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On October 11, 1861, the Richmond Enquirer reported that a Confederate court had confiscated Monticello. Weeks before, the Confederate Congress had passed the Sequestration Act, authorizing the seizure of Northern property in direct retaliation for the First Confiscation Act. A captain in the U.S. Navy, Uriah P. Levy of Pennsylvania, owned Thomas Jefferson's former estate. Two Virginians, George Carr and Joel Wheeler of Charlottesville, managed Monticello as Levy's agents. As a U.S. citizen, Levy had been designated an "alien enemy." Consequently, under the terms of the Act, all of his property located within the borders of the Confederacy was subject to permanent, uncompensated seizure and sale for the benefit of Confederate citizens who had lost property to the Union.¹

The Confederate courts charged with administration of the law quickly seized the Monticello estate, "comprising 360 acres of land . . . assessed at $20 per acre," along with "a house and other improvements assessed at $2,500." In addition to Monticello, the courts confiscated other property Levy owned in Albemarle County, including 960 acres of land as well as "ten slaves, 8

¹ "An Act for the Sequestration of the Estates, Property and Effects of alien Enemies and for the indemnity of citizens of the Confederate States and Persons aiding the same in the existing war with the United States" (hereafter Sequestration Act), in Acts and Resolutions of the Third Session of the Provisional Congress of the Confederate States (Richmond: Enquirer Book and Job Press, 1861), 57–67.
horses, sixteen head of cattle, seventy-eight sheep, thirty hogs and a lot of household and kitchen furniture."

In its speed and efficiency, the confiscation of Monticello was typical. Rarely, however, did the Confederate government confiscate Northern property at so little cost to its own citizens.

In the South there was near ideological consensus on the legal basis for seizing Union property. The United States was an enemy belligerent whose property was, at international law, subject to permanent confiscation during war. Through the resort to international law, the Confederacy was able not only to assert its sovereignty but also to craft a far more rigorous and effective Act much more quickly than its Northern counterpart. U.S. citizens were, at Confederate law, foreigners, and were not accorded the protections of domestic Confederate constitutional law. U.S. citizens were not traitors, and in fact owed no legal allegiance to the Confederate States of America.

As a result, all of the agonizing self-scrutiny over the constitutional rights of the enemy that so dominated the Northern confiscation debates was mostly absent in the South.

The classification of the Union as a foreign country had important institutional consequences. The whole legal apparatus for confiscation in the North—individual hearings determining the loyalty of property owners—was not conceptually applicable within the Confederacy. This made for a more vigorous confiscation regime. Property was confiscated by Confederate courts simply if it could be shown that such property belonged to an alien enemy. By 1865 the Confederate judiciary had seized and sold millions of dollars worth of Northern property located all over the South.

2. Richmond Enquirer, Oct. 11, 1861.

3. If it was, as of 1861, mostly settled, at least in antebellum American law, that international law permitted belligerents to seize immediately without compensation all enemy property located within their borders, if such seizures had been authorized by the national legislature. This interpretation had been the holding of the Supreme Court in U.S. v. Brown, 12 U.S. 110 (1814), and had formed the centerpiece of Lyman Trumbull’s argument in the Northern confiscation debates. See Daniel W. Hamilton, “The Limits of Sovereignty: Legislative Confiscation in the Union and the Confederacy” (Ph.D. diss., Harvard University, 2003).


In discussing sequestration, we must draw a line between legislative and military confiscation. There is an important literature on the treatment of civilian property by the Northern and Southern military during the Civil War. This work focuses on the treatment of property by armies on the move, and the attempt on the part of government to regulate the treatment of civilians. The taking of "contraband" is governed by the laws of war, a largely self-contained set of doctrines and principles based in domestic and international law, which balances the strategic needs of the military with a desire to protect noncombatants. This is distinct from confiscation pursued by a legislature, not to help win a battle or campaign, but as policy. Military confiscation is recognized as the seizure and use, and even destruction, of another's property as part of military strategy. Under nineteenth-century law, the seizure of property by the military was normally temporary. Title to the property did not transfer from its owner, and the authority of the military to seize property ended with the restoration of peace. Legislative confiscation, in contrast, is designed to legally transfer property away from its owner, and it can take place thousands of miles away from any army or battlefield. Property need never be physically occupied in order for title to vest in the government.

Under the Sequestration Act, extraordinary legal demands were put upon ordinary Confederate citizens by the courts. The very independence of the Confederacy also limited the reach of Southern property seizures. Northern confiscation was designed to seize disloyal property and took place as the Union acquired more and more Confederate territory. Sequestration, however, could be enforced only within the boundaries of the new Confederate nation. The Confederacy made no claim to dominion over the Union but instead, of course, was fighting to secede. By the laws of war, the Confederate army operating in the United States could impress property for its own use. The Confederate Congress could not, however, make any general claim to foreign property located inside the boundaries of the United States. Belligerent property belonging to U.S. citizens could be confiscated by the legislature.


only if it was located inside the boundaries of the Confederacy. In some cases, like the confiscation of Monticello, absentee landlords abandoned property, which was quickly seized. In most instances, however, Northern property was in the possession of Confederate citizens, often a family member, or a business partner, or a debtor who owed money to a Northern alien enemy.

The fact that Union property was subject to legislative confiscation only inside the Confederacy put remarkable demands on Southerners and became, in some cases, oppressive. In legal terms, the Sequestration Act reflected a broad assertion of extraordinary constitutional powers on the part of the Confederate government and, in particular, its courts. Families were required to offer up to court officers property belonging to children and siblings living in the North. Lawyers, bankers, brokers, and businesses were made to open their books to reveal any property located in the South belonging to Northern clients or partners. The contents of wills were scrutinized by court officers, who duly seized property that would have passed to Northern heirs. All citizens were required to inform the government of any enemy property of which they were aware, whether in their possession or anyone else’s, imposing a clear legal instruction to inform on one’s neighbors. Most important, in terms of the sheer amount of money involved, the Sequestration Act made the Confederate government the new creditor for any debt owed by a Confederate citizen to an alien enemy. Those in debt to Northerners now owed money to the Confederacy instead.

In social terms, the implementation of the Sequestration Act was at first embraced, but its implementation increasingly led to divisions and fragmentation within Confederate society. The Sequestration Act was initially praised in the popular press as a just and necessary retaliatory measure. There was widespread fear and anger over the resort to confiscation by the North, and high hopes that sequestration would offset the loss of property to what was depicted as a voracious Union confiscation program. The business community, however, opposed the act as harmful to commerce and devastating to companies and partnerships owned jointly by Northerners and Southerners. Moreover, the difficulties of enforcing confiscation inside the Confederacy became increasingly apparent. In particular, it became more and more difficult, both legally and personally, to determine who was and who was not an “alien enemy.” The claim that the United States was a foreign country and its citizens alien enemies was much easier to maintain at law than in fact.

Until recently, it has been nearly axiomatic that the Confederacy was hampered by a devotion to limited central government, ceding too much power to the state and becoming infamous for the Confederate Constitution. Indeed, the Confederate discussion conferring the right to create a Supreme Court and the relative power established. This is clearly the work of the Confederate judiciary. Guided by these traditions, the Confederate judiciary...

9. In his classic book, Confederate federal court instead of the central court: Harper & Row, of 1861: An Inquiry into...
power to the states, exercising too little power over individual dissenters, and becoming increasingly weak as the war went on. In David Donald's famous formulation, the Confederacy "died of democracy." 8 The work of the Confederate courts, in particular, has been downplayed, with scholarly discussion confined largely to the famous inability of the Confederate Congress to create a Supreme Court, even though one was provided for in the Confederate Constitution. Article III of the Confederate Constitution, taken of course from the substantially similar U.S. Constitution, allowed for the creation of a Supreme Court, yet, because of congressional disputes over the relative power of state and federal courts, a Supreme Court was never established. This has led some historians to minimize, or dismiss entirely, the work of the Confederate judiciary. 9 As a consequence, some assert, the federal judiciary had a marginal role, while state courts had the central role. 10

Guided by these traditional interpretations, we would predict that a confiscation program designed by the Confederate Congress and administered by the Confederate judiciary was doomed to failure.


10. In some major works, Confederate federal courts are barely mentioned at all, and then only to dismiss them. See Wilfred B. Years, The Confederate Congress (Athens: Univ. of Georgia Press, 1960), 37–38.
Yet Southern confiscation succeeded. During the war a remarkably demanding property confiscation regime was imposed on a mostly willing citizenry by the Confederate courts. The relatively sudden reassertion of broad power over individual property in the Confederacy was at odds with dominant Southern constitutional thought before the Civil War. During the 1787 constitutional convention, and in the decades after, Southern slaveholders had sought, largely successfully, to protect slave property from extensive regulation by the central government, arguing for the primacy of state sovereignty, and against the threat to individual property rights. As a consequence, Southern constitutional thought before the Civil War was marked largely by a sustained legal fight to protect slave property from federal regulation and the elaboration of constitutional rights to property. Yet with sequestration, a nearly authoritarian regime was imposed by the new Confederate government as antebellum legal precedent and ideological commitments gave way to the exigent needs of a fledgling state.

The Confederacy’s break with the United States was manifested in the quick creation of governmental institutions. The Confederate States of America “was to be an instant nation, an accomplished fact to invite allegiance from Southerners, recognition from Europe, and discourage interference from the United States.” A new Congress, a new Constitution a new president, and a new cabinet—all were put in place with striking speed. On February 4, 1861, the Provisional Confederate Congress, a unicameral body, met in the state capitol building in Montgomery, Alabama. On February 8, the Provisional Congress unanimously approved a provisional Constitution and on February 9 elected a president and a vice president, both of whom traveled to Montgomery for the inauguration on February 18, three weeks before Lincoln’s inauguration in March. The breakneck pace meant that,


12. Scholars have noted, in other contexts, the adaptive nature of ideology, and its legitimating function, in Southern history. See Drew Gilpin Faust, _The Ideology of Slavery: Proslavery Thought in the Antebellum South, 1830–1860_ (Baton Rouge: Louisiana State Univ. Press, 1981). Faust pays particular attention to the relationship between slavery’s “social role and the particular details of the ideology invoked to legitimate it” (8–9).


14. Thomas, _The Confederacy as a Revolutionary Experience, 44._

15. For a full description of the early organization of the Confederate Congress, see Yearns, _The Confederate Congress._

by the time of the first two ambassadors to negotiate the possession of the forts, the acts to recognize their position that the Union government needed for supply and in the hands of Southern control to the Confederate government.

The firing on Fort Sumter and the response to Lincoln issued a proclamation for reprisal. He declared the Confederacy and for foreign power.

On May 6, the Confederate States, ordering the port. Ships “in the Confederate ports also took initial ste

16. The commissioner Washington, seeking the Commissioners and M. (Nashville: U.S. Publis the Commissioners, 1861, _Messages and Papers of Jefferson Davis._

17. This estimate came from much precious “hard 1

18. Ibid., 73. Ball also took initial ste
by the time of the first major battle of the Civil War in July, the Confederacy had been in existence for almost six months. The first Confederate steps toward confiscation reflected a balance of caution and necessity. On February 25, President Jefferson Davis appointed three ambassadors to represent the Confederacy in Washington and to negotiate the possession of all U.S. property located in the Confederacy, including forts, arsenals, and land. U.S. Secretary of State Seward refused to recognize these commissioners, reflecting the Lincoln administration’s position that the United States remained legally intact. Christopher Memminger, the Confederate secretary of the treasury was desperate for the hard currency needed for foreign trade and payments on government bonds. In early March, he ordered the seizure of U.S. assets located in Southern customs houses, mints, and, later, post offices, ultimately confiscating roughly some $1.6 million in specie. The Confederate Congress kept the Tariff of 1857 in effect and customs officials in office. While customs houses were initially in the hands of Southern state governments, Memminger soon transferred control to the Confederacy.

The firing on Fort Sumter produced more definitive steps. On April 17, in response to Lincoln’s order calling up seventy-five thousand troops, Davis issued a proclamation authorizing applications for letters of marque and reprisal. He declared that Lincoln was subverting the independence of the Confederacy and “subjecting the free people thereof to the dominion of a foreign power.”

On May 6, the Confederate Congress formally declared war on the United States, ordering that ships belonging to U.S. citizens had thirty days to leave port. Ships “in the service of the government of the United States” docked at Confederate ports were subject to immediate seizure. The new government also took initial steps to seize Union property located inside the Confederacy.

16. The commissioners, John Forsyth and Martin Crawford, wrote Seward on their arrival in Washington, seeking recognition of a new nation. “Correspondence Between the Confederate Commissioners and Mr. Secretary Seward,” Mar. 12, 1861, Messages and Papers of the Confederacy (Nashville: U.S. Publishing Co., 1905), 84. Seward predictably refused. “Mr. Seward Replies to the Commissioners,” Mar. 15, 1861, Messages and Papers of the Confederacy, 86.
17. This estimate comes from Douglas B. Ball, Financial Failure and Confederate Defeat (Urbana: Univ. of Illinois Press, 1991), 123–24, 203.
18. Ibid., 73. Ball faults Memminger for financial mismanagement, including sending so much precious “hard money” abroad during the war.
On May 21, the Confederate Congress prohibited Southern debtors from paying off Northern creditors during the war, requiring payments be made to the Confederate Treasury instead. In return, debtors received an interest-bearing certificate that was "redeemable at the close of the war and the restoration of peace." At this point, the law provided that the Confederate government would recognize Northern debts and pay Northern creditors. The May 21 law thus envisioned the ultimate satisfaction of debt to Northern creditors, and was an application of the doctrine that in war, commerce between enemies is suspended. It was nevertheless viewed by many in the North purely as an act of confiscation.

The Battle of Bull Run on July 21 led to more dramatic steps on both sides. On August 6, Lincoln signed into law the First Confiscation Act, passed in part as a retaliatory measure to the Confederate law. While this act was not much enforced, it nevertheless set off a great deal of fear in the South and led to broad steps against U.S. citizens and their property. On August 8, the Confederate Congress declared U.S. citizens "alien enemies" and ordered them deported from the Confederacy. The Congress required "every male citizen of the United States, of the age of fourteen years and upwards, now within the Confederate States, and adhering to the United States and acknowledging the authority of the same . . . to depart from the Confederate States within forty days." The act exempted from deportation those U.S. citizens resident in the Confederacy who took an oath recognizing the authority of the Confederate government and who declared their intention to become Confederate citizens.

On August 30, in explicit retaliation to the First Confiscation Act, the Confederate Congress passed the Sequestration Act, a much more effective confiscation law than any passed in the Union. As of that date, the May 21 law was superseded, but notice to break off a Sequestration Act with Louisiana first referred. Two weeks later, on main congressional committee. With m little more than three.

Broadly speaking able for seizure in referred to land, built real and personal properties Southerners. Such as books, medical merchants; business livestock and cotton by will to Northerners and key types of property loc.

The most valuable however, was not to individuals and busi precise amount Sou in his 1901 study of million. Whatever was relatively little c creditors was comm. "Most planters were

21. "An Act to authorize certain debtors to pay the amounts due by them into the treasury of the Confederate States," Acts and Resolutions of the First Session of the Provisional Congress of the Confederate States (Richmond, 1861), 88–89.


25. "An Act Respecting Alien Enemies," Laws of the Provisional Congress (Richmond, 1861). Citizens of the Border States (Delaware, Kentucky, Maryland, and Missouri), who were still being courted by the Confederacy, were exempted, as were citizens of Washington, D.C., and the Arizona and New Mexico territories.


27. There is no record passed. Journal of the Con.

28. This number is c Financial and Industrial.

29. The Confederacy For decades, Southern ca This made for the extensi tors. Tony A. Freyer, Con America (Charlottesville:
was superseded, but it nevertheless remained important as a form of official notice to break off all commercial relationships with U.S. citizens, and the Sequestration Act was made retroactive to May 21. In July, D. F. Kenner of Louisiana first referred a sequestration bill to the Judiciary Committee.26 Two weeks later, on August 6, R. H. Smith of Alabama, who emerged as the main congressional sponsor of sequestration, reported the bill out of the committee. With minimal amendment, the full Congress passed the act a little more than three weeks later.27

 Broadly speaking, there were two categories of Northern property available for seizure in the South—tangible property and debt. Tangible property referred to land, buildings, and equipment, as well as various other forms of real and personal property owned by Northerners and in the possession of Southerners. Such personal property took myriad forms and included goods such as books, medicines, and liquor sold on consignment for Northern merchants; business assets jointly owned by Southern and Northern families; livestock and cotton owned in part by Northern investors; property devised by will to Northern heirs; and bank accounts or stock certificates owned by Northerners and kept in Southern banks or with Southern lawyers. All were types of property located in the South and belonging to alien enemies.

 The most valuable form of Union property inside Confederate territory, however, was not tangible property but debt, or money owed by Southern individuals and businesses to Northern creditors. It is difficult to know the precise amount Southerners owed Northerners as of 1861. John C. Schwab, in his 1901 study of Confederate finance, puts the figure at roughly $200 million.28 Whatever the precise figure, it was a substantial amount. There was relatively little circulating currency in the South, and debt to Northern creditors was commonplace for rich and poor alike.29 James McPherson notes, “Most planters were in debt—mainly to factors who in turn were financed

27. There is no record of the final vote on August 30: the journal records only that “the bill passed.” Journal of the Confederate Congress, 422.
28. This number is drawn from John C. Schwab, The Confederate States of America: A Financial and Industrial History (New York: Burt Franklin, 1901), 111.
29. The Confederacy had a population of roughly 9 million, of whom 3.5 million were slaves. For decades, Southern capital had primarily been invested in land and slaves, not liquid assets. This made for the extensive use of credit in the South, much of it provided by Northern creditors. Tony A. Freyer, Constitutionalism and Capitalism: Constitutional Conflict in Antebellum America (Charlottesville: Univ. Press of Virginia 1994), 38–39.
by Northern merchants or banks." All this money was, as of the passage of the Sequestration Act, owed to the Confederate government. Within the Confederacy, hopes were high that this cash would, in a significant way, help finance the war.

The terms of the act were efficient and severe. Unlike the Northern confiscation acts, here the confiscation of property was immediate, without any individual determination of disloyalty by a court. Title to alien enemy property located in the Confederacy transferred automatically as of August 30, 1861, subject only to identification and collection: "All and every of the lands, tenements and hereditaments, goods and chattels, rights and credits owned, possessed or enjoyed by or for any alien enemy since the twenty-first day of May are hereby sequestrated by the Confederate States of America."

The act made it the duty of "of each and every citizen of these Confederate States speedily to give information" concerning alien enemy property to a newly created cadre of court officers called Receivers. It was, moreover, the express duty of "every attorney, agent, former partner, trustee or other person" holding enemy property to "place the same in the hands of such Receiver." Any such person failing to report such information was subject to a $5,000 fine, and six months in prison, and was liable to "pay double the value" of the alien enemy property "held by him or subject to his control."

Receivers operated with broad powers and relatively little supervision. Nominally under the scrutiny of Confederate judges in whose districts they were operating, Receivers nevertheless were given extraordinary responsibility under the act. It was their task to "take possession, control, and management" of all Union property seized under the act. To accomplish this, Receivers were empowered to "sue for and recover" property "in the name of the Confederate States." These lawsuits were initiated all over the South, often within a few weeks of the law's passage. For many Confederate citizens, one of their first encounters with their new government was a visit by a court officer serving papers that soon required their appearance in court.

Beginning in the fall of 1861, Receivers, and federal marshals under their supervision, began serving detailed interrogatories on individual Southerners and businesses. These interrogatories were invasive. They demanded to know, first, if the recipient was in possession of any property "held, owned, possessed or enjoyed for or by any alien enemy" and to describe the property.

They then were as yea at what time, if yea, state the an of the creditors, as to what extent, surrogatories asked for property and com what and where till debtor, trustee or

In response to the "estate, property, person and "praying on the person of" trial usually among the judge ratifying debt payments we sell confiscated p Receivers to seize as patriotic. Recei on expenditures earn more than § to keep track of t'some measure of the taking office, Rec court a bond as s made under the years of hard labc measure the act r.

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32. At least every perfect account of all reports on all "collect Receivers with hund the Receiver "making
33. Sequestration.
They then were asked: "Were you since the twenty-first of May 1861, and if yea at what time, indebted either directly or indirectly to any alien enemy? If yea, state the amount of such indebtedness. . . . Give the name or names of the creditors, and the place or places of residence, and state whether, and to what extent, such debt or debts have been discharged." Finally, the interrogatories asked for the names of anyone else in possession of alien enemy property and commanded recipients to "set forth specifically and particularly what and where the property is, and the name and residence of the holder, debtor, trustee or agent."

In response to the interrogatory, an answer was returned to the court. With answers in hand, Receivers would prepare a petition setting forth the "estate, property, right or thing sought to be recovered" from a particular person and "praying for sequestration thereof." The petition was then served on the person or business named, and the case was docketed for trial. The trial usually amounted to an uncontested order of sequestration issued by the judge ratifying the findings of the Receiver. Both tangible property and debt payments were then delivered to the Receiver, who was instructed to sell confiscated property at public auction. The incentive on the part of Receivers to seize and sell as much property as possible was financial as well as patriotic. Receivers took "two and a half per cent on receipts and the same on expenditures" as compensation, but they were not in any case allowed to earn more than $5,000 a year. The framers of the act did put checks in place to keep track of the money and property changing hands, and to provide some measure of procedural protection from overzealous Receivers. Before taking office, Receivers were required to take an oath and to pay into the court a bond as security against embezzlement. Any Receiver embezzling money under the act was subject to indictment and, if convicted, to five years of hard labor, and fined double the amount embezzled. In no small measure the act ran well because it largely paid for itself.

Status as an alien enemy was the sole criterion for property confiscation. A central problem, then, was to define precisely who exactly should be classified as an alien enemy. The act itself was silent on this issue. The Department of

32. At least every six months a Receiver was required, under oath, to "render a true and perfect account of all matters in his hands or under his control," as well as providing detailed reports on all "collections of monies and disbursements" resulting from the sale of property. Receivers with hundreds of sequestration cases had to account for each one individually, with the Receiver "making settlements of all matters separately," Sequestration Act, 58–67.

Justice, however, issued a set of instructions for the enforcement of the act. These instructions defined alien enemies as, first, "all citizens of the United States" except residents of Delaware, Missouri, Kentucky, Maryland, or the Arizona and New Mexico territories who did not "commit actual hostilities against the Confederate States." Second, an alien enemy was defined as anyone who had "a domicile" within the United States. "Domicile" is a slippery legal term and is defined as the place where a person intends to live or return to if absent. Thus, it is possible to have two, or more, residences, but only one domicile. The elusive, mostly subjective distinction between a "residence" and a "domicile" soon presented vexing questions about whether some Confederates with extensive Northern ties were in fact better classified as alien enemies. The Provisional Congress instructed the Confederate attorney general to issue uniform rules for the act's implementation. Judah Benjamin, the first attorney general, on September 12, issued instructions to Receivers and sample interrogatories. 34

The act was explicitly retaliatory, not designed to raise revenue for the Treasury, but instead framed as a defensive measure. It provided that property would be "held for the full indemnity of any true and loyal citizen or resident of these Confederate states" who "may suffer loss or injury" under U.S. confiscation laws. 35 To adjudicate claims for indemnity, the president was instructed to create a three-member Board of Commissioners. This board was to meet in Richmond twice a year to hear claims, and to distribute sequestered property to those Confederate citizens who could show that their property had been confiscated by the United States.

Perhaps the most immediate consequence of the act's passage was a new incentive to declare one's loyalty to the Confederacy. As of the August 14 statute, alien enemies had been given forty days, or until September 24, to depart the Confederacy or declare their allegiance. 36 The Sequestration Act took no notice of the forty days provided. Instead, property was subject to immediate confiscation as of August 30, and the first instances of confiscation began within a week of the act's passage. 37 Instead of deportation, alien enemies now

34. Instructions to Receivers (Richmond: Department of Justice, Sept. 12, 1861).
36. The Act of Congress passed on August 8 instructed the president to issue a proclamation describing the terms of deportation. Davis did so on August 14, and it was then that the forty-day clock began to run.
37. The Charleston Mercury reports the first sequestration of property on September 5, 1861, when it noted that "a well-known shoe dealer, who having sold out his stock, was preparing
faced the loss of all their property located in the South unless they swore their allegiance to the Confederacy. On September 5, the Charleston Mercury reported that at the Confederate courthouse, “the business of citizen making has been going on pretty briskly for a fortnight. Several residents of foreign birth, anxious to place themselves ‘right upon the record,’ appear daily to qualify themselves as citizens.” This citizenship oath-taking continued throughout September and into October. After September 24, the Secretary of War, Judah Benjamin, generally granted alien enemies passports, allowing them to leave the Confederacy under flag of truce “provided they take no wealth with them.” This policy remained in effect until roughly November 3, at which point all alien enemies were to be taken prisoner by the Confederate Army. Citizenship remained ambiguous, and the government in some instances took an unyielding position even against those eager to proclaim their Confederate citizenship. In October 1861, a Mr. Muhler, “who had been residing here for many years, asked to become by naturalization a citizen of the Confederate States.” Muhler had previously been naturalized as a U.S. citizen. The district attorney opposed Muhler’s request on the grounds that “the naturalization laws of the United States were not in force in the Confederate States.”

The act initially received widespread praise and public attention. On September 12, the Mercury reported, “The Sequestration Act, with all its ramifications and results, is now quite a fruitful subject of discussion on our streets.” “The importance of the law,” the paper said, “can scarcely be exaggerated.” Expectations were high. The New Orleans Delta estimated

to vamoose with the proceeds in stering . . . has been notified that the money in his possession must be subjected to the tests laid down in the Sequestration Act.” This case was brought before the district court, where the judge ordered that all the money should be placed in the safekeeping of the court, pending the arrival of an official copy of the act and “opportunity afforded for examination” (Ibid., Sept. 7, 1861).


40. Ibid., Sept. 10, 1861. This paper was owned and edited by Robert Barnwell Rhett, a South Carolina “fire-eater.” Rhett was fervent in his condemnation of Davis and the Confederate Congress. While condemning the suspension of habeas corpus and other assertions of power by the central government, the paper nevertheless enthusiastically supported the Sequestration Act.

41. This abstract was not sufficient for the paper’s readers, and on September 9, 1861, the Charleston Mercury offered, “As a desire has been very generally manifested to see this important Act of Congress . . . we publish it below in full.”
that $12 million worth of Union property was liable to sequestration in that city alone.\textsuperscript{42} The Mercury estimated that "the Yankee property in the South subject to the provisions of the bill—including mortgage interests—will not fall short of three hundred millions of dollars." It was, the paper declared, "a singular fact that a majority of the city real estate in the South is owned by our enemies."\textsuperscript{43}

A central reason for the act’s initial popularity was its perception as an act of reprisal and self-protection against the confiscation of Confederate property under the First Confiscation Act and the destruction of property by the Union army. The First Confiscation Act was designed to seize Southern property used in direct aid of the rebellion, but this limitation was dismissed as window dressing in the Confederate press and by Southern judges. The act contained "a phraseology as covert as it was comprehensive" and could be read to "comprehend pretty nearly everything the citizens of the Confederate States can own in the United States." In the Eastern District of Texas, Confederate judge William Pinckney Hill declared that the Union Congress had "passed an act confiscating all of the property of the citizens of the Confederate States," and that "no respect was paid to the qualification" limiting seizures to property used directly in the rebellion.\textsuperscript{44}

By September and October, Southern newspapers railed that in the North "they have seized the property of Southern citizens wherever they could find it." In New York there were reports Southerners were routinely arrested and their money taken from them.\textsuperscript{45} Reports from the New York Herald, reprinted in the Southern press, boasted that over five hundred thousand dollars in Confederate property had been confiscated in New York, including Southern bank accounts in New York, stocks and bonds, and even a trotting horse owned by Confederates.\textsuperscript{46} Readers of the Enquirer learned that General Butler’s troops had allegedly seized some nine hundred slaves and had "set fire to houses, destroyed furniture and pillaged and plundered wherever they had a chance."

In the face of such perceived aggression, newspapers urged retaliatory sequestration as we hope will avail victims of govern Sequestration wo property was seiz "the government loss by the operat the Grand Jury, [enemy property of the age conde uncompromising to restrain their y

Newspapers at or even aiding the “protect and save of his country.” The war were always s kill him. When in the state—a fix stricter and rep paradoxical to th the Constitution property against: preexisting prove has commenced, of an enemy’s p To argue otherw a citizen,” and to

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\textsuperscript{42} Quoted in the Richmond Enquirer, Oct. 15, 1861.
\textsuperscript{43} Charleston Mercury, Sept. 5, 1861.
\textsuperscript{44} William Pinckney Hill, “Charge to the Grand Jury” (Nov. 19, 1861), in Confederate Imprints, Harvard University Library, Microfilm Roll A815 (hereafter Confederate Imprints). William Pinckney Hill had been appointed district judge for the Eastern District of Texas in 1861. He was considered a leading candidate for the Confederate Supreme Court, which was never established.
\textsuperscript{45} Richmond Enquirer, Sept. 12, 1861; see also Oct. 10.
\textsuperscript{46} Ibid., Oct. 5, 1861
sequestration as an extreme, yet lawful, necessity. The Richmond Enquirer concluded that it was “a very important and a very just law, and one that we hope will avail to indemnify all those of our citizens who may be the victims of governmental robbery at the hands of the Lincoln dynasty.” Sequestration would also act as a deterrent to the Union. Since Northern property was seized as compensation for the seizure of Southern property, “the government of the United States see that their people will gain a mighty loss by the operation of their Confiscation Act.” In Texas, in his charge to the Grand Jury, Judge William Pinckney Hill admitted that the seizure of enemy property was “a policy which the enlightened Christian sentiment of the age condemns.” Nevertheless, Hill advocated sequestration as “an uncompromising necessity” and a “measure of retaliation upon our enemies to restrain their wanton excesses.”

Newspapers attacked those opposing the act as hindering the war effort, or even aiding the enemy. In wartime, the Mercury announced, all those who “protect and save for an alien enemy his property” were “abetting the enemies of his country.” The act was severe, but the requirements of citizenship during war were always severe: “When the law requires it of you, as a soldier, you will kill him. When it requires you to surrender up his property to the custody of the state—a far lesser demand—why should you not obey?” While the strictures and reporting requirements of the law “may be very grating,” it was paradoxical to think that “the enemy, by his agent or attorney” could “use the Constitution of the country, with which he is, or was, at war to secure his property against sequestration.” The war, the paper concluded, had wiped out preexisting professional relationships: “The trustee or attorney, after the war has commenced, are no longer trustees or attorneys. They are mere holders of an enemy’s property. The fiduciary relation between them has ceased.” To argue otherwise was to treat aliens simultaneously as “an enemy and yet a citizen,” and to attribute to Northerners “a queer mixture of attributes.”

The act was put into operation with remarkable speed. In the fall of 1861, Receivers were appointed by Confederate district courts in Mobile, Galveston, Richmond, Savannah, New Orleans, Greensboro, Charleston, western

47. Ibid., Sept. 7, 1861.
48. Charleston Mercury, Oct. 15, 1861
49. Hill, “Charge to the Grand Jury.”
51. Ibid., Oct. 12, 1861.
Texas, and western Virginia. The terms of the act and the attorney general’s interrogatories were published in local newspapers, plastered in broadsides, and printed in pamphlets.

An amazing array of property was confiscated with great speed. The first rush of sequestration pursued, for the most part, estates and goods easily identifiable as belonging to alien enemies and that could be seized without much hardship to Confederate citizens. In Virginia, estates belonging to William Rives of Boston, Francis Reeves of New York, and a Mrs. Sigourney of New York were confiscated. Each consisted of roughly eight hundred acres, which included, in the case of Francis and Sigourney, “a full stock of negroes.” Not only large estates were seized. Nathaniel Carusi admitted that he “was indebted to J. B. Bond of Fisherville, New Hampshire, an alien enemy, in the sum of $23.” Carusi also admitted that he was in possession of the assets of Chickering & Sons, a Northern firm that sold musical instruments. Carusi’s debt to Fisherville was sequestered; Chickering’s inventory was seized and sold by the Receiver. In New Orleans, the Merchant’s Bank handed over six hundred shares owned by Northerners. In Montgomery, “Forty two cases of shoes, consigned by Howe, Hoyt and Co. of New York to parties in Alabama, had been seized.” In Charleston, the Mercury announced that within roughly a month of passage of the act, “the sequestration proceedings so far instituted in this city, embrace property amounting to about a million of dollars.” In Richmond in October, the Enquirer detailed twenty-two separate estates against which sequestration proceedings had been initiated in the Eastern District of Virginia. The value of the property was “upwards of $800,000.”

52. See “Rules of Practice Under the Confederate Sequestration Act for the District of Alabama,” in Receivers, Clerks of Court, Districts etc.” (Confederate States District Court, State of Louisiana, Nov. 1861).


54. Richmond Enquirer, Oct. 11, 1861.
55. Ibid.
56. Ibid., Oct. 15, 1861.
57. Ibid., Sept. 14, 1861.
58. Charleston Mercury, Oct. 8, 1861.
59. Richmond Enquirer, Oct. 11, 1861.

61. Robinson, Justice in America (Cambridge: Mass
Even in the midst of this acquisitive frenzy, the Sequestration Act was soon under assault in the Confederate courts. At the same time that high-profile seizures were drawing notice and praise, it had also become clear that the law made extraordinary demands upon Confederate citizens, particularly those entrusted with the property of another. In the fall of 1861, Confederate district courts heard arguments and ruled on the constitutionality of Confederate property confiscation.

The Confederate courts were, like so many other Confederate institutions, up and running with speed. This was possible chiefly because many Southern judges resigned from positions in the United States to take judgeships in the Confederacy. These courts were quickly given a ready body of law to apply. In February, in one of its first acts, the Congress provided that “all the laws of the United States . . . not inconsistent with the Constitution of the Confederate States” were “continued in force until altered or repealed.”60 In the Judiciary Act of March 16, 1861, the Confederate Congress established seven district courts, and, as the number of states in the Confederacy increased, gradually added more. Ultimately twenty-two Confederate courts were created.

The Confederacy attracted one member of the U.S. Supreme Court. Justice John A. Campbell of Alabama agonized over whether to join the Confederacy and worked feverishly in March and April 1861 to broker a compromise. At the onset of war, his hopes dashed, Campbell left the Court to return to Mobile. Perceived as a Union sympathizer, he was at first kept out of government, and went into private practice in New Orleans. In late 1862, Campbell was named assistant secretary of war, and became the leading administrator of the Confederate conscription law. In contrast, Justices James M. Wayne of Georgia and John Catron of Tennessee chose to remain in the Union. They were both named alien enemies and their property sequestered by the Confederate courts.61

In the fall of 1861, important constitutional challenges were brought in two leading Confederate district courts in two leading Confederate cities. In Richmond, Judge James D. Halyburton heard the case of Confederate States v. John H. Gilmer, and in Charleston, Judge Andrew Magrath heard The Sequestration Cases, a consolidation of several different lawsuits challenging

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various aspects of sequestration.\(^{62}\) Both had been U.S. district court judges, and both had resigned to take up the same position on the Confederacy. Both were also especially prominent and independent legal thinkers. Magrath published several important opinions on sequestration, conscription, and prize law, and later declared the Confederate tax on securities unconstitutional. In 1864 he left the bench to become governor of South Carolina. Halyburton had been a U.S. judge since 1844. When war broke out, he was made a Confederate judge in Richmond, the Confederate capital, where he took up the ceremonial functions that would have fallen to the Chief Justice of the Supreme Court, including administering the oath of office to Jefferson Davis at his second inaugural.\(^{63}\)

Both judges were also facing famous plaintiffs. In Virginia, John Gilmer had been a Whig candidate for governor in Virginia and represented the Know-Nothing Party in Congress from 1857 to 1861. An outspoken Unionist, Gilmer supported secession only after Lincoln called up troops in April 1861. During the war he was a constant critic of Confederate sequestration and conscription laws. In 1864 he was elected to the Confederate Congress, where he was an early advocate of peace talks. In Charleston, the lead plaintiff was James L. Petigru, who, ironically, had taught law to Judge Magrath. Petigru was also a Whig and prominent unionist, who, at the age of seventy-three, had a long history of taking on unpopular causes in Charleston, including the representation of abolitionists and free blacks.\(^{64}\)

62. The five cases Magrath combined were themselves subdivided into three separate actions. Three cases challenging the whole of the act were treated together by Judge Magrath. These were C.S.A. v. James Petigru; C.S.A. v. Nelson Mitchell, and C.S.A. v. William Whaley. Magrath also made a particular ruling as to the legality of compelling lawyers to break the confidence of their clients in C.S.A. v. James Wilkinson. Taken together, these cases were published as a pamphlet entitled "The Sequestration Cases before the Hon. A. G. Magrath: Report of Cases Under the Sequestration Act of the United States, heard in the District Court for the State of South Carolina, in the city of Charleston" (Charleston: J. Woodruff, 1861) (hereafter Sequestration Cases).


The combination of Confederate cities with sequestration cases—and became the leading case— weeks after the decision one of the most valuable authorities of the Colisher, declared that the urgent request of states. The cases had not surprising because affecting nearly every

Both cases had been themselves. Gilmer's nishment and the in representing theme and ought to be inva these cases were the the absence of a Sup important, these casi tion of the new Con on the constituions asked to balance the obligations of Confe Petigru and Gilm claiming that it had iadditional lawsuit, fro

65. *Charleston Mercury*
66. Ibid., Nov. 8, 1861.
67. J. Woodruff, "Pree..."
The combination of prominent judges and prominent attorneys in major Confederate cities combined to bring the cases wide publicity. Of the two, the Sequestration Cases—in part because they came first—received more notice, and became the leading authority on the constitutionality of the Sequestration Act. In Charleston, the *Mercury* covered the cases closely and alerted its readers to the publication of the lawyers’ arguments and the judge’s opinion, asserting that it included “nearly every thing that can be said for and against the Sequestration Act.”65 These were published as a pamphlet less than two weeks after the decision was handed down, and were advertised as “forming one of the most valuable records of opinions of some of the highest legal authorities of the Confederate States.”66 J. Woodruff, the pamphlet’s publisher, declared that the document “has necessarily been hurried forward at the urgent request of Advocates in other Districts of this and the adjoining states.” The cases had “created a deep and wide-spread interest,” which was not surprising because, as Woodruff correctly observed, this was “an Act affecting nearly every citizen in the Confederate States.”67

Both cases had been initiated by acts of civil disobedience by the lawyers themselves. Gilmer and Petigru had refused to answer the writs of garnishment and the interrogatories served on them by Receivers, and were representing themselves.68 Both claimed that the act was unconstitutional and ought to be invalidated by the court. Only seven months into the war, these cases were the first tests of whether the Confederate courts would, in the absence of a Supreme Court, assert the power of judicial review. Just as important, these cases were among the first instances of judicial interpretation of the new Constitution in the South during the Civil War. In ruling on the constitutionality of sequestration, the judges were also necessarily asked to balance the limits of Confederate power against the legitimate legal obligations of Confederate citizens.

Petigru and Gilmer both challenged the procedural legitimacy of the act, claiming that it had created a bizarre legal hybrid, with elements from a traditional lawsuit, from grand jury proceedings and from prize-case hearings.

65. *Charleston Mercury*, Nov. 15 and 18, 1861.
66. Ibid., Nov. 8, 1861.
67. J. Woodruff, “Preamble,” in *Sequestration Cases*.
68. This writ was authorized by Section 8 of the Sequestration Act and was issued by a clerk of the court after a request by a Receiver. The writ directed its recipient to appear at court to inform the Receiver of any alien property in his possession or in the possession of any other Confederate citizen.
with what looked like criminal penalties for noncompliance. John Gilmer condemned the act’s “complex system of legislative adjudication.” Petigru asked, “Is this a common law proceeding or a proceeding in the Prize Court? Is it a civil or criminal proceeding?” In these cases, he argued, “there is no plaintiff and no defendant; it is no more a judicial proceeding than if the governor or general should call up every man in the community and purge his conscience as to alien enemies.” Even if the state had the power to confiscate property during war, there was nevertheless no legal right “to order a private citizen to come forward and act as an informer” unless as a witness in a proper lawsuit. He proclaimed, “I deny that this is a judicial proceeding at all” but instead amounted to “a Court of Star Chamber,” which gave the government sweeping, undefined powers.

The reporting provisions of the act were condemned by the plaintiffs, in both Charleston and Virginia, as unethical violations of fundamental social and professional obligations. In mandating a general duty to reveal knowledge of any and all enemy property, Gilmer complained that the law “made it the duty of every citizen of the Confederate States to become a common informer.” The Charleston plaintiffs claimed that the law violated “relations that have been respected and held sacred by precedent, by the common law of the land, and by all the usages of civilized society.” The law illegally “requires every body to become an informer” and “contains a severe penal enactment against a large class of persons should they be remiss and not inform speedily.”

With an eye to the special hardships placed upon families, the plaintiffs complained that the law made no exceptions “as to any of the relations of life,” and made no inquiry “as to the mode in which the knowledge called for has been obtained.” Moreover, the act was applied indiscriminately and put a severe burden on those considered unable to defend themselves—“the most helpless and forlorn that can address themselves to human compassion: the widow, the lunatic, the orphan, before this law there is no difference.” Without exception, “every bosom must be emptied of its knowledge so that none may escape.” While “society has very large claims upon its members,” these claims were “not without limit.”

Not surprisingly, the requirement to belonging to clients. I require “attorneys to ent, as Trustees to be principals, all of which our charge.” Gilmer he was honor-bound penetrated “without professional privacy,” tray to “assail every ti of the dead,” were fo

The Charleston pl the constitutional lit Constitution “simpl and rather than prov this is a limited gran ated powers,” such a support an army. T remained part of th read to include the enemy. If this cons “all that may by any the war.” This powe power over the pub corporate and local In construing the twee property seize the right to confis 74. “Argument of Wi 75. Confederate State 76. “Argument of Ne 77. Ibid. Petigru warr Congress can only claim power in this case is not be resorted to in defiance by a vain hope and papa poor suffering human n

Not surprisingly, the plaintiffs, as lawyers themselves, objected vehemently to the requirement to inform the government of the location of property belonging to clients. To obey the writ and answer the interrogatories would require “attorneys to violate the confidential relations of Attorney and Client, as Trustees to betray our trusts, as agents to ignore the rights of our principals, all of which in good faith and good conscience were confided to our charge.” Gilmer was particularly vociferous on this point. As a lawyer he was honor-bound to “resist this abominable writ of ravishment.” The act penetrated “without authority and against all law the consecrated secrets of professional privacy.” It forced attorneys, agents, factors, and trustees to betray to “assail every trust.” Even executors of wills, who “had the confidence of the dead,” were forced to break “a solemn declaration.”

The Charleston plaintiffs also argued that the Sequestration Act exceeded the constitutional limits of the congressional war power. The Confederate Constitution “simply invested Congress with the power ‘to declare war’” and rather than provide a blank check, “the instrument itself declares that this is a limited grant by specifically investing Congress with other enumerated powers,” such as the power to grant letters of marque and to raise and support an army. The broad “necessary and proper” clause, which had remained part of the Confederate Constitution, could not reasonably be read to include the power to confiscate the property and the debts of the enemy. If this construction of the war power were accepted, it would allow “all that may by any extended chain of cause and effect aid in the conduct of the war.” This power would soon “supersede everything” and “carry with it power over the public press, over the State Legislatures, and every form of corporate and local authority.”

In construing the congressional war power, Petigru drew a distinction between property seized by armies and property seized by legislatures. For him, the right to confiscate turned on the meaning of the word “capture” in the

77. Ibid. Petigru warned against a too-expansive reading of the war power: “The Confederate Congress can only claim to make laws to carry into effect powers expressly granted. That the power in this case is not expressly granted is a palpable fact. Shall construction and implication be resorted to in defiance of the charter? Forbid it, Heaven. For if it is mankind have been deluded by a vain hope and paper Constitutions are no more than a cheat practiced on the credulity of poor suffering human nature.” “Argument of James Petigru,” Sequestration Cases, 25.
Constitution. Petigru made the case that "capture" was best understood as physical material seized by an army in the field: "The word 'captures' refers to what is taken by an armed hand in the exercise of open war." The only property that Congress could constitutionally seize was that within grasp of an army, who gained title by taking possession of it during a war. To him, only "tangible property such as lands, goods or movables" was subject to confiscation by armies under the "captures" clause. All other seizures required a "great stretch of language" and were unconstitutional assertions of congressional authority.

Petigru singled out the seizure of debts as patently illegal. Debts "have no locality" and instead "follow the person of the creditor." The courts of the Confederacy simply had no jurisdiction over debt owed to creditors outside the limits of the Confederacy, and since the debt "belongs to the creditor and not the debtor," the courts had no legal power to seize it. More than that, the abrogation of existing debts forced Southern debtors to behave immorally. "In debt there is a moral as well as a legal obligation, and he that has received a deposit or contracted a debt for money entrusted to him owes a recompense to his creditor, because he is a human being and this is part of his nature." The plaintiffs also argued that wiping out debt obligations was illegal as a matter of international law. This was a relatively technical legal argument that turned on the question of whether it was an accepted international practice for a state at war to seize the property and debts of citizens of enemy states. This was, the plaintiffs argued, no longer a sanctioned power under international law, and it had been rejected by civilized nations as a barbaric relic. When the Congress had "guaranteed to every party who shall pay over any money or deliver property to the Receiver that they shall be forever discharged from every legal responsibility," they "undertook to enact that which they had not the power to enact." This was "in violation of the law of nations," which "will not allow the right to confiscate debts." The Confederate government "has not the power as one of the family of nations to issue such protection from liability as would be acknowledged all over the world." Mitchell also cited Kent's Commentaries, which maintained that the confiscation of debts, although a power of the state, was "considered a

78. The Confederate Constitution adopted the captures clause from the U.S. Constitution. Both provided that Congress had the power to "make rules concerning captures on land and on water." Constitution of the Confederate States of America, Article I, Section 8.
80. Ibid., 12.

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81. "Argument of Nelso
82. Ibid.
83. Confederate Consti
84. "Argument of Mr. M
naked and impolitic right, condemned by the enlightened conscience and judgment of modern times.”

The plaintiffs were clear about the remedy they sought: judicial invalidation of the law. They proclaimed that “the judiciary stands between the legislature and the people, with the Constitution as the chart for both.” They denied Congress “the power to pass this law” and maintained that “the Act of the Confederate Congress under which this proceeding is instituted is void.” This type of despotism “is worse than war,” and the plaintiffs asked that the “Court may relieve the citizen from the distress that would inevitably follow an arbitrary enforcement of this Writ.”

In Charleston, lawyers for the Confederate government vigorously defended the constitutionality of the law. The attorney for the Confederacy, C. R. Miles, argued, in direct contradiction to Petigrue, that express authority for sequestration was located in the constitutional provisions granting Congress the power to declare war and to “make rules concerning captures on land and water.” This extended, he claimed, to rules “respecting enemy’s property.” The power was not only textually based, but was “an incident of the exercise of the sovereign right to make war.” Under the Constitution, “absolute power” had been “given to Congress to declare war, and since forbidden to the States, the power of Congress in this particular is as full and unrestrained as that of the Emperor of France or the Czar of Russia.”

Miles was equally unimpressed with the argument that the compulsion of information from Confederate citizens amounted to an unconstitutional hardship. Since the Congress has the power “to operate its laws directly upon the citizens of the States,” it “can declare the duty of the citizen in this behalf.” If the citizen “holds property of an alien enemy he holds property to the possession of which the Government is entitled and it can compel him by all the means known to its laws to give up the property and also to disclose fully what he does control.”

Miles was adamant that confidential promises made between Northerners and Southerners expressed in wills, contracts, and in relations between attorneys and clients, principals and agents, should have no legal validity in the Confederacy. The United States was another country, and its citizens were alien enemies entitled to none of the considerations due Confederate

82. Ibid.
83. Confederate Constitution, Article I, Section 6.
84. “Argument of Mr. Miles, District Attorney,” Sequestration Cases, 16.
citizens: “The alien enemy has no rights, he is entitled only to such justice as shall be meted out to him by our country in accordance with her own sense of duty as becoming to herself.” The defendant alien enemy had “no standing in court” and no legal personality that must be respected. Once considered in this light, “all the seeming hardships disappear.” Alien enemy property belonged to the government, and it was within the power of Congress and the courts to “call upon its citizens to deliver to it certain property which it has become entitled to by act of law.” Miles also took an entirely different view of international law than his adversaries. He concluded that at the time of his argument it was a general legal principle that “a state has a right to confiscate all property of the enemy found within its territory on the breaking out of war.” Any decision to limit or abrogate this right, as in a peace treaty, was a policy consideration, not a settled requirement of the law of nations. Miles provided extensive legal authority for his argument, citing Wheaton’s *Elements of International Law*, which itself cited the international legal treatises of Grotius, Puffendorf, and Vattel.85

Judge Magrath affirmed the constitutionality of the Sequestration Act in its entirety. Judge Halyburton affirmed the act in part and struck part of it down—the earliest instance of the exercise of judicial review by a Confederate court. Together their opinions were declarations, early in the war, of the broad powers of the Confederate government. It was also a signal moment at which the federal courts upheld the curtailment of constitutional liberty for the sake of a more effective war effort. Mark Neely, in his valuable study of civil liberties in the Confederacy, has persuasively argued that the constitutional history of the Confederacy has, to a large extent, “remained frozen in the assumptions of the Lost Cause past,” and has created a “historical image of the Confederacy as a haven of constitutional rectitude.”86 Neely shows, instead, that “the Confederate Constitution proved as ‘flexible’ as the Constitution of the United States.”87 The opinions delivered in sequestration litigation illustrate this flexibility and highlight the ways in which a supposed devotion to constitutional liberty at all costs gave way in the Confederate courts to the pressing demands of a modern war.

Magrath took an expansive view of the war powers of the Confederate congress. He strained to put his broad interpretation in literalist language, declaring that the pov terms of the Constitu For Magrath, like Pet an interpretation of t things taken in war” exercise “entire discr enemy.” Such prope may be taken by lanc

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85. Ibid., 15–20. Miles also cited case law, including *Brown v. U.S.*, 8 Cranch 120 (1820), and *Ware v. Hylton*, 3 Dallas 199, as well as several English cases. *Argument of Miles*, 15–18.
87. Ibid., 169.
88. Ibid.
declaring that the power to confiscate property “must be found in the express terms of the Constitution; or its exercise cannot be justified by Congress.” For Magrath, like Petigru, the constitutional question came down largely to an interpretation of the word “capture.” For him, captures encompassed “all things taken in war” and amounted to “an express grant” to the Congress to exercise “entire discretion concerning the disposition of the property of the enemy.” Such property included “persons who are prisoners, booty which may be taken by land forces, or prize which is that taken by naval forces.”

A capture, the judges held, was, in essence, whatever the Congress decided it was, and it could constitutionally include debt, land, bank accounts, or any other form of property the Congress decided to seize. Only Congress, moreover, and not the states, had the authority to interpret the meaning of the term “capture.” Individual states could pass their own sequestration laws, but the understanding of the word “capture” needed to be uniform. Congress, not the states, had the power to “decide in all cases what captures on land and water shall be legal.” South Carolina had already acceded to this form of oversight, having twice “united itself in the bonds of a new political Union,” once by ratifying and adopting the U.S. Constitution, and once by ratifying and adopting the Confederate Constitution.

If anything, Judge Halyburton went even further than Magrath in his interpretation of a wide-ranging constitutional war power. For the Virginia judge, the congressional power to declare war contained a broad power to carry on war as Congress saw fit. Such a war was “of any kind and in any shape which the discretion of Congress may dictate; war in its sternest aspect, accompanied by all its horrors, or in the mildest form.” Property confiscation was a legally recognized right of belligerents at war, and “to seize the property of the enemy is as much an exercise of the powers of war . . . as the capture of the enemy would be, or the killing of the enemy.”

Both Magrath and Halyburton were almost entirely unsympathetic to the arguments that the act forced the illegal violation of confidential legal and personal relations: “Whatever may be the moral rule which society adopts, and religion approves, for the government of individuals in their social relations.”

88. Ibid.
89. Magrath, interestingly, called attention to the new and experimental nature of the Confederacy. The new Constitution represented an attempt on the part of the new government “to protect itself against the weakness which was exhibited under the Articles of Confederation and the aggressions which were developed under the Constitution of the United States.” “Opinion of Judge Magrath,” Sequestration Cases, 55.
Magrath declared that the law “everywhere recognizes retaliation” as a legal right in wartime. The Sequestration Act was “the public recognition of this principle . . . in regard to property.” Halyburton told Gilmer that lawyers had no immutable claim to privilege, and that “physicians, surgeons, clergymen, and the most familiar bosom friends of a party” were also “compelled to reveal matters confided to them under the most solemn promises of secrecy.” Alien enemies had no legal standing, no rights to protect, and to allow their property to remain hidden was to give constitutional protection “to those men who are invading our country and seeking to desolate and desecrate our homes.”

For Magrath it was crucial that the Sequestration Act had taken title to alien enemy property as of its passage on August 30. As of that day, “the Government has succeeded to all the estates and interests of the alien enemy. Its title is complete.” Judicial proceedings to take possession of the property “only establish the fact such an estate or interest, by virtue of the Act, belongs to the Government.” Giving information about property subject to sequestration was not “an odious and immoral service.” Instead, “the refusal to give information” was “the concealment from the State of that which belongs to it.” Indeed, to obstruct the claim of the government to alien enemy property “is to deny the title which the Government has claimed to establish.” This amounted to a denial of the government’s “power and authority to confiscate and sequester the property of its public enemies.” To hide the location of alien enemy property was “withholding it from the public use and in so doing denying a public right.”

Finally, Magrath turned to historical precedent to justify the harshness of the act, making explicit connections between Confederate sequestration and Revolutionary confiscation laws. In both South Carolina and Georgia, the government was empowered to demand any person to appear before commissioners and answer questions about the whereabouts of loyalist property, and command the production of any books, papers, or any form of records that might aid in its discovery. Important for Magrath, debts were also sequestered in the colonial era. He also noted that in the 1782 South Carolina confiscation law, the penalty for aiding loyalists in the removal of their property was not imprisonment, but death. Thus, “however stringent may be the provisions of this Act of the Congress; they are not equal in stringency to those provisions which were in force in this state when once before

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93. Ibid., 52.

94. *Proceedings of th

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95. Ibid.
it was considered necessary to resort to this extreme measure."93 Taken as a whole, the sequestration decisions were ringing judicial endorsements of the extraordinary powers of the Confederate government.

At almost the same time lawyers were challenging the constitutionality of the Sequestration Act, demands for change from other quarters were increasing. In October, a group of eighty Southern business leaders and cotton planters met in Macon, Georgia, at what was called the Commercial and Financial Convention. There delegates from Virginia, South Carolina, Georgia, North Carolina, Alabama, Florida, Mississippi, Louisiana, and Texas gathered to discuss the pressing financial needs of the Confederacy.94 In Charleston, a grand jury was responsible, along with the Receiver, for instigating sequestration proceedings. In the fall of 1861, the grand jury began to meet regularly to hand down indictments. In October, both the Commercial Convention and the grand jury called for dramatic changes to the Sequestration Act.

Within the Convention, and within the grand jury, there was some sentiment, cautiously expressed, that achieving some measure of commercial reconciliation with the Union, including the maintenance of debt, was ultimately a necessity. The Macon delegates cautioned: "It becomes us to remember the intimate relations in which we have lived with the people of the North. Until December 1860 we have not lived near each other as separate nations, but as one people; and our free intercourse and absolute free trade with each other has drawn us closer together than has ever happened between partnerships between different nationalities.95"

Both bodies expressed fear that sequestration would be potentially ruinous for Southern merchants. In making itself the creditor for debts owed Yankees, the Confederacy had put Southern businesses in a terribly difficult position. Debt to Northerners was prevalent throughout the South. To demand payment at the same time Southern businesses had, with secession, lost their biggest source of capital and trade was unjust. In Charleston, the grand jury told Judge Magrath: "We have to remember that our most energetic and enterprising men should be sheltered and protected, not worsted and oppressed." The grand jury was worried that Congress had been too anxious to make the act

93. Ibid., 52.
94. "Proceedings of the Commercial and Financial Convention Associated with the Convention of Cotton Planters" (Macon: S. Rose & Co., 1861), in Confederate Imprints. Among the most prominent in attendance, representing Louisiana, was James D. B. DeBow, the New Orleans editor of DeBow's Review, the most widely circulated Southern periodical at the time of the Civil War.
95. Ibid.
efficient, and so as a result Southern merchants had “not been represented as carefully as would have been the will of the legislature, if the experience of the members had made them familiar with the conditions of trade.”

In Macon, the delegates made precise recommendations to lessen the blow to Southern debtors and merchants. A Standing Committee on Finance, which included James D. B. DeBow, offered a number of resolutions, all of which were adopted. Most significant, the Commercial Convention called for a moratorium on debt payments to the Confederate government for the duration of the war, a step that would cut the government off from a major potential source of revenue. Instead, the government should require “only the evidence of indebtedness to be returned and placed upon record by the Receiver, without security demanded.” While the Sequestration Act had allowed the court, at its discretion, to accept collateral, or security, in lieu of full debt payments, the delegates rejected even this.

The grand jury agreed: “To give security for large sums, upon a very ill-defined obligation, in the confusion of revolution, must be difficult in any case—impossible in most cases. It would be better in the Government to abandon altogether the confiscation of the debts of alien enemies than to insist upon the demand of securities for the partnership effects or for the debts outstanding here.”

Even the Mercury, an early proponent of harsh sequestration, softened its stance when the impact of the law became clear. In pursuing Northern debt in Southern hands, the act was exacting too high a toll: “We take it for granted that the object of the law was not to bankrupt and destroy our merchants. It is not just or fair to place this class of our citizens in a worse position than any other class.” The paper described the plight of merchants under sequestration:

The war found them [merchants] in possession of money, as partners or agents, belonging to our enemies. The war at the same time paralyzed their business, and took from them the means of paying this money; whilst it destroyed credit... In this state of things, not produced by the merchant, but by the Government, the Government steps in and says, pay the debt due to the

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96. Charleston Mercury, Oct. 1861. The proceedings of the grand jury were often published in the Mercury.
99. Ibid., Oct. 31, 1861.
100. Ibid.
101. Commercial Convem
pay the debt due to the alien enemy to me, or give me security for paying it. The merchant answers: if I am compelled to pay this debt in this time of war I am ruined and no one is willing to be my security, and I am unwilling to ask it, for no one can tell me how long the war will last. Ought the government to press the collection of the debt, and ruin the merchant? We think not.\textsuperscript{99}

The editorial ended with a call for the suspension of the law, asking Receivers to wait “until Congress has the opportunity of again acting on the Sequestration Law, before they enforce the harsh provision we have noted against our people.”\textsuperscript{100}

Apart from calling for a debt moratorium, the Commercial Convention made other, smaller recommendations. First, it recommended that debts due to Northerners should be set off against property seized or damaged by Northerners. Thus, “in cases wherein the debtor to an alien enemy is also a claimant of indemnity for damages sustained by the act or acts of the government of the United States, or of the people thereof, the said claim shall be allowed as an offset, and the balance only shall be the subject of payment.” This, of course, was the central goal of the Sequestration Act anyway, namely, to indemnify, or compensate, Southerners for damages to their property. This resolution, though, accelerated the process, in effect allowing debtors to indemnify themselves for lost property.\textsuperscript{101}

Second, the delegates recommended that the courts be empowered to modify the retroactive aspects of the act on a case-by-case basis, to exercise greater discretion in protecting those considered innocent than the harsh terms of the law seemed to allow. The delegates were especially eager to exempt people who had made debt payments in ignorance of the May 21 law. The convention’s resolution authorized the courts to “enquire into the bona fides of every transaction of our own citizens with alien enemies between the 21st day of May, 1861, and the date of the passage of the act.” The Court was then to shield from the act “such transactions whose dealings with the enemy were of manifest benefit to the people or the Government of the Confederate States, or free from taint of disloyalty.”

The Convention also took steps to protect those considered especially

\textsuperscript{99} Ibid., Oct. 31, 1861.
\textsuperscript{100} Ibid.
\textsuperscript{101} Commercial Convention, 18.
deserving from hardship resulting from the operation of the act and made a special recommendation for the benefit of soldiers. They urged that families with parents in the North and sons in the Confederate army should have property transferred not to the state, but instead to their soldier-sons. The delegates urged “that in the sequestration of the property of alien enemies, a due provision should be made to make the property of such aliens as have sons in the Confederate Army, sequestrated for the benefit of said sons.”

Apart from alleviating the hardships imposed on Southern business and Southern veterans, the delegates in Macon also sought to refine the definition of “alien enemy,” or at least to exempt certain alien enemies from the act. The “Instructions of the Attorney General” had defined alien enemies as U.S. citizens as well as “all persons who have a domicile within the states within which this Government is at war.” This hard line definition was relatively easy to maintain in theory, but it was proving too blunt an instrument in practice. The convention in particular feared legal injury or hardship to those considered innocent. There were some living in the North, most particularly women and children, who remained there because, the Macon delegates asserted, they had no choice. A literal reading of the Sequestration Act made them enemies. To protect this class of alien enemy, the convention passed a resolution designed to protect women and children who were domiciled in the Union against their will. They called on the Congress to amend the act to “exempt from its operation the property of persons resident in the States with which we are at war who are laboring under the disabilities of coverture or infancy, and consequently unable, though desiring, to change their domicile and who are not actually enemies to the South.”

Similarly, in other judicial districts, grand juries investigating alien enemies in their districts were, in an attempt to spare those they considered innocent, wrestling with defining the term “domicile.” In Houston, grand jury was having difficulty with the cases of those born in the South and who claimed to be domiciled in the South, yet who were resident during the war in the North. At law, a person can have several residences, but only one domicile, or that place where a person is resident and has the intention to make his or her principal home. The test for locating a domicile is thus both subjective, turning on intent, and objective, turning on a factual inquiry into where one has manifested an intention to stay, by voting, paying taxes, or where their spouse and children live.

102. Ibid., 18–20.
103. Ibid.

The jury asked for a presiding judge, William Hill, to take the case to the jury in 1862, Hill took South while residing in the North. If a South or citizenship here, and against him, it was his into the Confederate’s chances of the perils of country of the enemy sympathies or his ties to the United States, that does not relieve him from clear: anyone who was they could show they any “floating intention enemy, and his or her

Hill’s hard line reflected themselves from North the North while claire hedging, suggesting that especially those with special burden and an Northern or Southern would be evidence er and staying in the Union the Sequestration Act. His stringent interpretation North “for private benefit of the Confederate Gove in the United States,” an alien enemy is certi

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105. Ibid., 23.
The jury asked for guidance on how to deal with such cases from the presiding judge, William Pinckney Hill. In his second annual charge to the jury in 1862, Hill took a dim view of those who claimed allegiance to the South while residing in the Union. He instructed: “He that is not for us is against us.” If a Southerner “desired to establish or to retain his domicile or citizenship here, and to prevent the status of alien enemy being charged against him, it was his duty, as soon as he reasonably could do so, to come into the Confederate states and bear his share of the burdens, and take his chances of the perils of this war.” One could not stay voluntarily in the country of the enemy without becoming the enemy, notwithstanding his sympathies or his ties to the Confederacy: “To say of a person residing in the United States, that he is friendly to our cause and wishes our success, does not relieve him from the character of an alien enemy.” The judge was clear: anyone who was domiciled in the United States as of May 21, unless they could show they were constrained or there involuntarily, and despite any “floating intention” to return South after the war, was presumed an alien enemy, and his or her property was subject to confiscation.104

Hill’s hard line reflected resentment at Southerners’ attempts to shield themselves from Northern and Southern confiscation laws by remaining in the North while claiming to be domiciled in the South. Hill rejected such hedging, suggesting that Southerners in the North at the outbreak of war, especially those with jobs, or land, or family located in the North, had a special burden and an agonizing choice to make. To which confiscation law, Northern or Southern, would they rather be subject? Returning to the South would be evidence enough of disloyalty for the Second Confiscation Act, and staying in the Union was potentially sufficient evidence of domicile for the Sequestration Act. Hill was aware of this dilemma but was unyielding in his stringent interpretation. If a Southern property holder remained in the North “for private business, pleasure or convenience, without the consent of the Confederate Government, or to prevent the confiscation of his property in the United States,” then “the presumption of domicile there and of being an alien enemy is certainly strong against him.”105

These cases concerned the treatment of those resident in the North but

104. William Pinckney Hill, *Charge to the Grand Jury* (Houston, Feb. 20, 1862), 22, in *Confederate Imprints*. Hill’s charge came before the passage of the Second Confiscation Act in August 1862, but nevertheless it was issued at a time of widespread Southern fear of the broad application of the First Confiscation Act.

105. Ibid., 23.
arguably domiciled in the South. Corollary cases also emerged in the Confederacy that considered the treatment of those resident in the South but arguably domiciled in the North, and therefore alien enemies. In Charleston, one sequestration case, *Confederate States v. Joseph Spencer Terry*, was sent to a jury in Judge Magrath’s court on exactly these facts. Terry had been residing in Charleston, doing business with Southern partners, and had declared his intention to make the city his permanent home. At the outbreak of the war, Terry had gone to New York. If he had become domiciled in South Carolina before the war, then he was, after secession, not a U.S. citizen, not domiciled in the United States, and therefore not an alien enemy. Judge Magrath told the jury, “If he came here with the intention of making this his permanent abode, and of not returning to the United States, then his domiciliation conferred upon him the right of citizenship.”

Yet the right of citizenship “might be lost by a return to the North” even if Terry, before the war, had been sincere in his intent to make Charleston his permanent home. Magrath also was suspicious “that the course of Mr. Terry was such as to screen any property he might own in the North from the effect of the Northern Confiscation Act.” As evidence of his ties to New York, the district attorney produced several witnesses who testified that Terry was, in spite of his stated intent, domiciled in New York because this was “where his parents reside, where his family reside, where his wife resides, and where the family of his wife resides.” He was, the government claimed, a citizen of New York, who was “bound to acknowledge the government of the United States,” and was an alien enemy.

The jury agreed, upholding the Receiver’s petition, and ordered the sequestration of Terry’s accounts in the Bank of Charleston and the Farmers and Exchange Bank, as well as his office furniture. This case was a technical ruling on the definition of a domicile that also highlighted the intricate questions of citizenship revealed by sequestration during the Civil War. The court had in effect ruled that domicile, and hence citizenship, followed one’s actions and not one’s words. Yet in the Alien Enemy Act of August 8, Confederate law had stressed the power of words, an oath of allegiance, to secure citizenship and avoid deportation. It seems clear that Terry was not in South Carolina as of August 8, but also that he had made clear his intent to remain a permanent resident.

Here, unlike the August 8 act, the government assumed that its stated individual intent the face of words to the

Finally, especially as the Sequestration Act was in effect, the Confederate government was willing to extend the act's provisions to citizens. General in the field to permanently the Confederacy. In M. Marshall in Lebanon, under the sequestration provisions of this act, of disloyalty among the power to arrest and dispose of property left on any possession of the land or other property was left.

General Humphrey September 1862, Benja declaring as alien enemy the oath of allegiance Confederate alien enemy the Confederacy within forty (40) days. The Confederate for reform and made a charitable resolutions February 15, 1862, amended.


107. Ibid.

108. Official Records of the

109. *Charleston Mercury*
to remain a permanent resident in the South. If he had not, this would have been an easy case of a Northerner who fled and left his property behind. Here, unlike the August 8 law, the court made citizenship less a function of stated individual intent, and instead a legal status discerned and imposed in the face of words to the contrary.

Finally, especially as the war went on, cases and questions arose about whether the Sequestration Act could be applied to disloyal Confederate citizens. Generals in the field at points asked for Receivers to come to the battlefield to permanently seize the property of Southerners who were disloyal to the Confederacy. In March 1862, Robert E. Lee wrote to General Humphrey Marshall in Lebanon, Virginia: “With regards to sending you a Receiver, under the sequestration act, to your district, I will call your attention to the provisions of this act, which applies only to alien enemies and not to cases of disloyalty among our own citizens.” Lee told Humphrey, “you have the power to arrest and detain disloyal persons” and “to seize for military purposes property left on their farms.” Humphrey could not, however, legally apply the act to Confederate property.108

General Humphrey’s frustration was soon gaining wider articulation. In September 1862, Benjamin H. Hill of Georgia introduced a bill in Congress declaring as alien enemies “all persons who have refused to support the Confederate government” or who “have sought the protection of, or taken the oath of allegiance to the United States.” Hill’s resolution treated these Confederate alien enemies as U.S. citizens, ordering them from the Confederacy within forty days.109 While this bill did not pass, by the end of the war Congress had taken its first step toward declaring its own citizens alien enemies and attempting to sequester their property.

Despite legal challenges and objections from grand juries, business leaders, and the popular press, the Confederate sequestration regime remained mostly unaltered for the duration of the war. It fell to Congress either to address or ignore the social disruptions and legal questions raised by the Sequestration Act. The Confederate Congress for the most part turned a deaf ear to calls for reform and made only one significant change to the act. In a bow to the charitable resolutions of the Commercial Convention, the Congress on February 15, 1862, amended the act to provide that Southern families, and not

the Confederate government, retained ownership of alien enemy property belonging to family members. Property located in the Confederacy, and belonging to alien enemies with relatives in the South, would pass to the next of kin as if the alien enemy were dead. After this amendment became law, the focus of sequestration shifted entirely to Northern business assets as well as debts, both commercial and individual, owed to unrelated Northerners.

Receivers continued to enforce the act throughout the Confederacy—in some places to the final days of the war. News of continuing sequestration, while it tailed off in the later years of the war, remained common. In Charleston, Judge Magrath continued to routinely hear sequestration cases in 1862 and 1863, the Mercury declaring that these cases were “of no special importance, except to the parties interested.” A Receiver in the Western District of Virginia announced that on October 27, 1862, he would sell at auction twenty-two thousand acres of land in Abingdon, “sequestered as the property of William Douglas, an alien enemy.” Along with this land he also advertised the sale of three separate tracts of land of some six thousand acres each, belonging to alien enemies George Douglas, H. D. Cruger, and Cruger’s wife. In Greensboro, North Carolina, the Receiver for the district court for North Carolina advertised that, on the first of January 1863, he would, at the courthouse door, sell at auction 133 acres of land in Guilford, 40 acres in Stafford, 46 acres in Deep River, and 68 acres in South Buffalo, all sequestered from alien enemies. In an indication of joint-ownership of property by Northerners and Southerners, “two thirds of a lot of ninety-four acres on Hickory Creek” belonging to an alien enemy was also sold.

As the war went on, sequestration policy became even more severe. In the last years of the war, the Confederate Congress explicitly sought to use sequestration as a weapon in the Confederate effort. The Judiciary Committee of Congress proposed that a bill provide for the sequestration of property of other aliens who had already left the Confederacy, if their property was determined to belong to an alien enemy. This bill was passed by the Confederate Congress and signed into law by President Davis.

There remains the question of whether sequestration was effective in raising funds for the Confederacy. The amount of money raised through sequestration is estimated to be around $3,000,732.75, which was a significant portion of the Confederacy’s revenue. However, the effectiveness of sequestration as a revenue source is debatable, as the Confederate government was consistently in debt and unable to pay its war debts.

Drawing on the payment of the national debt, the Confederate government borrowed heavily from foreign countries and printed large amounts of paper money. This resulted in hyperinflation, which severely devalued the Confederate dollar and made it difficult for the government to collect taxes or pay its war debts.

110. “An Act to alter and amend an Act for Sequestration.” Matthews, ed., Laws of the First Confederate Congress, 1st sess., 75–85. Pollard called this a “corrupt” amendment, “allowing the Confederate ‘heirs’ of alien enemies to rescue and protect property” and that it converted the Sequestration Act “into a broad farce.” Edward A. Pollard, The Lost Cause: A New Southern History of the War of the Confederates (1866), 220. As usual, Pollard overstated the case considerably. A great deal of sequestration continued after February 1862. In January 1863, Judge Magrath ruled that this amendment, which protected property belonging to a particular class, was constitutional.

111. Sequestration records from the Western District of Virginia show Receivers were still active there as late as February 1865.


sequestration as a weapon against domestic disloyalty. On December 1, 1864, in the Confederate House of Representatives, C. W. Russell of Virginia and the Judiciary Committee reported House Bill 242. This bill authorized the sequestration of property of those liable for military service who later left, or who had already left, the Confederacy without permission. Such deserters were, the bill provided, declared alien enemies as of the time of their departure, and their property was "liable to sequestration in like manner as the property of other alien enemies." The Mercury approved: "Nothing can be clearer than that the man who runs away to avoid fighting for his property and his country deserves to be treated as an enemy, and his family or agent ought not to be allowed to cloak an estate which he has proven himself too cowardly or traitorous to defend." The bill passed the House on December 20. It was printed in the Senate on January 5 and was under consideration at the time the Confederate Congress left Richmond before its fall to Grant.

There remains the enduring question of how much money was ultimately raised by sequestration. William Robinson puts the number at roughly $7.5 million and John Schwab at roughly $6.1 million. These numbers are in all likelihood low. Treasury Department records show that Receivers were quite often delinquent in their duty to provide receipts of all sales to Richmond every six months. This frustrated treasury clerks, who continuously wrote to Receivers reminding them of their record-keeping duties. While sequestration was ongoing from October 1861, there is no mention of revenue from the Sequestration Act in the Report of the Secretary of the Treasury until December 7, 1863. In that report the Treasury noted $1,862,555 in revenue from sequestration. In the following report of May 2, 1864, the figure was $3,000,732.75, and, finally, in the report of November 7, 1864, revenue from sequestration amounted to $1,238,732.75. We have no figures before 1863 or after 1865, times when sequestration was certainly ongoing, particularly so in 1862, the first year following the act's passage.

Drawing on the number $6.1 million, Schwab labels Confederate sequestration a failure financially. This assertion is flawed in at least two respects. First, we must ask, a failure compared to what? This was certainly more than

117. Robinson notes that in his estimation the amount reported by the Confederate Treasury is low.
118. "Reports of the Secretary of the Treasury, 1863, 1864," in Confederate Imprints.
the North confiscated during the Civil War. It was also money collected overwhelmingly by Confederate citizens enforcing the Sequestration Act against themselves—not within enemy country but within their own borders. Second, we need to place sequestration within the larger story of Confederate finance. Once the Confederacy took the disastrous step of printing $200 million in fiat money, a devastating inflationary spiral occurred. In this light, any number in the low millions looks like a failure. When the government started to print its own money in huge amounts, the incentive to continue confiscating alien enemy property, one debt or one estate at a time, certainly decreased. Yet sequestration continued almost until Appomattox. The wild estimates that there was $300 million to confiscate were speculations and cannot be used as a benchmark. Instead, in assigning success or failure to the sequestration regime, we should consider it as it was treated by the Confederacy, as a significant source of regular revenue for a government desperate for income.

To suddenly sever Northern and Southern property was an astonishing undertaking. In antebellum America, as now, families moved apart, marriages dissolved, parents loaned their children money or held onto their possessions for safekeeping. Family businesses or farms or houses often shared many owners, some resident, some not. Many owed rent to distant landlords. Local businesses aspired to national markets, and national firms employed local residents as their agents or members of their sales force. In these and myriad other ways, North and South were intimately intertwined. Yet as of the late summer of 1861, all Northern property located inside the Confederacy belonged to the government. For large debtors and small, the Sequestration Act brought scrutiny from Confederate judicial officials into private aspects of their lives. The demands of personal loyalty, commerce, and patriotism were thrown into conflict with the demands of Confederate citizenship. Yet in the new nation, when it came to property confiscation, loyalty to the new sovereign trumped all other commitments.

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**Book Reviews**

*The Boundaries of America* Jr. (Chapel Hill: Univers

Three of the four essay the author delivered at 1 importance of political l as unilluminating. Chap and Stuart Blumin in *Teen Centur* (2000) ti politics (except, perhaps over extending slavery) on high voter turn-out, goods of the day, show politicians adorned the Politics was not, he arg everyday life and only 1

Chapter 2 contains tl He explains why nineteen raising money in the fo relied primarily on their each major party, whic advertising revenue fro party loyalists were willi graphs, medallions, etc.) produced at the party’s (such as banners for para In sum, nineteenth-cent of committed popular s do, to solicit big contrib