the terms. Each advised accepting the terms, arguing that there was no way to support an army east of the Mississippi, and most argued that fighting would likely degenerate into guerilla war.¹¹ Breckinridge saw "no possibility of assembling, equipping and maintaining a large army east of the Mississippi." He said: "I think we can no longer contend with reasonable hope of success." Because of the cabinet's views, Davis reluctantly agreed to Confederate armies' surrender on

¹⁰ Sherman had learned prior to the meeting on April 16 that Lincoln had been murdered, and he informed Breckinridge and Johnston of this before negotiations started.

¹¹ Some excerpts from the written comments of cabinet members (Apr. 22-23) on Sherman's initial surrender document (Roland 1923, pp. 568-585):

Secretary of State Judah Benjamin: "... we could not at the present moment gather an army of 30,000 men by a *concentration* [italics added] of all our forces east of the Mississippi River... the struggle can no longer be maintained in any other manner than by a guerrilla or partisan war... Such a warfare is not in my opinion desirable, nor does it promise any useful result ..."

Secretary of War, John C. Breckinridge: "The contest if continued after this paper is rejected will be likely to lose entirely the dignity of regular warfare... the war, wherever waged, will probably degenerate into that irregular and secondary stage, out of which greater evils will flow to the South, than to the enemy..."

Secretary of the Navy Stephen R. Mallory: "I advise you to accept these propositions... I do not believe that by any possibility we could organize, arm and equip and bring into the field this side of the Mississippi, fifteen thousand men within the next sixty days... A guerrilla warfare might be carried on in certain portions of our country for a time, perhaps for years; but while such a warfare would be more disastrous to our own people than it could possibly be to the enemy, it would exercise little or no influence upon his military operations or upon his hold upon the country...."

Postmaster General John H. Reagan: "I must advise the acceptance of the terms of the agreement.... [T]he despair of our people will prevent a much longer continuance of serious resistance, unless they shall be hereafter urged to it by unendurable oppression...."

Sherman's terms;¹² he believed, however, that the federal government would reject these terms, forcing the armies to fight on (Cooper, p. 528, Winik 2002, p. 259, W. Davis 2001, pp. 188-189).

Note that the discussion was all in terms of maintaining a viable, traditional army, not going to guerilla warfare. In particular, Breckinridge explicitly raised and deprecated the possibility of conflict degenerating into guerrilla war. W. Davis (1991, p. 515) writes:

And if the government should reject the Sherman proposal and continue the fight, the contest "will be likely to lose entirely the dignity of regular warfare. Many of the States will make such terms as they may; in others, separate and ineffective hostilities may be prosecuted, while war, wherever waged, will probably degenerate into that irregular and secondary stage out of which greater evils will flow to the South than to the enemy."

Breckinridge appears to have argued in effect that surrender was desirable because the alternative was so awful; Breckinridge appears to have believed that the potential of conflict degenerating into guerilla war would sway Davis towards surrender. If Davis had intimated to Breckinridge or other cabinet members that he looked favorably on guerilla war, surely one or all would have addressed him directly on the point, or at the least have made extensive arguments in opposition to guerilla war. The same is true for Beauregard and Johnston when they met with Davis on April 13-14, 1865.

After the cabinet meeting, Davis made a brief impromptu speech to some Confederate soldiers. He told them that "the 'cause is not yet dead.' 'Determination and fortitude' could still bring victory." (Cooper, p. 527.) This was at best an oblique, counterproductive way to call for guerilla warfare.

¹² Johnston (1959, pp. 410-411) states that:

In the afternoon of the 24th, the President of the Confederacy, then in Charlotte, communicated to me, by telegraph, his approval... and, within an hour, a special messenger... brought two dispatches from General Sherman. In one... the Government of the United States rejected the terms of peace agreed on by us; and in the other he gave notice of the termination of the armistice in forty-eight hours from noon of that day.

Davis seemed reluctant to surrender, but did not seem to contemplate guerilla war. While still in Charlotte, Davis met with North Carolina governor Zebulon Vance (Cooper, p. 528, italics added):

Davis talked of *crossing the Mississippi* and suggested that *Vance come along with as many North Carolina troops as he could muster*. After a momentary silence, Breckinridge said further fighting served no purpose. Sadly, Davis concurred. Yet when approached by officers who had escaped at Lee's surrender or were not present at Johnston's, he encouraged them to head south and keep up the fight.¹³

But note that this encouragement is consistent with fighting on as an army, and nowhere urges guerilla war.

On April 23, Davis wrote to his wife Varina Davis (Cooper, p. 529):

The issue is one that is very painful for me to meet. [He envisioned agonizing options.] On the one hand is the long night of oppression which will follow the return of our people to the "Union"; on the other, the suffering of the women and children, and carnage among the few brave patriots who would still oppose the invader, and who, unless the people would rise en-masse to sustain them, would struggle but to die in vain.

Even if the struggle of a "few brave patriots" is taken as an oblique reference to guerilla war, J.

Davis sees no profit there. Further, in the same letter, he said that he planned to leave Charlotte quite soon and might get across the Mississippi.¹⁴

his views that resistance could and must continue until the Northern people and their leaders grow weary enough to negotiate a peace that acknowledges Southern independence. "Our late disasters are terrible," he admitted, "but I do not think we should regard them as fatal. I think we can whip the enemy yet *if our people turn out*."

¹³ W. Davis (1996, p. 151) writes: "Breckinridge, on his own authority, exempted General Wade Hampton and his cavalry from Johnston's later surrender [i.e., on April 26] and allowed Hampton to try to get his command to the Trans-Mississippi." See Foote 1986, pp. 1002-1003 for more on Hampton's plans; he seemed to envisage leading his cavalry troops to the Trans-Mississippi to join with Kirby Smith. In J. Davis (1958), two letters from Hampton make clear that, after Johnston accepted the first surrender agreement, Hampton proposed to form as large a cavalry troop as possible to get to the Trans-Mississippi. (See a footnote below on these letters.)

¹⁴ Varina responded that she looked forward to joining him, perhaps "a re-union across the Trans-Mississippi, where she was sure he could prevail." (Chapman, p. 530.)

Meanwhile, Lee took actions that put pressure on Davis to surrender. First, he wrote a communiqué (April 20) to Davis describing his surrender and putting forward reasons for it. In the communiqué, Lee said,

The apprehensions I expressed during the winter, of the moral condition of the Army of Northern Virginia, have been realized.... Except in particular instances, [operations] were feeble; and a want of confidence seemed to possess officers and men. This condition, I think, was produced by the state of feeling in the country, and the communications received by the men from their homes, urging their return and the abandonment of the field.... From what I have seen and learned, I believe an *army* cannot be organized or supported in Virginia, and as far as I know the condition of affairs, the country east of the Mississippi is morally and physically unable to maintain the contest unaided with any hope of ultimate success. *A partisan war may be continued*, and hostilities protracted, causing *individual suffering* and the *devastation of the country*, but I see *no prospect by that means of achieving a separate independence*. It is for Your Excellency to decide, should you agree with me in opinion, what is proper to be done. To save useless effusion of blood, I would recommend measures be taken for suspension of hostilities and the restoration of peace. (Dowdey and Manarin 1961, pp. 938-939, italics added.)

As Winik (2002, p. 314) remarks, “Lee ... well knew that word of his letter would seep out in the rest of the Confederacy...” Certainly, this put pressure on Davis to surrender. It is not at all clear that Lee thought the key danger was that Davis contemplated guerilla war.

Further, the New York *Herald* on April 29 published quotes from an interview that Lee had given in Richmond to its reporter. The quotes were favorable to the terms that the federals had given Lee, and Lee urged people to be good citizens (Winik, pp. 315-316):

Lee condemned the assassination of Lincoln...“deplorable,” beyond execration,” “A crime,” “unexampled”... he celebrated the end of slavery (“I am rejoiced that slavery is abolished,” “the best men of the South have long been anxious to do away with this institution,” “slavery [is] forever dead”) ... the reporter was struck by the degree to which Lee talked throughout, freely and noticeably, as “a citizen of the United States.” The South, Lee stressed, “was anxious to get back into the Union and to peace.”

It is unclear that news of Lee’s interview remarks reached Davis before his capture on May 10—after May 2, Davis received little information (see below).

The new U.S. president, Andrew Johnson, and his cabinet were outraged at the terms Sherman had offered Johnston, and at Sherman for overstepping his authority.¹⁵ On April 24, Grant told Sherman that the terms were rejected, and the same day Sherman informed Johnston by note that the offer was withdrawn and the truce would end the next day unless Johnston surrendered on the same terms Lee had. (Johnston received Sherman's information shortly after receiving Davis's agreement to surrender on Sherman's initial terms.) Johnston asked Secretary of War Breckinridge for instructions. In response, Davis ordered Johnston not to surrender, but to withdraw with his light artillery, his cavalry and as many infantry as could find mounts for. He furthered ordered Johnston to break his remaining infantry into small groups, with orders to escape and reassemble beyond the reach of Union troops. Johnston, however, disobeyed orders and surrendered his forces on April 26 on the same terms as Lee.¹⁶

Davis's orders to Johnston, on April 26, not to surrender but to fight on, had envisaged a mounted, highly mobile force, which would later join with reassembled infantry, if possible. Clearly, if Davis had in mind some type of guerilla warfare, his ideas were very different from the proposals Alexander had put to Lee before Lee's surrender. Recall, these involved Lee's

¹⁵ In Grant's (1885-1886, Chp. 69) view,

Sherman thought, no doubt, in adding to the terms that I had made with General Lee, that he was but carrying out the wishes of the President of the United States. But seeing that he was going beyond his authority, he made it a point that the terms were only conditional. They signed them with this understanding, and agreed to a truce until the terms could be sent to Washington for approval; if approved by the proper authorities there, they would then be final; if not approved, then he would give due notice, before resuming hostilities.

¹⁶ Johnston (1959, pp. 410-412) writes:

The reply, dated eleven o'clock P.M., was received early in the morning of the 25th; it suggested that the infantry might be disbanded, with instructions to meet at some appointed place, and directed me to bring off the cavalry, and all other soldiers who could be mounted by taking serviceable beasts from the trains, and a few light field-pieces. I objected immediately, that this order provided for the performance of but one of the three great duties then devolving upon us—that of securing the safety of the high civil officers of the Confederate Government; but neglected the other two—the safety of the people and that of the army. I also advised the immediate flight of the high civil functionaries under proper escort.

[These instructions] would have given the President an escort too heavy for flight, and not strong enough to force a way for him; and would have spread ruin over all the South, by leading the three great invading

(largely) infantry forces slipping away to the countryside, to move as rabbits or partridges in areas of Virginia familiar to many of the men, perhaps eventually to make their way to their states to rally around their governors. Possibly Davis had in mind the same *ultimate* design, but if so, it is not clear why the infantry men should first move on to a further area, where for the most part they would be unfamiliar with the countryside. Further, one must wonder why Davis did not order that the infantry in North Carolina should turn to guerilla war, rather than trying to slip away to reassemble (Woodworth 1995, p. 326). Rather, it appears that when Davis gave his April 26 orders to Johnston, Davis planned to use the salvageable part of Johnston's forces as a mobile army, with the goal of joining up with Taylor (or Forrest) east of the Mississippi or ultimately with Kirby Smith west of the Mississippi.

After Johnston's surrender on April 26, Davis pressed on by horseback and carriage with his dwindling group of civilian supporters and approximately 3,000 cavalry troopers from Tennessee and Kentucky. His plan still appeared to be to escape from Sherman and join either Taylor or Kirby Smith's forces. On May 2, having reached Abbeville, South Carolina, Davis called a meeting of his remaining cabinet officers, in particular Breckinridge, and also General Braxton Bragg (who had joined Davis May 1) and the six brigadiers commanding the approximately 3,000 Tennessee and Kentucky cavalry troopers who were guarding Davis's group. Davis expressed his view that,

Even if the troops now with me be all that I can for the present rely on, 3,000 brave men are enough for a nucleus around which the whole people will rally when the panic which now afflicts them has passed away. (Foote 1986, p. 1005.)

The brigadiers expressed their view that the country was not undergoing panic, but exhaustion.

(This implied that deserters and stragglers, let alone new conscripts, would not be swarming back

armies in pursuit. In that belief, I determined to do all in my power to bring about a termination of hostilities.

to Confederate armies.) They said they would, however, aid Davis in his flight. Davis made a final plea to fight on, but changed no minds. He said, "Then all is indeed lost." (Foote 1986, p. 1006.) He sent away most of his group, including the cavalry troopers. He did not order the troopers to conduct guerilla war, however, or even suggest it; he had them paid and dismissed from service (Cooper, pp. 530-535). Davis moved on with a small band, evidently in hopes of getting to the Trans-Mississippi. What type of warfare Davis might have waged there is unclear. But for the rest of the time until his capture early on May 10, Davis did not issue a call for guerilla warfare, either of the type Edward Porter Alexander had suggested or of a type involving cavalry raids.

Davis told people travelling with him, and civilians he met in South Carolina, that he personally would not surrender as long as there were any Confederate troops who had not surrendered. This sounds like a proud man who would not let down Confederate soldiers as long as they fought on. Cooper (2000, p. 531) interprets Davis's behavior as "retain[ing] command of himself. He spoke bravely and talked about carrying on the fight." Cooper notes, however, that, "he consistently acknowledged and acted on the realistic assessments of this secretary of war and military commanders." On his trek in South Carolina and then Georgia, Davis nowhere called for all-out guerilla warfare. Of course, it is possible he might later have done so had he reached Trans-Mississippi.

Historians' Debates Over Confederate Strategy. The charge that Davis contemplated continuing the fight with guerilla warfare arises in part from the conflict among historians over the military strategy that the South "should" have followed.¹⁷ Gallagher (1997, p. 117) describes the source of the academic debate:

¹⁷ McPherson (1992) gives a brief survey of theories about why the North won (or the South lost). Beringer et al. (1986) give a survey in their Chapter 1, and their whole book can be taken as an extended debate over the theories.

The Confederacy lost. Assuming it had begun the conflict with at least some chance of victory, it must have relied on a flawed strategy. If that were the case, what strategic alternative should Confederates have chosen?

A number of authors argue that the Confederacy suffered many more casualties than were necessary by relying too much on offensive moves (see McWhiney and Jamieson 1982). One school argues that the South should have turned to “a wide-scale guerilla resistance from the beginning.” (Gallagher 1997, p. 120). For example, Gallagher (1997, pp. 123-124) quotes Robert L. Kerby as suggesting “a war of national liberation,” citing “Mao, Che Gueverra, Fanon, Giap, Ho Chi Minh and others.” Kerby suggests the Confederacy should have turned to “a mobile-route army to cover her heartland ... as Washington covered the interior of the Middle States [during the American Revolution], and with the commitment of the remainder of her forces to hit-and-run harrying operations.”

Gallagher (1997, p. 125) notes that some authors argue that, “as late as Appomattox guerilla warfare could have defeated the North.” (Presumably, this is aimed in particular at Beringer et al., 1986, among others.)¹⁸ Referring to Davis’s Danville declaration, on April 4, (“We have now entered upon a new phase of the struggle... Relieved from the necessity of ...”) Gallagher (1997, p. 141) asserts, “For those enamoured of the guerilla option, Davis’s address has seemed to indicate that he belatedly recognized the merits of such a national strategy.” As seen above, other interpretations are possible.

One of Davis’s close aides later (1875) quoted him as saying, “Guerillas become brigands, and any government is better than that.” (Cooper, pp. 526-527.) On the one hand, after the war Davis refused to ask for pardon, but on the other hand urged reconciliation between

¹⁸ Beringer et al. write (pp. 422-423):

[B]y April 1865, ... an unconventional military strategy still presented a viable alternative for the Confederates, although it would have created more domestic turmoil, especially among the black

North and South (Foote, 1974, p. 1058). J. Davis's (1958) memoirs of the Confederacy show no evidence that guerilla war was his fixed purpose at the end, or even a serious option in his mind, but he wrote his memoirs long after the events, and may have omitted plans that at a later date would have seemed dishonorable.

Nevertheless, many authors are convinced that Davis not only considered but planned a guerilla war. Winik (p. 377) writes that Lee believed Davis planned for guerilla war. He argues that Lee's aim in the sentence in his April 20 report, "A partisan war may be continued... and the hostilities protracted, causing individual suffering and the devastation of the country...." was to dissuade Davis from pursuing guerilla war. Winik offers no evidence to support the view that Lee believed that Davis planned for guerilla war. Further, an alternative interpretation of this passage is that Lee meant to warn Davis to be on guard to snuff out any attempts by subordinates to turn to guerilla war. As support for his views that Davis planned for guerilla war, Winik offers a citation of Thomas (1979).

Thomas (1995), in his biography of Lee, offers the same view of Davis's plans. In the context of Alexander's plea on April 9, that Lee's army "scatter like rabbits and partridges in the woods," Thomas writes, "He Lee [had] to consider a guerilla phase of this war, because he knew that Jefferson Davis was committed to just such a recourse." Thomas offers a citation to his earlier work, Thomas (1979) to support his contention that Davis was so committed.

Trudeau (1996) rather casually accuses Davis of planning guerilla war:

Much has been said about Lee's humanity in refusing even to consider ordering his army to scatter and continue the conflict in a guerrillalike fashion. In so acting, Lee responded no differently than any of his peers when presented with similar options. To the Confederate officer class, the prospect of social disorder was far more terrifying than the shame of surrender. Joseph E. Johnston actually defied an order from Jefferson Davis to scatter his army and instead surrendered it for that very reason. Also rejecting the

population, than Confederates wanted to see. Nevertheless, guerilla war was by no means impossible for the South in 1865. [See also Chp. 17.]

guerrilla option were Richard Taylor and Edmund Kirby Smith. Lee's action was quite in line with this way of thinking.

Trudeau offers no evidence to support his view of J. Davis's commitment to guerrilla war; instead he refers to a discussion in Thomas (1979).

Four books focus on the flight of the Confederate government in April and May, 1865: Hanna (1938), B. Davis (1982), Ballard (1986) and W. Davis (2001) (W. Davis (2001) is the most useful and complete). It is useful to look at their treatment of J. Davis's April 5 Danville proclamation ("We have now entered upon a *new phase* ... Relieved from the necessity ..."; see above). They reach quite different conclusions. Hanna (1938) and B. Davis (1982) mention nothing about J. Davis planning guerilla war. It is not clear what Ballard (1986) has in mind when he discusses J. Davis and guerilla war. W. Davis (2001) believes J. Davis contemplated guerilla war.

Regarding the Danville proclamation, Hanna (1938, p. 17) says nothing about any intention for guerilla war. He writes:

Probably with the purpose of instilling new hope in the people of the South and to counteract discouragement over the loss of Richmond, President Davis issued a proclamation on the day following his arrival in Danville. It gave, unmistakably, the impression that the head of the Confederacy had no intention of relinquishing the struggle. 'I will never consent to abandon to the enemy one foot of the soil of the Confederacy,' asserted the proclamation; "let us ... meet the foe with fresh defiance, with unconquered and unconquerable hearts." Desperation rather than reason obviously produced such a statement.

B. Davis (1982) writes of the Danville proclamation:

On April 5, ... Davis issued a proclamation exhorting the people of the South to further exertions.... Davis's call to his people, as a biographer of [Secretary of State Judah] Benjamin wrote, was a cry of 'desperation rather than reasoned hope.'

Ballard (1986, p. 37) writes:

The desperate president was proposing a war of persistent guerrilla-type harassment and was personally pledging never to give up. [He attaches the note (p. 71, n. 14):] Despite

what some historians have written, Davis words do not indicate an advocacy of guerrilla war *per se*. The South still had enough men in the army in April 1865 to wage an effective guerrilla war. A recent study has concluded, however, that ‘the Confederate establishment would have found guerrilla warfare incongenial to its view of war.’” [He then cites Hattaway and Jones (1991).]

It is hard to know what Ballard means in these sentences taken as a whole.

W. Davis (2201) asserts that Davis planned guerilla war. His argument essentially relies on the Danville declaration of April 5, 1865 (“We have now entered upon a *new phase* ... Relieved from the necessity of...”.) In his earlier book on J. Davis, W. Davis (1991, pp. 608-609) offers the same argument: “... a policy of partisan warfare on a grand scale.” (See also W. Davis, 1996, where he does not make this case, pp. 155-156).

In his discussion of *Why the Confederacy Did Not Fight a Guerrilla War After the Fall of Richmond*, Frederickson (1996) also bases his discussion on the Danville declaration of April 5, 1865 (“We have now entered upon a *new phase* ... Relieved from the necessity of...”). He writes (pp. 7-8):

In effect, Davis was proposing that Lee disperse his army before it could be cornered and that the Confederacy shift from fighting a conventional war in defense of territory and population centers to a guerrilla war of attrition meant to wear down the North and force it to conclude that keeping the South in the Union was not worth the sacrifices that had to be made.... It is legitimate for historians to ask why this option was not pursued.... Charles Francis Adams raised this question... In his paper on “Lee at Appomattox,” Adams focused on Lee’s decision to rage at Davis’s advice and keep his army intact until its surrender rather than dividing and dispersing it while he still had a chance to do so....

Frederickson cites Thomas (1979, pp. 300-304) as support for the view that “Davis was proposing that Lee disperse his army ... and that the Confederacy shift ... to a guerrilla war ...”¹⁹ From above, it is clear that Thomas’s (1979) views, that Davis contemplated guerilla war, may be a misinterpretation.

¹⁹ In fact, Frederickson attaches his footnote reference to Thomas (1979) to the Davis declaration quote, (“We have now entered upon a new phase of the struggle... Relieved from the necessity of...”), rather than to the guerilla war

Most readers decide that in his memoirs, Johnston (1959) attempts to shift blame to J. Davis, and generally to put Davis in a bad light. Nowhere in his memoirs, however, does Johnston accuse Davis of planning guerilla war, and J. Davis (1958) asserts in his memoirs that he planned on conventional war. In light of the accepted hostility between Davis and Johnston, it seems peculiar that Johnston does not refer even to rumors of Davis's plans for guerilla war, if indeed there were any evidence that Davis planned on guerilla war. Certainly, Johnston considered guerilla war dishonorable.

Thomas's Argument That Jefferson Davis Planned Guerilla War. Thomas's (1979, pp. 300-306) argument, cited by a number of other authors, is the most elaborate. Thomas makes the case that Davis and a small number of other Confederates, "a tiny minority of Southerners," planned to switch to guerilla war, "a fight to the knife." Thomas' argument starts with Davis's proclamation from Dansville (above, "We have now entered on a *new phase* ... Relieved from the necessity ..."). Thomas then asserts that (italics added),

The 'new phase' of which the president spoke was a guerrilla phase. Davis proposed to fight on from the *hills* or wherever Confederates kept the faith And there were other Southerners who shared the President's dream.²⁰

He cites as an example a letter to Davis from Confederate cavalry General Wade Hampton [April 19, 1865], and gives the quotation:

The main reason urged for negotiation [for peace] is to spare the infliction of any further suffering on the people. Nothing can be more fallacious than this reasoning. *No* suffering which can be inflicted by the passage over our country of the Yankee armies can equal what would fall on us if we return to the Union.

argument that follows directly after. There can be little doubt that he meant Thomas as justification for the view that Davis planned guerilla war.

²⁰ W. Davis (1996) makes a strong argument that the "hills" would have been very difficult for Confederate guerillas to use.

Hampton, however, is not proposing guerilla war, but an escape to Texas, to continue the struggle there²¹. Thomas continues: “In a more direct vein, another cavalry general, Thomas T. Mumford, wrote orders to his dispersed brigade [April 21, 1865].

We still have a country, a flag, an army, a Government. Then to horse! ... Let us who struck the last blow as an organized part of the Army of Northern Virginia strike the first with that victorious army, which, by the blessings of our gracious God, will yet come to redeem her hallowed soil.”

Davis received the Hampton letter, but the Mumford orders may never have reached Davis. Note that the Hampton letter and the Mumford orders were both written after Johnston, along with Breckinridge, in negotiations that Davis had authorized, had agreed on April 16 to surrender all of the Confederate armies to Sherman under his “Memorandum, or Basis for Agreement.”

Indeed, Hampton’s letter was in reaction to the surrender, urging Davis not to accept it. When Mumford gave his orders on April 21, Davis had not yet received the terms and thus had not decided whether to accept them (he received them from Breckenridge on April 22, asked for written comments from his cabinet, and decided to accept the terms on April 24, 1865).

Mumford clearly appears to be urging his troops from the Army of Northern Virginia to fight on, though Lee had surrendered. The exact nature of the fight is unclear, however; some of the members of Lee’s army that were not covered by his surrender sought to join Johnston’s army, and there is little evidence that others turned to guerilla war.

²¹ Hampton wrote two letters to Davis in the same vein, one on April 19, the other on April 22 (J. Davis 1923, pp. 552-553, 554). Hampton wrote on April 19:

Give me a good force of Cavalry and I will take them safely across the Mississippi—and if you desire to go in that direction it will give great pleasures to escort you. My mind is made up. As to my course I will fight as long as my government remains in existence, when that ceases to live I shall seek some other country...

He wrote on April 22:

If you should propose to cross the Mississippi I can bring many good men to escort you over. My men are in hand and many ready to follow me anywhere. I cannot agree to the terms which are proposed [Sherman’s first offer] and I shall seek a home in some other country. If Texas will hold out or seek the protectorate of Maximillian we can still make some head against the Enemy.... My plan is [call] the men who will stick to their colors and to get to Texas...

Lee wrote to Davis on April 20, 1865. Thomas analyzes Lee's communiqué, including a quote from Lee:

He [Lee] took some pains to speak of the issue of a 'new phase' of the war.

A partisan war may be continued and hostilities protracted causing individual suffering and the devastation of the country, but I see no prospect of achieving a separate independence.

What Lee meant by "a separate independence" was independence within a defined place with stable relationships among people. The independence for which Davis grasped was that of a guerilla nomad who might have to conduct reprisals against his own people. What Davis now asked was that Southerners make the ultimate sacrifice: that of themselves and their fundamental attachment to people and place. The overwhelming majority of Southerners would have none of it.

In fact, as seen above, Lee's letter was fuller (Dowdey and Manarin 1961, pp. 938-939) and seems to make a different point. Lee seems to make the case that Davis has no real choice but to surrender. "An army cannot be organized or supported in Virginia, ... the country east of the Mississippi is morally and physically unable to maintain the contest unaided with any hope of ultimate success." Lee goes directly to the only fight conceivably left, "A partisan war may be continued, and hostilities protracted, causing individual suffering and the devastation of the country, but I see no prospect by that means of achieving a separate independence." This can read as saying that both Lee and Davis would abhor a partisan war [and more strongly a guerrilla war], but this was the only option left, and should and would, of course, be rejected. Besides, a partisan war would not result in the "separate independence" that both Lee and Davis desired. Lee does not seem to be trying to talk Davis out of a partisan war; rather he seems to be warning Davis that if he did not surrender, he would get the unacceptable horror—unacceptable to Davis, in Lee's mind—of partisan war. And Lee seems to believe that what Davis actually wanted was a

“separate independence”; he does not seem to be making any attempt to argue that this is what Davis should want.

Thomas goes on (p. 304):

A few days after Lee explained his rejection of the partisan option, on April 25, the President ordered Joe Johnston to begin the war’s new phase... Davis ordered Johnston to disband his infantry and appoint a future rendezvous for the men in order that they might continue the fights as partisans Like Lee, Johnston chose surrender, on April 29, instead of a partisan war, and he did so in the face of a direct order to the contrary.

But J. Davis (1958, italics added) himself had a very different view of what he wanted Johnston should do rather than surrender:

He [Johnston] should retire with his cavalry, and as many infantry as could be mounted upon draught-horses and light artillery, the rest of the infantry to be disbanded, and a place of rendezvous appointed. It was unnecessary to say anything of the route, as that had been previously agreed on, and supplies placed on it for his retreating army. This order was disobeyed, and he sought another interview with Sherman...

Johnston’s line of retreat was open, and supplies had been placed upon it. His cavalry was superior to that of the enemy, as had been proved in every conflict between them. Maury and Forrest and Taylor still had armies in the field—not large, but strong enough to have collected around them the men who had left Johnston’s army and gone to their homes to escape a surrender, as well as those who under similar circumstances had left Lee. The show of continued resistance... would have overcome the depression which was spreading like a starless night over the country...

Had General Johnston obeyed the order sent him from Charlotte, and moved on the route selected by himself [see J. Davis 1958, p. 681], ... he could not have been successfully pursued by General Sherman. His force, untied to what I had assembled at Charlotte, would ... have been *sufficient to vanquish any troops which the enemy had between us and the Mississippi River.*

Johnston published his *Narrative* in 1874, but he lived until 1891, and certainly had the opportunity to add the charge of plotting guerilla war to his feud with Davis, but he did not. It appears Johnston did not believe Davis was plotting guerilla war.