

# The Gray Line News



High Bridge



**High Bridge Camp # 1581**

**Sons of Confederate Veterans**

***"DEDICATED TO THE PRESERVATION OF OUR SOUTHERN HERITAGE"***

**April 10, 2021**

Dear Compatriots,  
I hope you and your families are doing well and are enjoying the beautiful weather we have been having. It is Confederate History Month, and we had a great start with the Flag Raising Ceremony last Sunday with the Charlotte County Grays. We had a great time and a great turn out. This weekend I hope to see you at the roadside clean-up on Saturday, April 10th, at Marshalls Crossroads at 8:00am and in Appomattox for the Wreath Laying Ceremony at 2:00pm on Sunday, April 11th. If I do not see you there, I will see you all at the next meeting on April 22nd. Until then, you and your families take care and stay safe.

Respectfully Yours,  
Don Reynolds, Commander

**"All that the South has ever desired was that the Union, as established by our forefathers, should be preserved, and that the government as originally organized should be administered in purity and truth."**

**Robert E. Lee**

## **Why Jefferson Davis Was Never Tried**

Have you ever wondered why President Jefferson Davis was never tried for treason? He was imprisoned for 2 years without a trial. **The post-war Jefferson Davis: The famous trial that never was.**

***By Bill Ward***

When the War Between the States ended, the victorious Northerners viewed Jefferson Davis, as the former President of the Confederate States of America, much differently than others who had served the Confederacy.

For example, when Robert E. Lee surrendered to U.S. Grant at Appomattox Court House, the meeting between the two generals was amicable. Lee was received and treated with courtesy as a senior officer. The terms were so apparently lenient, with Grant conceding to Lee's requests on behalf of his soldiers, the surrender was referred to as "a gentleman's agreement."

However, even after signing a loyalty oath, Lee and other former Confederate Army officers and members of the CSA government were later disenfranchised and treated as second-class citizens. But in the eyes of the northern public, Jefferson Davis was set apart for still a different kind of treatment.

On May 10, 1865, about a mile from the town of Irwinville, Georgia, Federal troops captured Davis. With his arrest on that spring morning, his government ceased to exist. His wife, Varina, and their children were sent to Savannah, where she was kept under virtual house arrest and forbidden to leave the city. Because the soldiers, carpetbaggers and Union supporters treated the Davis children so badly, Varina arranged for them to go to Canada along with her mother.

Davis had been taken back to Virginia and imprisoned in Fort Monroe, where he would stay for the next two years. At first, he was bound in leg irons. Guards watched him around the clock but were not permitted to speak to him. He was allowed no visitors; a light burned in his cell day and night; and his only reading material was a Bible. His treatment was a clear violation of the Bill of Rights.

Many Northern Congressmen and newspapers were nothing short of vicious in their public attacks of Davis. They wanted to see him tried for treason and hanged. In one article, and in one very long sentence, the New York Times referred to Davis by every insulting comment and offensive name that was fit to print. Rhetoric far outran legal reasoning.

But if Davis was in an unusual legal predicament, so was the United States government. The dilemma faced by Washington was how to handle the Davis case. The government under Lincoln had created its own major obstacles by spending four years proclaiming that secessionists were "traitors and conspirators." The U.S. military had silenced opposition to the administration by closing down newspapers that dared challenge the party line or to make the slightest suggestion that secession might be legal. Thousands of Northerners had been jailed for exercising their First Amendment rights, and those thousands had friends with long memories in the Northern bar.

Northern lawyers were angry for having their clients locked in prison with no civil rights as guaranteed by the Constitution; having civilians tried by military courts for non-existent crimes; having a government that ignored the Supreme Court, setting itself above the constitutional plan of checks and balances. They didn't like having to beg the president for justice for clients convicted by phony

courts-martial or locked up for long periods without any trial. Under Lincoln, the U.S. government had become tyrannical, and certainly anything but a free and constitutional society.

The best lawyers of the day were willing to volunteer to defend Jefferson Davis, because they were angry at the way Lincoln's government had trampled the Bill of Rights and the Constitution for four years. Even those who didn't believe in secession were repulsed by the conduct of the Republican administration and the U.S. military.

Charles O'Connor of New York, one of the most famous trial lawyers of the era and a man of great stature in the legal profession, volunteered to be Davis's counsel. Salmon P. Chase, Chief Justice of the Supreme Court, would be the trial judge.

But interesting things began to happen, and the government's dilemma became even worse. University of Virginia Law Professor, Albert Bledsoe, published a book, "Is Davis a Traitor?" Bledsoe methodically took apart the case against secession, delivering a solid blow to the prosecutors and dampening their zeal to try Davis. Prosecutors actually began to look for a way to avoid trying him without vindicating the South.

Then another method was decided on for prosecution. The attorney general would bring in outside, independent counsel, as we have seen in modern times, such as in Watergate or the Clinton scandals. The government needed someone of great standing in the legal community to be the lead prosecutor. It chose John J. Clifford. But after reviewing the case, Clifford withdrew citing "grave doubts" about the validity of the case. The government could "end up having fought a successful war, only to have it declared unlawful by a Virginia jury," where Davis's "crime" was alleged to have been committed.

President Johnson, Lincoln's successor, thought the easiest way out would be to pardon Davis, as he had pardoned many other Confederates. But Davis refused, saying, "To ask for a pardon would be a confession of guilt." He wanted a trial to have the issue of secession decided by a court of law — where it should have been decided to begin with — instead of on battlefields. Most Southerners wanted the same.

Northerners either forgot or were unaware of a great secessionist tradition in America. Southerners were not alone in their view that each state had the right to determine its own destiny in the Union. The procedure for joining the Union also applied to withdrawing from the Union.

That thought harkens back to an editorial by the Cincinnati (Ohio) Daily Inquirer, in the summer of 1861, after the "traitor" label was let loose by the North: "The Republican papers are great on treason. . . . It is treason to circulate petitions for a compromise or peaceful readjustment of our national troubles . . . to question the constitutional powers of the President to increase the standing army without authority of law . . . to object to squads of military visiting private houses, and to make search and seizures. . . to question the infallibility of the President, and treason not to concur with him. . . . It is treason to talk of hard times; to say that the war might have been avoided. It is treason to be truthful and faithful to the Constitution."

A year after John Clifford withdrew, the government appointed another special counsel, Richard Dana of Boston, who had written the novel, "Two Years Before the Mast." But after reviewing the evidence, he agreed with Clifford; the case was a loser. Dana argued that "a conviction will settle nothing in law or national practice not now settled...as a rule of law by war." Dana observed that the right to secede from the

Union had not been settled by civilized means but by military power and the destruction of much life and property in the South. The North should accept its uncivilized victory, however dirty its hands might be, and not expose the fruits of its carnage to scrutiny by a peaceful court of law.

Now, over two years after Davis's imprisonment and grand jury indictments for treason, the stage was set for the great public trial of the century. Davis had been released from prison on a \$100,000 bond, supported by none other than Horace Greeley, the leading abolitionist writer in the North and a former Lincoln supporter. Greeley and a host of others were outraged at the treatment Davis had received, being locked up in a dungeon for more than two years with no speedy trial.

Since two famous special counsels had told the government its case was a loser, finally, none other than the Chief Justice, in a quirk of Constitutional manipulation, devised an idea to avoid a trial without vindicating the South. His amazing solution was little short of genius.

The Fourteenth Amendment had been adopted, which provided that anyone who had engaged in insurrection against the United States and had at one time taken an oath of allegiance (which Davis had done as a U.S. Senator) could not hold public office. The Bill of Rights prevents double jeopardy, so Davis, who had already been punished once by the Fourteenth Amendment in not being permitted to hold public office, couldn't be tried and punished again for treason.

Chief Justice Salmon P. Chase secretly passed along his clever argument to Davis's counsel, Charles O'Connor, who then made the motion to dismiss. The Court took the motion under consideration, passing the matter on to the Supreme Court for determination.

In late December 1867 while the motion was pending, President Johnson granted amnesty to everyone in the South, including Davis. But the Davis case was still on the docket. In February 1868, at a dinner party attended by the Chief Justice and a government attorney, they agreed that on the following day a motion for non-prosecution would be made that would dismiss the case. A guest overheard the conversation and reported what was on the minds of most Southerners: "I did not consider that he [Davis] was any more guilty of treason than I was, and that a trial should be insisted upon, which could properly only result in a complete vindication of our cause, and of the action of the many thousands who had fought and of the many thousands who had died for what they felt to be right."

And so, the case of United States versus Jefferson Davis came to its end — a case that was to be the trial of the century, a great state trial, perhaps the most significant trial in the history of the nation — that never was.

**APRIL IS CONFEDERATE HISTORY MONTH** despite the games politicians play. Fly your flags and spread the word that the war was not originally about slavery but was over unfair representation in the Federal system and too much Federal government infringement on what the South considered

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the individual States' rights guaranteed by the Constitution.

## **Charge to the Sons of Confederate Veterans**

"To you, Sons of Confederate Veterans, we will commit the vindication of the cause for which we fought. To your strength will be given the defense of the Confederate soldier's good name, the guardianship of his history, the emulation of his virtues, the perpetuation of those principles which he loved and which you love also, and those ideals which made him glorious and which you also cherish."

Lt. General Stephen Dill Lee, Commander General,  
United Confederate Veterans,

### **Next Meeting**

Apr. 22, 2021

### **Future Meetings**

May 27, 2021

June 24, 2021

July 22, 2021

August 26, 2021

September 23, 2021

### **Upcoming Events**

May 31, 2021