

### CIVIL WAR SESQUICENTENNIAL: Unfurling the Black Flag in Civil War History

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## Feature Essay

Winter 2015

**Phillips, Christopher** *CIVIL WAR SESQUICENTENNIAL: Unfurling the Black Flag in Civil War History.*

Fifteen years have passed since Daniel E. Sutherland unfurled the black flag and declared the guerrilla conflict in the Civil War a “sideshow no longer.” Long seen as a product of aberrant individualism, a legacy of frontier conflicts, or a facet of southern cultural violence (interpretive tropes popularized by Michael Fellman in his seminal *Inside War: The Guerrilla Conflict in Missouri During the American Civil War*, published in 1989), Sutherland argued that this “desperate side of the Civil War,” as he aptly termed guerrilla warfare, was in fact a central element. Widespread irregular warfare deeply affected federal policy and strategy, and when federal troops waged a destructive and retaliatory war against southern civilians in order to break their will to fight, it debilitated the Confederate war effort and contributed to defeat.

That the word *guerrilla* translates to “small war” is only the most obvious of the ironies surrounding the internecine warfare that the war produced even in its earliest days. Guerrilla warfare did not begin with the Confederacy’s Partisan Ranger Act, passed on April 21, 1862. Independent irregular bands had roamed in parts of the nation for nearly a year, especially Missouri, western Virginia, and eastern Tennessee. Indeed, the pervasive fear of marauding parties” from neighboring slave states, real as well as imagined, had driven unionists in many free states to organize border patrols and home guards with the sanction of their anxious state legislatures. Some crossed state lines or rivers and acted the part of bushwhackers as much as the gangs they sought. Retaliatory warfare soon followed. In the war’s first months, night riders stole horses and saboteurs destroyed railroads, trestles, and bridges. Soon enough, they attacked other symbols of federal authority, including banks, trains, riverboats, and stagecoaches, and frequently interrupted mail, fired at boats, or derailed trains while women and children were aboard.

Sutherland's contention that guerrilla war was in fact a mainstream form of Civil War-making was soon aided by current events in the form of the Iraq and Afghanistan conflicts, with grisly images of beheadings, IEDs, ambushes, and suicide bombings, shaking the public's sensibilities about honorable warfare and warriors in this new age of terrorism. The 2009 publication of his *A Savage Conflict: The Decisive Role of Guerrillas in the American Civil War* brought recognition in the form of major awards and the sideshow's move to the Big Top.

As Sutherland moved pro-Confederate guerrillas from the war's interpretive side tent, he rescued them from the realm of fawning biographies, which commenced nearly as the war ended. Painting their subjects as chivalrous southern defenders of home and hearth, these portrayals allowed for a strict, and ultimately partisanized, separation of guerrillas (or the more pejorative bushwhackers or brigands) from partisans and cavalry raiders. Such categorization aided the romantic southernization of such commanders as John Hunt Morgan, John Mosby (taken up in historian James A. Ramage's biographical treatments of both), M. Jeff Thompson, Joseph O. Shelby, and especially William C. Quantrill. Military professionals such as Robert R. Mackey swooped into the void, using post-Vietnam command school terminology to create categories for the wide array of irregular combatants. Mackey's *The Uncivil War: Irregular Warfare in the Upper South, 1861-1865*, published in 2005 just before Sutherland's book, offered a too-strict typology of the various fighters who warred outside the formal ranks. Ironically, he conflated most pro-Confederate irregulars as terrorists and brigands. Sutherland allowed more flexibility in his categories, but maintained something of a hard line between regular, meaning Confederate and federal cavalry, and irregular fighters.

But those lines were always blurred, and partisan. Even as the war unfolded, imprecision assisted with the politicization of the shadow warriors who bedeviled federal and state troops especially in the Border States and Upper South, shading the lines between regular and irregular warfare, guerrillas and cavalry. Wartime unionists indiscriminately referred to armed men roaming the roads—whether draft dodgers, partisans, outlaws, or farmers—as guerrillas. All were seen as potential threats. The Shakers at South Union, Kentucky, expanded the term to include armed Confederates generally, and southern sympathizers claimed them as a modern incarnation of partisans, who had helped to win an earlier war of independence, thus applying the term to the newest home-front

heroes. Even as some of them threatened to burn her home, pro-Confederate Missourian Elvira A. W. Scott characterized bushwhackers as good-looking, polite, and intelligent . . . the best and bravest of the land, who have been wronged and outraged beyond endurance and have resolved to avenge their wrongs. Unionists like Kentuckian George D. Prentice, the irascible editor of the *Louisville Journal* and by 1863 a harsh critic of Lincoln, ridiculed such hair-splitting, condemning John Hunt Morgan as a guerrilla for attacking disguised in federal uniforms under flags of truce, common ruses in neighboring Missouri and Tennessee.

Guerrillas might have been the most feared purveyors of political violence, but they were only one of many interest groups to traffic in it. The violence that emerged from these “everyday forms of ideological struggle,” as scholar James C. Scott has written of more recent conflicts, were expressions of a pervasive, mature home-front insurgency often hidden from view. Guerrillas sought more than simple security; they fought for wartime power and advantage by waging shadowy conflicts that took various forms and produced many targets of opportunity.

If the current spate of interest in (and scholarship on) Civil War guerrillas derives in some part from seeking explanation for the “just” wars waged by Islamic jihadists in the Middle East and central Asia, central components of the long “war on terror,” these works mostly lack ideological explanations of guerrillas’ motivations. Indeed, war-weary Americans have become aware of modern insurgents’ keen reckoning of benchmark dates, using them to initiate new violence for partisan effect. Likely not coincidentally, Jo Shelby’s “Great Raid” into Missouri commenced on September 22, 1863, the one-year anniversary of Abraham Lincoln’s announcement of his Preliminary Emancipation Proclamation. That it commenced barely a month after the brutal attack on Lawrence, Kansas, by William Quantrill’s band, itself a response to federal general Thomas Ewing’s infamous Order No. 11 that depopulated nearly four Missouri counties in order to undercut the guerrillas’ “domestic supply line,” as historian LeeAnn Whites characterizes homefront women’s support of guerrillas, by making war on disloyal civilians, confirms the western dimension of the now-accepted trajectory toward a much harder war. That the Raid was conceived and commanded by the reputed wealthiest man in his border state—a Missouri hemp planter and rope manufacturer whose home county, Lafayette, was among the state’s largest slaveowning counties and whose family owned collectively nearly 150 slaves and who, during the Missouri-Kansas Border War,

led two forays of proslavery activists into the territory and participated in 1856 in the prior sack of Lawrence, for proslavery western Missourians the self-styled abolitionist capital—suggests an ideological as much as strategic motive for the Raid.

The ideological foundations for guerrilla warfare bore early fruit in Missouri, showing even as the war commenced. As Mark W. Geiger found in his innovative *Financial Fraud and Guerrilla Violence in Missouri's Civil War, 1861-1965* (2010), material realities were entwined with guerrilla proclivities. Pro-Confederate Missourians hailed disproportionately from the upper strata of rural society, and had for years been engaging in for-profit commercial agriculture reliant on slave labor. They invested heavily in railroad construction during the 1850s, became deeply indebted to local bankers, and when federal and state authorities took over the banks in late 1861, many saw their farms and slaves auctioned, denying sons their economic and cultural inheritances. Many responded not by enlisting in the Confederate service, but by becoming irregulars who would wage war on those who had robbed them. In the Boon's Lick, four-fifths of identified "bushwhackers" came from indebted families whose property was sold in the estate sales. The families of guerrillas in one western Missouri county were three times as likely to have owned slaves and were twice as likely to have possessed real wealth, including slaves, as an average white male Missourian. As guerrillas, these slaveholding scions thus made common violent cause with desperate men from the bottom of their society. Not surprisingly, counties that suffered the greatest frequency of guerrilla violence over the course of the war also had the greatest incidence of these bank foreclosures.

That slavery and emancipation provided a fulcrum for ideological warriors on both sides finds its strongest voice in John Fabian Witt's serial prize-winning *Lincoln's Code: The Laws of War in American History* (2012). The rapid expansion of guerrilla warfare in 1862 and the many and varied irregular fighters plaguing the war effort from behind the lines drew Francis W. Lieber, a published expert on international laws of war then lecturing at Columbia University, to offer a legal framework for combating them. A former slaveholder turned abolitionist, Lieber traveled to Virginia and met with Benjamin Butler, who famously refused to return slave "contrabands," before setting to work. The essay he produced emphasized the centrality of slavery to the war effort and condemned most irregulars as outlaws who should be denied rights as legitimate soldiers. At Henry W. Halleck's invitation, Lieber headed a war department

committee that fashioned carefully ranked categories of irregular combatants by which to assign appropriate punishments. Lieber established limits to wartime behaviors of armies and governments, especially to retaliatory targeting of black soldiers and their white officers, while advocating “the more elastic limit of military necessity” to respond to guerrilla warfare. He included the term “guerrilla” among such terms as “robbers, pirates, armed prowlers, and war-rebels,” in effect it classified all irregulars as outside the “laws of warfare” and denying them the rights of legitimate soldiers. Calling for the military’s restraint in administering punishment, he subjected civilians to it who aided guerrillas, including women. In April 1863, Lincoln approved what was issued as General Orders No. 100, known since as the Lieber Code, defining as military necessity all measures indispensable for securing the ends of the war.” The order provided constitutional sanction to many of the Lincoln government’s recent initiatives—martial law, suspension of habeas corpus, confiscation of the property of the disloyal, and emancipation—as well as allowing for capital and summary punishment of guerrillas. Lieber’s expanded vision of military necessity had a political complement. Delivering a jeremiad to New York’s Loyal League entitled “No Party Now But All for Our Country, he offered Republicans an exclusivist blueprint for all-or-nothing patriotism against home-front dissenters. For Lieber, the genesis of his Code, and for guerrilla or other partisan warfare, was slavery.

Breaking the mold for sympathetic biographies of pro-Confederate irregular fighters, and blending the ideological guerrilla war with its postwar legacy, T. J. Stiles’s *Jesse James: The Last Rebel of the Civil War* (2002) offers the most thorough treatment of a guerrilla as both terrorist and cold warrior. With lively narrative supported by exhaustive research, Stiles argues persuasively that James was a jihadist of a different kind, both wartime and postwar. No social bandit, to use historian Eric Hobsbawm’s phrase, or a Robin Hood who robbed from the rich and gave to the poor, as popular lore has him, James fought as a guerrilla in the war to defend his family and his home by preserving its way of life in one of Missouri’s most slave-rich counties. After the war, he combined political violence with ordinary crime, fighting former unionists and the federal government’s efforts at Reconstruction—or the form it took in Missouri where it was not mandated, nearly as did the Ku Kluxers there and in the former Confederacy. Opposition to wartime emancipation expressed as racial violence was a central pillar of the temple of guerrilla warfare, and extended fully into the postwar, as Aaron Astor argues well in *Rebels on the Border: Civil War,*

*Emancipation, and the Reconstruction of Kentucky and Missouri* (2012). Among them were James and his gang members and innumerable other former guerrillas who intimidated free blacks, terrorized Radical voters and candidates, and publicized their views and actions as extensions of Confederate policies. (James did so by way of Kansas City journalist and former Confederate officer John Newman Edwards. Edwards, who historian Matthew C. Hulbert argues took the lead in constructing an “irregular memory” of the war for the state’s angry former Confederate sympathizing electorate, gave James a platform not only to justify his robberies of trains and banks but to attack Republican-led Reconstruction throughout postwar America.)

As recent scholarship makes clear, once military necessity included slavery’s destruction, irregular violence became a medium of social exchange and ideological litmus of political warfare. Although this violence was prevalent in all the region’s states, the degree of violence was highest in those states where slavery existed and especially once black enlistment was underway in all states. Emancipation fully entwined political and military goals, and common people resisted what they considered an illegitimate social revolution with what means they had. Among them was violence, of which guerrilla warfare might have been a weapon of the weak but offered a position of strength that affected the trajectory of the war and its political aftermath. No longer a sideshow, the guerrilla conflict is now in the center ring of Civil War scholarship.

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*The author of seven books on the Civil War era, Phillips’s newest book, The Rivers Ran Backward: The Civil War on the Middle Border and the Making of American Regionalism, will be published by Oxford University Press in the fall of 2015.*