**Suspension of *Habeas Corpus* During the Civil War**

*“The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.”*

*–*U.S. Constitution, Article One, Section Nine

**The right of a prisoner to know the charges upon which he has been imprisoned** is one of the basic rights granted by the U.S. Constitution. Known as ***habeas corpus***, this right is both intrinsic to the justice system of the United States and important to ensuring freedom and liberty, rights which are also guaranteed to U.S. citizens.

During the Civil War, U.S. [**President Abraham Lincoln**](http://www.thehistoricalarchive.com/products/b237.html) **suspended habeas corpus**, allowing suspected Confederate sympathizers to be imprisoned without knowing the cause – usually because of… their Confederate sympathies. Using the “unless when in cases of rebellion or invasion” clause to the right of habeas corpus, Lincoln exercised his executive authority to imprison those whom he felt were a threat to the Union.

Although Lincoln began the suspension of habeas corpus during 1861, he did not officially proclaim the suspension until 1862, when he released his “Domestic Intelligence Proclamation.” The proclamation read:

*DOMESTIC INTELLIGENCE. A PROCLAMATION. By the President of the United States of America: Whereas, It has become necessary… to suppress the insurrection existing in the United States… Now, therefore, be it ordered, that… the writ of habeas corpus is suspended in respect to all persons arrested, or who are now, or hereafter during the rebellion shall be, imprisoned in any fort, camp, arsenal, military prisons, or other place of confinement, by any military authority, or by the sentence of any court-martial or military commission….*

Lincoln’s policy of suspension of habeas corpus was not without its foes. Although suspension of habeas corpus was in effect in several border states and in the midwest, Maryland, a border state with strong Confederate sympathies that nevertheless remained with the Union, experienced the most infamous instances of the suspension of habeas corpus…

Lincoln’s actions under the suspension of habeas corpus did not go unchallenged. Supreme **Court Chief Justice Roger Taney overturned the suspension** of habeas corpus in his *Ex Parte Merryman* decision. **Taney’s order was ignored by Lincoln**, and in 1863, under Lincoln’s direction, Congress passed the Habeas Corpus Act of 1863, which ratified the suspension of the right.

**The Military Draft**

The initial war fever soon dissipated in both the North and South, and each side was compelled to resort to **conscription (involuntary drafting of soldiers).** The South instituted a draft in 1862, requiring three years of service for those selected between the ages of 18 and 35; later, as the war prospects dimmed, the pool was enlarged by taking in ages 17 to 50. A large number of exemptions were allowed and there were provisions for substitutions.

The threat of a draft was used in Missouri and Iowa to speed up the rate of volunteer enlistment. The Militia Act of 1862 gave the President authority to draft 300,000 militiamen for up to nine months. It was to be a state run affair, with each county to be involved in the selection. However, the threat of conscription was for the time being enough to keep enlistments at an adequate level.

The **Draft Act of 1863 was the first instance of compulsory service in the federal military services**. All male citizens, as well as aliens who had declared their intention of becoming citizens, between 20 and 45 were at risk of being drafted. No married man could be drafted until all the unmarried had been taken.

**Two methods of evading the draft** were available. A man could **hire a substitute** who would serve in his place, or he could simply **pay $300** to get out of the obligation.

The lower classes resented this system; resistance and anger were especially fierce in the Northern cities, where large groups of immigrants lived. In July 1863, **draft riots broke out in New York City** and lasted four days. Some of the anger had been fueled by the **Democratic Party**, whose leaders **doubted the wisdom of the war and hated Lincoln**. News of **heavy losses** at Gettysburg ignited smoldering **racism** and led to a number of very unfortunate incidents. **Freed blacks** were unfairly targeted as the cause of the war and several were beaten to death or **lynched** by the mobs; a black orphanage and church were set on fire. The rage subsided only when the Army of the Potomac, supplemented by cadets from West Point, was deployed in New York.

Despite the resistance, the **Civil War conscription policy established that it was within the powers of the federal government to compel enlistment** without using the states to administer or approve. And the much larger population of the north meant more that the **Union armies vastly outnumbered the Confederate armies**. The Union won the Civil War largely through **attrition** (wearing down through death and injury) of Confederate forces.

**Emancipation Proclamation**

On January 1, 1863 President Lincoln issued his Emancipation Proclamation. There are several aspects which should be noted.

First, it was issued by Lincoln in his capacity as **Commander-in-Chief** of the Army and Navy as a **"necessary war measure".**

Secondly, when issued **it did not immediately free a single slave**.  This is because its application was limited to those parts of North America which were still under the control of the armed forces of the Confederate States of America.  It did not apply to those Slave States, such as Delaware, Kentucky, Maryland and Missouri which had not seceded from the Union, nor did it apply to those parts of the Confederate States of America (such parts of Virginia (which was later admitted to the Union as West Virginia) and Florida) which had been occupied by and remained under the control of US forces at that date.

These limitations were necessary for constitutional reasons.  The President had no power to issue a proclamation to emancipate slaves generally.  Such a measure would have been unconstitutional and at his inauguration he had taken an oath to uphold the Constitution.

Despite its limited application, the Emancipation Proclamation had two effects.

First, it **disrupted the agricultural economies** of those States forming the Confederate States of America as **slaves fled** the plantations.

The second effect was even more important in effecting the collapse of the Confederate States of America.

The British government and the government of the Emperor Louis Napolean in France had been very sympathetic to the Confederate States of America, as it was in their interests to have a weak USA.

The Emancipation Proclamation and the emancipation of slaves in the US Territories, however, cast the USA in the role of the emancipator of slaves against the pro-slavery Confederate States of America.

**The USA was able to portray itself as the opponent of slavery and the Confederate States of America as the supporter of the institution**.  Public opinion in Great Britain and France sided with the USA, and the British government, and the government of the Emperor Louis Napoleon followed suit.

This had the consequence that the anticipated support from the British Empire and the French Empire was not forthcoming, and the Confederate States of America found itself unable import or manufacture sufficient ships, artillery and other heavy military equipment.  Demand for its exports (principally cotton) declined.  Its currency collapsed and it found it difficult to obtain credit.

Without the support of the British Empire and the French Empire, the two great maritime powers and industrial economies at that time, it was only a matter of time before the Confederate States of America collapsed, which it did on 9 April 1865 when General Robert E Lee surrendered to General Ulysses S Grant at Appomattox.   The remaining Confederate armies surrendered later in that month.