H-Net Reviews
in the Humanities & Social Sciences

Silvana R. Siddali. *From Property to Person: Slavery and the Confiscation Acts, 1861-1862.* Baton Rouge: Louisiana State University Press, 2005. 261 pp. $44.95 (cloth), ISBN 978-0-8071-3042-1.

Reviewed by Paul Anderson (Department of History, Clemson University)
Published on H-South (March, 2006)

From History's Grave to Historian's Cradle

There are easier ways of making a living than writing books about dead letters. When the corpses in question are the First and Second Confiscation Acts–zombies while alive as laws, and soon buried in importance and legacy by the Emancipation Proclamation–one might also say there are easier ways of becoming an historian. It is to Silvana R. Siddali's great credit that her book is a rewarding, even graceful analysis, a persuasive argument that together the Acts defined a significant turning point in Northern attitudes about the humanity of slaves.

For in the end, she claims, what the Confiscations Acts did was far less important than the meaningful debates they provoked. Those debates helped generate and were in turn energized by the transition from a limited to a dynamic war; they were a touchstone by which a democratic citizenry asserted its influence over the direction and scale of the war; and lastly and most importantly, they moved Northern attitudes in a new, radical direction by wrenching loose the personhood of slaves from their former status as chattel. In "personhood" we have as ungainly and awkward a word as exists in the Queen's English: yet it is used here with due diligence. If the debates helped create a revolutionary understanding of the status of African Americans as human beings, and if they paved the way for both the Emancipation Proclamation during the war and the Reconstruction Amendments after it, they nevertheless were limited by the arena in which they took place. The powerful, countervailing forces of Constitutionalism and conservatism limited the reach of the confiscation debates, and a political and legal reformation of slaves as persons did not fully become a social one of slaves as people. "This incomplete change," Siddali writes, "persisted in the form of severe race prejudice against black people, even after the passage of the Thirteenth Amendment and throughout postwar Reconstruction" (p. 12).

Siddali argues that the laws were a signally important–if heretofore overlooked–way by which Americans came to grips with slavery and the Constitution. The Congressional debates became both wedge and crucible. Most Northerners, she maintains, viewed slavery as a property relationship before the war. Moreover, they held a reverence for the Constitution that could and did produce ambivalence over a dangerously amorphous question: could the Union war effort protect the Constitution against the usurpation of secession *and* the potential usurpation that was confiscation? Indeed, could such a debate even take place without eroding Unionist confidence in the very framework of government they were fighting to preserve? "Could a Constitution that guaranteed the freedom of individual citizens, and at the same time protected the right to hold human beings as property," as Siddali frames the dilemma, "be reformed of its fundamental contradiction without being destroyed in the process?" (p. 12). Teased out in the debates was an answer that lay embedded in a latent understanding of the Constitutional protection of slavery. It had been a "compromise" in the original compact. "A constitutional critique was necessary in order to discover which was primal: the right of all Americans to their personal liberty, the territorial integrity of the nation, and the preservation of popular government–or an inviolate Constitution that continued to allow people to be owned as slaves" (p. 13).

Such conclusions and profound questions seem a world away from the laws themselves, which Siddali correctly assesses as "nearly useless" (p. 6). A New York editor was even less charitable: any decent lawyer, he said of the second one, could have "driven through it with a two-horse team."[1] The First Confiscation Act, passed on August 6, 1861, authorized the seizure of property used in the rebellion–mainly slaves whom Benjamin F. Butler had previously and cannily defined as "contraband"–but stopped short of redefining such slaves as free. The Second Confiscation Act, passed on July 17, 1862 and in concert with the escalation of the war, was seemingly more

sweeping. It authorized the confiscation of property belonging to "traitors," not just the property used to aid the Confederate war effort; it also provided that such confiscated slaves be emancipated as "captives of war." Yet neither law was well crafted, neither law provided an efficient enforcement mechanism, and neither law was ever truly executed. It is one of the book's most welcome qualities that Siddali expertly and comprehensively explains the making of these laws without allowing her work to degenerate into a legalistic treatise on their ineffectiveness.

Instead, the powerful if sometimes paradoxical interplay between broader radical and conservative forces–and not simply the way in which they were channeled into confiscation debates–is the central dynamic of the book. Examples are legion but perhaps best illustrated in Siddali's convincing treatment of the war fever in 1861. One infers that the eventual debates and the resulting confiscation measures were only possible *in reaction* to what many Northerners considered to be a revolutionary attack upon *their* Constitutional protections. Although she does not disregard the ideological appeal of antislavery or the mystical force of nationalism, Siddali sees patriotic Unionism in the North operating at a visceral level. Ideas about the permanency of the Union were still vague and in flux at secession. Rather, secession's most concrete attack was upon property rights: in the confiscation of federal property, including customs duties, in the cancellation of debts, in the economic flux and frustration that prompted so much uncertainly and angst in 1861. "Thievery" and secession were one and the same. (This is not, it should be said, an interpretation that shares anything with the neo-Confederate idea that the "cause" of the war was economic and revolved around tariff and customs duties.) Having their own property "confiscated" allowed Northerners to cast the war in personal terms–obligations–and put property rights on the public agenda for discussion. At the same time, punishing secessionists for bad faith would reinforce notions of national will and supremacy by illustrating the strength of the national government. "An attack on property rights–both the private property rights of citizens and the property rights of the nation as a whole–meant a profound disregard of all the sacred principles of the rule of law and of the mutual responsibilities and duties of the citizens of a democratic republic" (p.35).

What we see in Siddali's book is a Northern home front far in advance of its politicians, one willing to demand and countenance radical measures in order to punish rebellious Southerners and end the war quickly. In that the Northern home front shared much with its soldiery, who were often far ahead of what military leaders were willing to countenance. In emphasizing how swiftly confiscation supporters adopted a white-hot and often vitriolic rhetoric, Siddali's book also confirms recent work that stresses the volatility of national politics. Still, one also sees restraints on those forces. Much like, say, Mark Grimsley's work on Union military policy demonstrates that even hard war found limits, *From Property to Person* argues that a genuine respect for Constitutionalism constrained revolutionary politics. Much like Eric Foner's analysis of the "radical" nature of the 14th Amendment and Reconstruction, Siddali maintains that the transformation from property to personhood was a momentous step, but one buffeted and boxed in by conservative forces and the lingering, intractable problem of race.[2]

Critics will likely focus on Siddali's method and the conclusions that are necessarily drawn from employing it. This review intends no insult to say that the book might be described as traditional. Siddali argues that political debate matters, that there is a "public mind," and, while building a case using congressional records, constituent letters, and newspapers, that meat-and-potatoes sources can help us understand both. The place of such characterizations as the "public mind" in historiography has been so thoroughly hashed out over the years that it needs no repeating here. Similarly, antique criticisms can be and have been leveled at political debate: from constituent letters one gleans opinion from those exercised enough to write. In short, in an era dominated by social history–which ultimately questions whether such a thing as "we" exists–Siddali's formulations are bound to strike some historians as naive, insidious, or historically useless. Yet the approach still has things to teach us; some form of consensus, after all, must exist if democracy does. Siddali, indeed, traces the laws as a process of creating a workable public opinion, and through that the broad direction of the war. Moreover, in Siddali's use the public mind is not static: one sees and understands the consensus being shaped and reformed in response to fluid circumstances. Indeed, one of the book's great strengths is that the war effort–the contingency of military events–is always central.

Other critics will find moments when Siddali's reach is too broad and perhaps sense that her choice of congressional papers sometimes privileges her argument, rather than the other way around. Still others, befuddled at the debate's strange bedfellows, may wonder whether the priorities of pragmatic and ideological politics sometimes trump her position that while the "northern home front wanted to hurt rebellious southerners personally …

Congress had to take the longer view of the two warring sections" (p. 223). Others yet may puzzle at generalizations that seem to contradict her larger thesis. It is too broad to say, for instance, that antebellum Whigs and later Republicans grounded their opposition to property rights in slaves in Christian morality. Certainly, a segment of opposition did so, and certainly, a religious ethic permeated and informed antislavery feeling generally. But to ground opposition to slavery in religious morality would have made Whigs and Republicans abolitionists; the only result of such ethics would be to conclude that slavery was a sin. It would have made antislavery extra-constitutional.

One may hope, however, that those critics do not get carried away. There are, after all, easier and less rewarding journeys into history's graveyard.

Notes

[1]. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988), p. 500.

[2]. See Mark Grimsley, *The Hard Hand of War: Union Military Policy Toward Southern Civilians, 1861-1865* (Cambridge: Cambridge University Press, 1995); and Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper and Row, 1988).

Copyright (c) 2006 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For other uses contact the Reviews editorial staff: hbooks@mail.h-net.msu.edu.

If there is additional discussion of this review, you may access it through the list discussion logs at:
http://h-net.msu.edu/cgi-bin/logbrowse.pl.

Citation: Paul Anderson. Review of Siddali, Silvana R., *From Property to Person: Slavery and the Confiscation Acts, 1861-1862*. H-South, H-Net Reviews. March, 2006.
URL: http://www.h-net.org/reviews/showrev.php?id=11485

Copyright © 2006 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For any other proposed use, contact the Reviews editorial staff at hbooks@mail.h-net.msu.edu.