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The Opening of the American Frontier

BY SUSAN SCHULTEN JUNE 20, 2012 12:29 PM 22

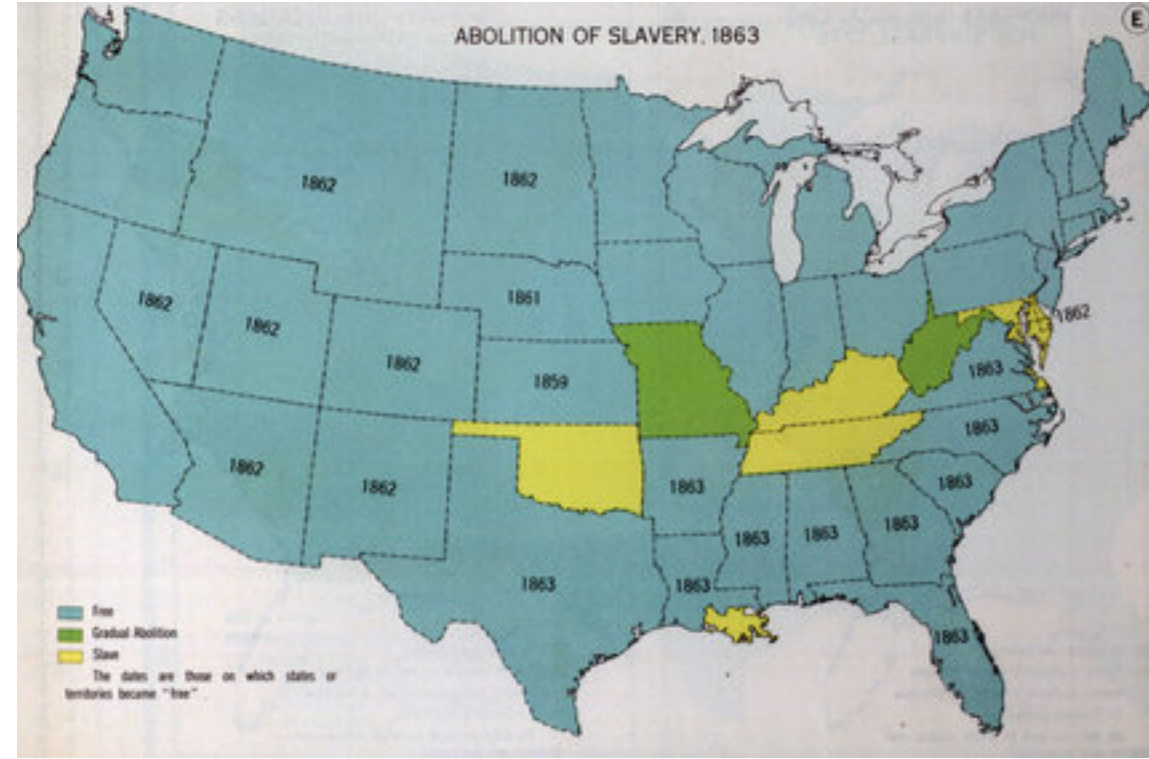


Disunion follows the Civil War as it unfolded.

Wartime emancipation was a tangled story of incremental steps by Congress, the president, and the Union Army and acts of supreme bravery of the part of slaves. In August 1861, just three months after the onset of hostilities, Congress granted federal authorities the right to confiscate slaves used to aid the rebellion, yet the act did not guarantee these slaves permanent freedom, and in fact the Fugitive Slave Law was still in place. The following March, Congress barred the military from returning fugitive slaves to their masters, and began to pressure Lincoln to take more drastic action.

In April 1862, Congress "discharged" the 3,000 slaves held in the District of Columbia, then eased the fallout by compensating slaveholders for their property and appropriating \$100,000 for the voluntary colonization of these former slaves. Yet the District of Columbia is a speck of land on the nation's map. Two months later, on June 19, 1862, Congress took similar action on a much grander scale by signing an order that permanently ended slavery in all the federal territories, which then constituted over 40 percent of the nation's land.

Interestingly, where slavery existed, in the District, Congress clearly had the power to do this, a fact readily acknowledged even by most slaveholders. But where there were almost no slaves — in the territories — the question of Congressional power had been the source of sectional strife so intense that it prompted secession. It was only in 1862, a year into the war, that the Republicans had the political and constitutional breathing room to take such a step.



Courtesy of the American Geographical Society, from Charles O. Paulin, Atlas of the Historical Geography of the United States (1932)CLICK TO ENLARGE

The Supreme Court had expressly denied the right of Congress to legislate against slavery in the territories in the notorious Dred Scott decision of 1857. Yet when Republicans proposed such action in 1862, they sparked no opposition or debate; in fact, Dred Scott was not even mentioned. The issue that had turned the nation upside down in the 1850s had effectively evaporated. With a single act, Congress abolished slavery in the current and future territories of Dakota, Nebraska, Washington, Idaho, Montana, Wyoming, Colorado, Utah, New Mexico and Arizona.

If the act prompted little controversy in Congress, it was widely celebrated in the nation's newspapers. From Wisconsin to Vermont, newspapers noted that the language of the act mimicked the Northwest Ordinance of 1787, which established the territories around the Great Lakes. In that act, Congress had deemed "there shall be neither slavery nor involuntary servitude in the said territory." Yet it was unclear whether that language applied only to the Northwest Territory or to all territory subsequently acquired. For Lincoln and his fellow Republicans, the intent of the founders was clear: slavery was never meant to extend to new Western lands. But for others — including Chief Justice Roger Taney, who authored the Dred Scott decision — the ordinance applied strictly to the territory it was written to establish.

There were voices of opposition to the 1862 act as well, from Northern and Southern newspaper editors who believed that Congress had exceeded its power. The Charleston Mercury blithely noted the actions of the "Yankee Congress" in one sentence, just before listing the latest prices for hogs and wheat. The Cleveland Plain Dealer wrote that it proved the war was driven by an abolitionist agenda. And the anti-war newspaper Crisis in Ohio announced that "Congress had about as much authority to pass such a law as to pass a law to prohibit building churches in Utah." Such a comment was pointed, for the Republican Party had been organized against the "twin relics of barbarism," slavery and polygamy, and in July 1862 Congress passed an act prohibiting the latter.

But if Congress was sweeping in its actions, it was also aware of pro- and anti-slavery politics as they applied to the war. Just over a year earlier, in February 1861, Congressional Republicans had spearheaded the organization of three new territories (Dakota, Colorado and Nevada). In that legislation, they omitted any mention of slavery in order to avoid exacerbating secessionist sentiment in the still-loyal border states. By June 1862, however, the loyalty of the border states was relatively secure. By abolishing slavery in all federal territories, the Republicans had finally nullified the Dred Scott ruling that so outraged them before the war.

In practice the act freed few, if any, slaves. But the symbolic victory must have been sweet, for it fulfilled the primary plank — and founding principle — of the Republican party. And it also proved how great a mistake secession had been. By leaving the Union the states of the Confederacy made it possible for the Republicans to enact such a measure. "Rebel insanity has resulted in suicide," wrote the editor of the Hartford Daily Courant, and "there is some honey to be found in the carcass of this rebellion."

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Sources: The (Charleston, S.C.) Mercury June 24, 1862; The (Columbus, Ohio) Crisis June 25, 1862; The National Intelligencer June 20, 1862; The (Hartford) Daily Courant (June 19, 1862); The Cleveland Plain Dealer June 19, 1862; The New York Herald-Tribune June 19, 1862; David Currie, "The Civil War Congress," University of Chicago Law Review (Autumn 2006); Michael Vorenberg, "Final Freedom."



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