

ESSENTIAL CIVIL WAR CURRICULUM

Post-War Treatment of High-Ranking Confederates

By Clint Johnson

Resources

If you can read only one book

Author	Title. City: Publisher, Year.
Johnson, Clint	<i>Pursuit: The Chase, Capture, Persecution and Surprising Release of Confederate President Jefferson Davis</i> . New York: Citadel, 2009.

Books and Articles

Author	Title. City: Publisher, Year.
Allen, Felicity	<i>Jefferson Davis: Unconquerable Heart</i> . Columbia: University of Missouri Press, 2000, chap. 17-19.
Blair, William A.	<i>With Malice Toward Some: Treason and Loyalty in the Civil War Era</i> . Chapel Hill: University of North Carolina Press, 2014.
Carter, Dan T.	<i>When the War Was Over: The Failure of Self-Reconstruction in the South, 1865-1867</i> . Baton Rouge: Louisiana State University Press, 1985.
Cooper Jr., William J.	<i>Jefferson Davis, American</i> . New York: Knopf, 2000, chap. 16.
Davis, William C.	<i>An Honorable Defeat: The Last Days of the Confederate Government</i> . Orlando, FL: Harcourt, Inc., 2001.
Downs, Gregory P.	<i>After Appomattox: Military Occupation and the Ends of War</i> . Cambridge, MA: Harvard University Press, 2015.

Freeman, Douglas Southall	<i>R.E. Lee A Biography</i> . New York: Charles Scribners & Sons, 1934, chap. 14-15.
Icenhauer-Ramirez, Robert	<i>Treason on Trial: The United States vs. Jefferson Davis</i> . Baton Rouge: Louisiana State University Press, 2019.
Lang, Andrew F.	<i>In the Wake of War: Military Occupation, Emancipation, and Civil War America</i> . Baton Rouge: Louisiana State University Press, 2017.
Nicoletti, Cynthia	<i>Secession on Trial: The Treason Prosecution of Jefferson Davis</i> . Cambridge, UK: Cambridge University Press, 2018.
Reeves, John	<i>The Lost Indictment of Robert E. Lee: The Forgotten Case against an American Icon</i> . Lanham, MD: Rowman & Littlefield, 2018.
Schott, Thomas E.	<i>Alexander H. Stephens of Georgia: A Biography</i> . Baton Rouge: Louisiana State University Press, 1988.
Varon, Elizabeth R.	<i>Appomattox: Victory, Defeat, and Freedom at the End of the Civil War</i> . New York: Oxford University Press, 2013.

Organizations

Web Resources

URL	Name and description
https://archive.org/details/menmeasureshalf00mccurich/page/408	McCullough, Hugh. <i>Men & Measures of a Half Century</i> ; Sketches and Comments. New York: Scribner's Sons, 1889, 408-12.
https://constitutioncenter.org/blog/the-pardon-of-jefferson-davis-and-the-14th-amendment/	The Pardon of Jefferson Davis and the 14 th Amendment an article from the National Constitution Center.
https://jeffersondavis.rice.edu/	The Papers of Jefferson Davis at Rice University. All of Davis's known papers are kept in this collection. Published Volumes 11 and 12 deal with his imprisonment and trial. Missing are Davis's letters to his lead attorney Charles O'Connor. Those have not yet been found.

Other Sources

Scholars

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Topic Précis

The fighting stopped at the Battle of Palmito Ranch, near Brownsville, Texas, on May 13, 1865, but before the details of occupation and Reconstruction could be developed, the nation faced the immediate issue of what to do with the prominent Confederate leaders, civilian and military, who had led the Confederacy out of the Union. Confederate President Jefferson Davis and Postmaster General John Henninger Reagan were captured on May 10, 1865, in southwestern Georgia by Federal cavalry. They were the only two captured who were actively fleeing Union forces. Other prominent Confederates like Vice President Alexander Hamilton were taken by federal officers from their homes during May and June 1865. Only Secretary of State Judah P. Benjamin and Secretary of War John C. Breckinridge of the Confederate cabinet successfully eluded searching Federal authorities. They escaped through Florida, then to Cuba, then on to the United Kingdom. Breckinridge would eventually return, but Benjamin stayed in Europe. The immediate capture and imprisonment of Confederate generals, the men most directly responsible for killing hundreds of thousands of Union soldiers, did not generate much interest among Union politicians. Only a handful such as Lieutenant General Joseph Wheeler, were arrested and imprisoned. Wheeler was released by the end of June 1865. Robert E. Lee, in Grant's hands at Appomattox, was given a parole by Grant and allowed to make his way to Richmond to reunite with his wife. On May 29, 1865, President Andrew Johnson issued a proclamation to give amnesty and pardon to most former Confederates with the exception of 14 classes of people. Those classes included all officers above the rank of colonel in the army and lieutenant in the navy, all former Congressmen and Senators, all former judges, and people with personal wealth above \$20,000. President Jefferson Davis was not allowed to return to civilian life and was imprisoned at Fortress Monroe, Virginia on May 19, 1865 along with Clement Clay, who had worked with the Confederate secret service in Canada. Davis' feet were shackled, and he was confined to a cell, surveyed continually by guards, the cell lit by a lantern all night. Throughout the summer of 1865 and into the spring of 1866 the Andrew Johnson administration struggled with what to do about Davis. Figuring out what Davis had done wrong, if anything, was at the heart of any case against him. The legality of secession had been discussed, but not litigated, for decades. Charles O'Connor, the former chief prosecutor for the District of New York, put together a legal team of Northern lawyers who were convinced Davis had done nothing illegal. None had any personal ties to Davis. All worked without compensation. On May 8, 1866, a year after the

Johnson cabinet had received a report from its own team of lawyers that Davis had done nothing justiciable, a U.S. prosecutor in Norfolk formally charged Davis with treason. Newspapers began to comment on the undesirability of trying Davis, particularly if a trial ended in acquittal. On May 13, 1867, three days past the second anniversary of his capture, Davis was released on \$100,000 bail. Some of the money came from wealthy Northern abolitionists. Davis twice appeared for trial, but Federal prosecutors asked for continuances. On July 4, 1868, Johnson issued a blanket amnesty for all former Confederates except those under indictment for treason. The treason indictment against Davis had never been withdrawn so he was still under threat. Sometime in December 1868 Attorney General William Maxwell Evarts approached the Davis defense team and offered to drop all charges against Davis if they agreed to stop any attempt to have the case tried, which offer was accepted. On Christmas Day 1868, President Johnson issued his final blanket amnesty proclamation for all Confederates. The trial of Jefferson Davis never took place. Had it taken place, one of two things might have happened. Had he won, the North might have been blamed for the war that killed 800,000 people. Had he lost, the South would have shouldered the blame. Since there was no trial, the question remains open.
