

Ending the Civil War and Consequences for Congress

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Clay Risen

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Introduction

AFTER FOUR YEARS of intense and brutally bloody combat, the Civil War was finally over. The Southern experiment in treason had ended in total defeat. The Confederate capital, Richmond, was a burned-out hulk (figs. 1 and 2). Across the eleven states that had formed the Confederacy, railroads were in ruins, factories (and some cities) were in ashes, and many farms were unplowed and unplanted. As Anne Sarah Rubin notes in her essay on Sherman's army, in some parts of the South—Missouri, the Shenandoah Valley, and a sixty-mile-wide swath of Georgia and the Carolinas—homes, barns, and crops had been destroyed. In some places, civilians had been displaced by combat in their neighborhoods or by armies on both sides, who forced them out of harm's way, even when they wanted to remain in their homes.

Even in places untouched by combat or unvisited by armies from either side, the effects of the war were visible. Four million African Americans were no longer slaves. At least 100,000 former slaves returned to the South in U.S. Army uniforms, some still carrying their muskets and bayonets. These combat veterans were not only willing but also able to defend the freedom they had helped win for themselves and their families. But their numbers would ultimately be insufficient to preserve black equality in the face of Southern white terrorism and viciously creative Southern state legislatures and politicians. The Fourteenth Amendment, as chapters by Paul Finkelman, William E. Nelson, and Peter Wallenstein show, would be necessary to



FIG. 1. April 1865 photograph by Andrew J. Russell shows the destruction of the waterfront across the canal basin in Richmond with the Virginia State Capitol and the U.S. Custom House in the distance. (*Library of Congress Prints and Photographs Division*)



FIG. 2. Ruins on Carey Street in Richmond, photographed at the end of the war by Andrew J. Russell. (*Library of Congress Prints and Photographs Division*)

secure legal citizenship for former slaves, but as we know, enforcement would remain insufficient for a century.

On the other side of the equation, nearly 300,000 Southern white men would never return home—they lay buried all over the former Confederacy, as well as in other parts of the rest of the United States. Probably 200,000 or more Confederates came home visibly wounded, while countless others carried the mental scars of combat. Lorien Foote reminds us that more than 160,000 Confederate prisoners of war (POWs) returned as well, all carrying with them the scars and nightmares of war that would last forever. “Most former POWs,” whether Confederate or U.S., “never fully recovered from their captivity.” Even those who went on to have successful lives were plagued by “physical ailments” while “sharp, clear, unwanted memories of life in prison were deeply embedded in their minds.”

Northern families, veterans, and returning POWs also suffered grievously from the war. The U.S. Army, despite its vast resources and logistical successes during the war, was unable to provide medical care, food, or even full transportation for POWs rescued from Confederate captivity at the end of the war. Most POWs got home soon after the war ended, although their journeys, as Foote teaches us, were sometimes harrowing and unnecessarily hard. The last U.S. POW to return home arrived in 1889. He suffered from amnesia for a quarter century before miraculously regaining his memory and his family.

Because most of the war was fought in the Confederacy, and the Confederacy suffered a much higher proportion of casualties (killed, wounded, and captured), the effects of the conflict were much greater and more obvious in the South. The social conditions of the South had been turned upside down, or at least fundamentally altered, and the economy was in tatters. Former slaves as well as the former master class suffered from physical deprivation and a lack of food. Ironically, as Carole Emberton demonstrates, these costs were disproportionately borne by former slaves, who had virtually no resources or land when the fighting ended. After the war, former slaves faced hunger and even starvation, but as Emberton points out, in the aftermath of the conflict “the majority of food relief went to white refugees.”

The lack of food, housing, and other necessities in part stemmed from a final cruelty of slavery: whites who had lived for so long on the labor of slaves were unwilling to help feed the newly freed blacks, and in the immediate aftermath of the war many former slaves had virtually no access to land,

seed, farm animals, and equipment to grow their own crops. The United States had spent fortunes on a war to end slavery but was structurally and ideologically ill equipped to provide for the basic needs of those who were now free.

In addition, of course, the war had destroyed much of the agricultural infrastructure necessary for basic food production. The destruction of Sherman's march through Georgia and the Carolinas illustrates this. Rubin correctly reminds us that Sherman's March to the Sea was hardly the barbaric assault on humanity that lost-cause partisans and novelists like Margaret Mitchell fantasize about. In reality, Sherman's march was nothing like the German invasion of Belgium in World War I, the German invasion of eastern and western Europe in World War II, or the Soviet counterattack in the same war. Sherman's soldiers took food and forage as needed for their army, and confiscated or destroyed matériel that was useful to the enemy; but soldiers were prohibited from wanton looting, and the army never countenanced murdering or raping civilians. Sherman approved the executions of his own troops convicted in court martials for such behavior. Sherman's march was not the horror show that some historians, novelists, or movie-makers portrayed it a half century ago. Still, it was an awful experience for civilians who lived through it, as well as for the Confederate soldiers who were battered and defeated in battle after battle for more than a year.

Nevertheless, as Clay Risen tells us, the memory filtered by a century and a half of myths and some history remains contested. Even if the Civil War is no longer the "felt" history it once was, Risen reminds us that it remains very much a contested history.

The costs of the war—human and financial—as well as the profound political and legal changes stemming from the war led to a massive readjustment in demography, social services, economics, politics, and law. The immediate costs in lives and blood were staggering. More than 2.6 million men served in the U.S. Army and Navy, and more than a million in the Confederate military.¹ This constituted more than 10 percent of the entire nation's population in 1860. About 360,000 U.S. soldiers and sailors died

¹The website of the National Park Service lists 2,672,341 U.S. soldiers and estimates that the Confederate army had between 750,000 and 1.2 million soldiers. This site does not include naval service for either side or for irregulars and guerillas fighting for the Confederacy. National Park Service, "The Civil War," <https://www.nps.gov/civilwar/facts.htm>.

during the war, along with 290,000 Confederates. An additional 500,000 were wounded.² The number who returned with emotional scars and mental health issues is unknown. Because both sides were “Americans” before and after the war, these numbers are aggregated, at 650,000 “American” deaths in the war, although some scholars argue for a much larger figure.³ This is more than all U.S. wartime fatalities in all other U.S. wars combined. In addition, unlike wars fought on foreign soil, some civilians died in the war and many others suffered grievously from the destruction of their homes and crops and the confiscation of food and farm animals. Northern civilians also suffered from the Confederate depredations, which were often far worse than those faced by Southerners. In Missouri, psychopathic Confederate killers “Bloody Bill” Anderson, Frank and Jesse James, and the Younger brothers murdered civilians and captured U.S. troops with a gory frenzy. Meanwhile, on the East Coast, Confederate soldiers under the command of Robert E. Lee kidnapped and enslaved free blacks living in the United States during Lee’s Maryland campaign in 1862 and his Pennsylvania campaign in 1863, dragging them back to Virginia as his army retreated from its defeats at Antietam and Gettysburg. These acts violated all known and accepted rules of civilized warfare. Everywhere in the Western world it was considered a war crime to enslave civilians or to murder surrendering troops. But Confederates did both, with the tacit or active approval of their putative nation’s high command and civilian leadership. Confederate troops in the South murdered and mutilated surrendering black troops at Fort Pillow and elsewhere; and as Foote notes in her chapter, at Dalton, Georgia, Confederates enslaved most of a regiment after it surrendered.

To understand the magnitude of the human cost of the war, it is useful to compare the Civil War casualties with the current U.S. population. In 2010 the United States had about ten times the population it had in 1860. Thus, a war of similar magnitude would lead to at least 6 million deaths and

²Claudia D. Goldin and Frank D. Lewis, “The Economic Cost of the American Civil War: Estimates and Implications,” *Journal of Economic History* 35 (June 1975):299, 305.

³One such scholar claims that fatalities for both sides were between 650,000 and 850,000. Given this huge numerical spread, he settled on 750,000 as the right number. Guy Gugliotta, “New Estimate Raises Civil War Death Toll,” *New York Times*, Apr. 2, 2012, <https://www.nytimes.com/2012/04/03/science/civil-war-toll-up-by-20-percent-in-new-estimate.html>. This higher number remains controversial, but if the higher figure turns out to be correct, it only underscores the huge human cost of the conflict.

4.75 million wounded soldiers. It is almost impossible to imagine a war of that magnitude in the modern era.

Because the war was fought on U.S. soil—or what would once again become U.S. soil after the defeat of the Confederacy—there were unprecedented social and economic costs to the conflict. The length of the war increased these costs. The war was more than twice as long as the two previous conflicts—the Mexican War and the War of 1812. This time line not only created greater suffering but led to increased destruction of nonmilitary property, especially in the Confederacy. Throughout the Confederacy, homes, factories, farms, and large parts of cities were destroyed. By 1865 many places in the South were devastated and in ruins. Before the people of the former Confederacy could fully feed themselves and regain economic stability and even prosperity, they had to rebuild much of what had been destroyed by the war. Thus, while peace meant an end to battles, it did not lead to an immediate end to human suffering.

Some of this destruction in the South resulted from the collateral damage of war or from battles actually being fought inside or around cities. Three separate battles were fought in and around the town of Fredericksburg, Virginia, and to this day the remains of dead soldiers are sometimes found. But some of this physical destruction was caused by retreating Confederate troops who burned their own warehouses and cities to prevent matériel from falling into the hands of their enemies. This scorched-earth policy in Georgia and the Carolinas did not do much to slow the advance of General Sherman's army, as it liberated hundreds of thousands of slaves in the Deep South while simultaneously destroying Confederate armies. But the policy did exacerbate poverty, hunger, and the lack of infrastructure and resources in the postwar South.

The financial cost of the war was truly profound. Careful economic historians conclude that the cost to the United States⁴—or the Union as it is often called—was about \$4.5 billion, in 1860 dollars. Most of this went to paying and equipping soldiers. The estimate for the Confederate States of America was even larger, \$5.8 billion, in 1860 dollars, even though the Confederacy had only about one-third as many people. Much of the cost to the

⁴“United States” refers to those states that remained loyal to the Constitution, and excludes the Confederate states, even though technically, at least as understood by the Lincoln administration, they were part of the United States.

Confederacy resulted from the loss of “physical capital,” such as factories, railroads, buildings, and farm equipment.⁵ The Confederate costs also include the loss of “economies of scale” due to the destruction of slavery.⁶ These figures do not include the loss of capital owned by Southern whites due to the end of slavery. Ending slavery, after all, transferred value from masters to the former slaves, who now “owned” themselves. However, before and during the war, slaves were capital assets that could be sold, mortgaged, rented, and used as collateral for economic development. In addition, because of the continuing growth of the slave population, slaves represented an economic asset that was constantly increasing in value. Factoring in the loss of these assets increases the costs of the war to the white Confederates, who in fact seceded to protect and preserve slavery forever. The Emancipation Proclamation, the victory of the U.S. Army, and the Thirteenth Amendment not only transformed four million slaves into free people but also eliminated about \$2 billion worth of capital in the former Confederacy.⁷

These costs can also be understood by per capita allocations. The United States (the Union) had three times the population of the Confederate states. Thus, the per capita cost of the war was \$670 in the Confederacy but only \$199 in the United States.⁸ None of these figures include a value (how could we put a value on it?) for the emotional cost of more than 650,000 deaths and half a million wounded survivors.

The war left economic scars and trauma across the nation that mirrored the profound horrors of deaths and physical scars. Returning soldiers were traumatized in both sections, but much more in the South than in the North. U.S. soldiers returned victorious to a society that was hopeful of the future. Although as Foote notes, returning U.S. POWs suffered profoundly from the inability of the victorious nation to care for these men or even figure out how to help them get home. But when the veterans and former POWs

⁵Roger L. Ransom, “The Economics of the Civil War,” <http://eh.net/encyclopedia/the-economics-of-the-civil-war/>. For somewhat different but similar calculations, see Goldin and Lewis, “The Economic Cost of the American Civil War,” pp. 299, 305, 308, 321–22.

⁶Goldin and Lewis, “The Economic Cost of the American Civil War,” p. 322.

⁷Ransom, “The Economics of the Civil War.” This essay puts the cost of buying all the slaves in 1860 at \$2.7 billion, but I have reduced that to account for the value of slaves in states that remained in the United States: Kentucky, Missouri, Maryland, Delaware, and what became West Virginia.

⁸Ransom, “The Economics of the Civil War.”

did get home, they found that profound changes in Northern society made possible by the absence of slave owners in Congress promised a better future. The Homestead Act and the Transcontinental Railroad Act increased access to western lands, while the Land-Grant College Act (Morrill Act) created the very real possibility that some veterans and their children would have access to higher education.⁹ New industries and improved transportation, stimulated by the war, also contained the promise of a better world. As the economic historian Jenny Bourne shows, by 1879 the Northern economy had “caught up” to where it would have been without the war.¹⁰ Bourne notes that in the states that did not secede, “real per capita GDP grew faster after the war than before, with only a small downturn during the financial panic of 1873.” Not all parts of the North, or all Northerners, benefited from the war and its aftermath. As Bourne notes, economic inequality increased during and after the war, but the North nevertheless came out of the war on the verge of an economic expansion.

But life was less promising for the defeated soldiers of the traitorous army. Many returned home in tattered uniforms, in ill health, and thoroughly demoralized by their defeat. Their officers faced political disfranchisement and at least the potential of being tried for treason. Many Confederates had committed war crimes by murdering or enslaving captured soldiers. For example, as Foote notes in her chapter, at Dalton, Georgia, Confederates enslaved most of a regiment after it surrendered, which was a war crime under all existing notions of the law of nations, as well as under the military codes of both the Confederate army and the U.S. Army. Many Confederates who had committed war crimes might have faced trials or even executions for their behavior. In the end there was only one war crimes trial, for the barbaric and brutal Henry Wirz, the commander at the Andersonville prison in Georgia. He managed the camp in ways designed to unnecessarily harm the prisoners. For example, he denied them access to clean water, which his own soldiers had and which was readily available. He then ordered his soldiers to shoot prisoners if they reached over makeshift barriers to fill their cups with fresh water. The Wirz trial is generally seen as a failure of due process and the rule of law because of its many procedural irregularities.

⁹See Paul Finkelman, “Introduction: The Congress, the Civil War, and the Making of Modern America,” in Paul Finkelman and Donald R. Kennon, eds., *Civil War Congress and the Creation of Modern America* (Athens, Ohio, 2018), pp. 1–8.

¹⁰Goldin and Lewis, “The Economic Cost of the American Civil War,” p. 319.

The prosecutors understood the concept of a war crime, and even crimes against humanity, but lacked the necessary legal theory or tools to prosecute Wirz for such crimes. Thus, they tried him for simple murder, and he was convicted and executed. Given the horrible condition of the prisoners—many of whom resembled survivors of Nazi death and concentration camps—Wirz’s war crimes were obvious. Lost-cause partisans call his trial an act of vengeance, but in reality it was the world’s first modern war crimes trial for crimes against humanity. What is remarkable is not Wirz’s conviction but the failure of the United States to try others for war crimes, such as enslaving civilians and POWs or murdering surrendering soldiers.

While U.S. soldiers returned to homes that were mostly untouched by the war, and to an economy that would soon boom, returning Confederates faced devastated cities, factories, and farms. As Bourne notes, the “post-bellum South was a wasteland for decades,” and this particularly hurt African Americans, 90 percent of whom remained in the South until the twentieth century. At least two or three generations of Southern whites would pay for the treason of their ancestors with poverty and diminished prospects. The economic analysis that shows Northern recovery by 1879 underscores the bleaker future of the South, where “as late as 1909 southerners on average consumed roughly thirty percent less” than they would have if there had been no war.¹¹ Indeed, given the persistence of poverty in the Deep South, we might argue that some parts of the former Confederacy did not recover from the war until the late twentieth century—or that they still have not recovered.

Thus, when we contemplate the aftermath of the war, we must start with the profound costs for the whole nation, but particularly the South. These human and economic costs are tied to the social and cultural change the war brought—and the cultural and social changes the war failed to accomplish.

The social changes ultimately led to profound legal and constitutional changes. Southern whites almost universally refused to come to terms with black freedom—or even the loss of the war. The postwar Southern governments tried hard to prevent blacks from gaining political power, social rights, or any economic foothold in the postwar society. They tried, as much as possible, to reduce blacks to something close to slavery. Eventually this Southern white obstinacy would lead Congress to pass the Civil Rights Act

¹¹Ibid.

of 1866 and other laws, as well as to the Fourteenth and Fifteenth amendments. The goal of these amendments and laws was to protect civil rights and suppress white terrorism. These amendments and laws worked for a while, but in the end they were ineffective or ineffectively enforced for more than a century. The essays on the Fourteenth Amendment remind us of its necessity, the process that led to it, and how it was implemented.

The chapters in this book collectively explore some of the ways in which the end of the war continued the trauma of the conflict and also enhanced the potential for the new birth of freedom that Lincoln promised in the Gettysburg Address. We end with Risen's reminder of how the meaning of the war has changed over time, and how the memory has been filtered and remade by a century and a half of myths and serious historical scholarship. While the Civil War is no longer the "felt" history it once was, Risen reminds us that despite the work of many fine scholars, it remains very much a contested history. As we witness continuing conflicts and sometimes lethal disputes over the place of Confederate monuments and Confederate flags in our public space, we realize how much the war is still "felt" in our country, even if the last veterans are now long gone from the debate.