

Edward C. Smith interview regarding Jefferson Davis, for documentary "Jefferson Davis: an American President" 2008, by Flying Chaucer Films
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PART 1

Other Speaker: The camera has, okay, that's ****.

Speaker 1: Um, first, um, would you kindly state your full name and the way you'd like us to, uh, credit you?

Professor Edward C. Smith: Edward C. Smith. It's E-D-W-A-R-D, C., S-M-I-T-H. Uh, Professor Edward C. Smith, um, Director of American Studies.

Other Speaker: American University?

Professor Edward C. Smith: American University.

Other Speaker: Let's, um, bring, low, uh, Channel 1 up just a little bit, if you will. Okay. Could you count to ten for me, please?

Professor Edward C. Smith: One, two, three, four –

Other Speaker: A little bit more.

Professor Edward C. Smith: – five, s –

Other Speaker: Okay. Thank you.

Other Speaker: Okay. Camera speed.

Speaker 1: Okay, then we're off. Um, we talked about this before, but would you discuss, um, talk to us a little bit about I say the world view, but more, uh, slavery in the 19th century, first outside the United States. Is that outside of your area of expertise?

Professor Edward C. Smith: Yeah, I don't deal with that.

Speaker 1: Okay. Let's look at it in, in the United States, because, uh, from that sense, uh, both the existence in the North and its existence in the South.

Professor Edward C. Smith: Well, 19th century American slavery, I mean, all the original 13 colonies were slave states and, um, slavery, for example, was not completely abolished in the state of New York until 1827. That's 1 year after Thomas Jefferson died, and the northern states were moving in the area of industrialization, and so having slaves to do a lot of farm work was, was unnecessary. Plus, a piece of technology changed everything, uh, during the pre-19th century period, and that was the invention of the cotton gin. I mean, the cotton gin was sort of like the, the Internet, in a manner of speaking, because remember that what the cotton gin does, is allow one black to do the work of ten, which means you have a surplus population of nine people that you no longer need, that you own, and, um, and what do you do with these people? You're certainly not going to destroy them. They're part of your property, and, so, as early as that period of time, slavery was becoming a real problem. And so by 1808, when Thomas Jefferson, um, abolishes the international slave trade, because he was saying, "We don't need any more blacks. As a matter of fact, we need to get rid of the ones that we have, because the, they're populating and there's just too many of 'em." And you know the basic law of American economics is a law of supply and demand. Anything that increases in volume automatically decreases in value. And, so, by 1817 we have the American Colonization Society, which is going to found a colony in Africa, called Liberia, in 1822, and those free blacks who wanted to go back to their ancestral homeland in Africa, they were helped with the American Colonization Society and support from the federal government. The capital of Liberia is named after the president of the, at that time, President James Monroe, and so, to this day, it's still Monrovia.

And, um, Liberia became a republic in 1847, uh, the first African republic. Obviously, the vast number of blacks, whether they were in the North or the South, whether they were free or slaves, by the mid-1840s, America had become home, and they had made up their mind they weren't going anywhere.

Other Speaker: Uh, pause a second. And ****.

Professor Edward C. Smith: So, America had become home, uh, and they were going to, uh, be Americans, and the person who more or less led that way of thinking was none other than Frederick Douglass himself. You see, Abraham Lincoln was of the opinion that after emancipation, there should be evacuation. He was convinced that black people and white people would never be able to live in social harmony, and so with the emancipation, "You have to leave. You have to go back to Africa. You have to go back to, I mean go to the Caribbean, go someplace. You're not gonna be able to be here." And Frederick Douglass said, "No. This is our country, if not more so, than it is yours. We're staying." And as a consequence of that, think about it, three amendments were added to the Constitution. The 13th Amendment abolishes slavery in 1865. The 14th Amendment in 1868 says that black people are citizens, something the Dred Scott Decision in 1857, 11 years earlier, said would never be possible, and in 1870 we have the 15th Amendment gives black males the right to vote. The Constitution, last time it had been amended, was in 1804. The next time it's amended is in 1913. Because my ancestors decided not to leave and to stay, completely redefined this country.

Speaker 1: Would you, talk just a little bit about slavery in the North versus the South?

Professor Edward C. Smith: Well, I, the most obvious difference between North and South was just size. I mean, there were very few slaves in the, um, in the North, and the few that were there were mostly factory hands and domestic servants and, uh, that sort of thing, and those numbers were shrinking very, very fast. The fact that in the South, um, at the outbreak of the Civil War, you're talking about 4 million African-Americans living throughout the South, and well over 500,000 of them are free, and, of course, 60,000 of those free blacks lived in the state of Virginia alone. The second largest population of free blacks was, ironically, in South Carolina, and, uh, a

slave always knew that freedom was attainable, and different masters had different formulas. Some, like George Washington, granted his slaves their freedom upon his death. It was written in his will. There were some blacks who acquired their freedom because they were so good at what they did, in terms of being a carpenter or a, a brick layer or a metal worker, what have you, uh, the master would loan them out and let them work for other people, and they would put a price tag on them and say, "Listen, you're worth about \$500.00. You give me a certain percentage of what you earned, and after you've reached \$500.00, you're a free man," and many a slave bought their own freedom, and, of course, you would never free someone unless they could provide, um, a living for themselves. So, all 500,000 of those blacks, I mean, you didn't have people out there homeless. You didn't have blacks out there, uh, robbing and stealing and so forth. I mean, these were free blacks who, in many ways, earned their freedom and had the kinds of skills that allowed them to sustain themselves. And, so, the, the two perspectives, I mean, there were, there were some masters who truly believed, and then Jefferson may well have been one of them, that slavery was a good thing; that we are introducing you into, uh, a higher, civilized society, and, um, and so they didn't, they weren't burdened down with the guilt. I mean, they felt that they were really doing you a favor by introducing you through this form of apprenticeship, and then there were others who were tremendously guilty by what they were doing. I mean, Jefferson alone, I mean, you, when you read his notes on Virginia, where he admits, in effect, that, "Yes, I'm a hypocrite. I say that all men are created equal, and here I am a lifelong slave owner, and because of who I am and what I need to have done, I mean, I can't live without the institution." And, so, he made that, that, he made that Faustian, um, uh, compromise. Uh, and, but, the one thing that's clear is that slavery was on its way out. I mean, it was on its way out in the same way that communism was on its way out. I mean, it just took a matter of time, because people knew that a person who was a free laborer is a much better laborer, and a more proud and more productive and can contribute to the society that they're laboring for, or laboring within, and, and of course, the big issue before the Civil War was whether slavery could be expanded, and remember, Lincoln in his second inaugural, I mean, first inaugural, lets it be known, "You know I personally do not like slavery, but I have sworn to uphold the Constitution as it is, not as I would like for it to be, and slavery is protected by the 5th Amendment, which is the primacy of private property," and so, um, he lets it be known slavery can remain where it is

as it is. I am not about the business of exterminating it. I am certainly about the business of preventing it from being expanded.

Other Speaker: Can we pause a second. Yeah, *****, let's do the, um, uh –

Speaker 1: Mm hmm.

Other Speaker: – the, the ***** on that topic.

Speaker 1: Okay. Ready?

Other Speaker: Mm hmm.

Speaker 1: Professor, could you make a distinction and explain the, uh, the difference between slavery and the slave trade?

Professor Edward C. Smith: The, slavery was just, um, involuntary servitude on the part of the laborer, uh, who was purchased by a master and put to work doing whatever labor the master wanted to assign to the slave. The slave trade was a business, I mean, and you had to make special kind of ships, special kind of manacles were made so that the people on board the ship would have their mobility controlled in certain ways, so that you wouldn't have the fear of slave insurrection while they're being transported from Africa to America, and obviously, the blacks in Africa were part of the slave trade. I mean, trade involves a minimum of two people in a transaction. The American mythology that a group of white Europeans went to the coast of Africa with no maps, no knowledge of the languages, no concept of the landscape beyond the beaches, somehow gathered up hundreds of thousands of millions of people, put them in chains, brought them over here, many of these people who happened to be warriors, it is ridiculous. And so, what happened is that there were the black would conquer people in different tribes, and they would sell their fellow blacks, who they don't look at as fellow blacks because they're from a different tribe, and, uh, those people might as well be Chinese or Japanese. They don't have any connection with them, except for skin color, which as we know, in the story of tribalism, means

absolutely nothing. And so, what we, you would have is that the, the slave trade involved the blacks who were selling slaves to whites, uh, who were buying them, and the thing that has always irritated me is that whenever we use the term "slave trade" we forget that involves a seller and a buyer, and the sellers were other blacks, and the buyers were European whites, and, of course, Americans when they got over here and sold them, um, in the slave markets, and so, the difference is, I think, one of, of, of, you know, it was a business, and, just like, I mean, you forget about the Holocaust. I mean, once the gas was entered in and you could, uh, really mass murder. I mean, you needed a steady supply of gas. You needed cars, you know, on the train tracks. I mean, it was a, it was a tremendous enterprise, and that's what slavery was, and so, I mean, the slave trade was, and when Thomas Jefferson abolished it in 1808, I mean, he realized that I, I, I, I'm doing something right here. This is, this is horrible, and we need to get ourselves out of it, and, of course, English had, um, gotten themselves out of the slave trade quite some time earlier.

Speaker 1: I want to go back to Jefferson. Uh, we have two slave-owning, planter/politicians in both Thomas Jefferson and Jefferson Davis, and we have two legacies. We have Thomas Jefferson, whose legacy is, I'm sure everyone knows now, about Sally Hemings. But his legacy, to most Americans, not everyone knows, but some people, his legacy to most Americans is father of democracy and freedom. I think you know where I'm going here. Jefferson Davis' legacy is perpetuating, uh, slavery. Um, and Jefferson [Davis], by the way, you know, was a Jeffersonian, as well as being named for him, he turned out to be a Jeffersonian, so we had these two slave-owning planter/politicians with two entirely different legacies. Would you explain?

Professor Edward C. Smith: Yeah, that's a very interesting question. Um, and this is not an easy one to, um, to answer. I, I've wrestled with it, uh, quite a bit. I, I think that –

Other Speaker: Okay, just, if I could pause you, um –

Speaker 1: We have to rephrase the question.

Other Speaker: – this is a very, yeah, it's kind of very complicated –

Speaker 1: Yeah. I'm sorry.

Other Speaker: – question. If –

Speaker 1: What?

Other Speaker: – if –

Professor Edward C. Smith: Well, I, I, I guess the, if, if I'm, if I understand your question correctly, you were asking about the, the difference in the legacies of these two slave-owning planter/politicians, and, and Jefferson was the father of democracy in the rhetorical sense. I mean, he, I guess in, in the back of him, he truly believed that, um, maybe one day blacks will be the social equals of whites, but not now, uh, and, and so part of the challenge for every American leader is to translate into social reality the soaring rhetoric of Jefferson, Thomas Jefferson's Declaration of Independence, which he could not do himself. Um, the legacy of Jefferson Davis is a little different, because Jefferson Davis, albeit he was named after Thomas Jefferson, and was a Jeffersonian in terms of, of his idea of a government and so forth, in Jefferson Davis's mind, he didn't see himself as perpetuating slavery as such. Um, he truly believed that since the Constitution was entirely silent on the subject of secession, the states voluntarily entered the Union, and therefore they reserved for themselves the right to voluntarily exit the Union, and there was nothing to stop them from doing it, and, so, declaring their independence, meaning Jefferson Davis and his followers, they saw themselves as the second American Revolution. Part of the reason why they moved the capitol from Montgomery to Richmond was Virginia. Virginia was the home of Jefferson, Thomas Jefferson, George Washington, James Madison, George Mason. I mean, we're revolutionaries. We're not rebels. We are the true sons of 1776, not those guys on the other side of the, uh, Potomac River, and Davis truly believes this. Davis believes it to such an extent that after he was locked up, he demanded, "Put me on trial. Prove in a court of law that I have committed treason by declaring southern independence," and, of course, Salmon B. [P.] Chase would not allow him to appear in court. He was petrified that Davis would win in court what he lost on the battlefield. Think about how that would have changed everything, and, of course, after he was given his freedom

and he never stood trial, and so the issue never came before the court, in the same way that when Lincoln put the Emancipation Proclamation into effect, if the Emancipation Proclamation had gone before the court, as it should have, it would have been found unconstitutional, because it is in complete defiance of the 5th Amendment, and Lincoln obviously used the war powers acts that allowed him to do certain things during a time of war, because he's the commander in chief of the armed forces. I mean, and if you go back and you look at the constitutionality of some of Lincoln's conduct during the conflict, I mean, you know, you're really stretching. Uh, I mean, he's the first president to really employ what the founders meant when they said, "You're also commander in chief." I think, um, that's the best way I can answer your question.

Speaker 1: Do you think that Davis's legacy is different from Thomas Jefferson's, even though they were both slave-holding planter/politicians? Do you think it's different because of, I don't know, our present, uh, issues?

Professor Edward C. Smith: Yes.

Speaker 1: That's what I'm trying to get at here.

Professor Edward C. Smith: If, if you buy the argument, and I don't buy it, if you buy the argument that the Civil War was fought first and foremost to destroy slavery, then Jefferson Davis's legacy is always going to be mangled up with that, because the argument is going to be that he fought the war, not for independence, but to perpetuate and expand slavery, and therefore, uh, Tho, Thomas Jefferson is given a sort of by on that one, and Davis has to carry that legacy with him, of course, also, associated with the Confederate flag. I mean, if you're going to be opposed to the Confederate flag because it is supposed to be symbolic of slavery, then what do you, what is your attitude towards the American flag, which is also a slave symbol? I mean, it doesn't make any sense. And, but no one dissects the imagery of the flag in such a way, uh, that would bring up that kind of a contradiction. You can't take the position against the Confederate flag, and then all of a sudden don't feel the same way about the American flag. And, uh, I think that, because even today, I mean, when Jesse Jackson was speaking down at Martin Luther King's 40th, uh, anniversary of his "I Have a Dream" speech, I got a copy of his speech, and he

actually talks about the Confederacy in this speech. I mean, the war has been over almost 140 years, and, and, and when, and whenever Davis's name is mentioned, that's the immediate thing that comes into mind. Jefferson Davis, Confederate flag, and so on. Robert E. Lee's name is never connected with slavery. Jefferson Davis's is, and they fought for the same cause.

Speaker 1: Well, here's a nice little segue. Um, could you talk a little bit about the relationship, uh, I know we talked last weekend. I know that you're not, that, you're a Lee scholar and not a Davis, Davis scholar, but can you talk a little bit about their relationship, specifically a couple things I'd, I'd like for you to –

Professor Edward C. Smith: Sure.

Speaker 1: – to, to look at. The relation, their relationship at West Point, if they had one at all, uh, the importance of Virginia as symbolic mother of the South, which is why, uh, Lee, you know, was – actually, you know what, let me back up. Um, the segue, actually, just to states' rights, uh, secession. Um, reasons for the South to secede, states' rights, Lee thought of himself as a Virginian first and foremost. He was not the only one. Uh, everyone thought themselves as a Massa, as, uh, I don't know, a New Yorker, uh –

Professor Edward C. Smith: Right.

Speaker 1: – Virginian, and a South Carolinian, and then, then a, an American. Um, can you talk a little bit about that?

Professor Edward C. Smith: Sure.

Speaker 1: And preserving the Constitution? And then we'll move into the states.

Professor Edward C. Smith: I think what most Americans are com, abysmally ignorant of is that when you go and you look at the typical American textbook that teaches the Civil War, you see the bottom part of the United States in gray and the northern part of the United States as blue,

and the implication of that coloration is that the South was solidly in support of secession. Nothing could be further from the truth. The states were so divided on that issue that only North Carolina and South Carolina voted unanimously to leave the Union. North Carolina was the tenth state to leave the Union, and she, along with the three other states, left the union only after the firing on Fort Sumter. Virginia is so divided that the western part of the state secedes from the state and becomes the 35th state of West Virginia. So, this idea that, that the South, well, I mean, the whole idea that the South was solidly in support of secession is all wrong. There were many, many unionists there. Uh, and –

Other Speaker: Hold on one second. Let me get you –

Professor Edward C. Smith: I mean, the, the, the modern textbooks portray the war as the North solidly in support of abolishing slavery, emancipation, and so on; the South solidly in support of, of slavery and, and, and nothing could be further from the truth. The South was as divided over secession as the, as much of the North was divided over slavery. Men like, uh, Sherman and Grant and Sheridan and McClellan could care nothing about slavery. They were no more interested in black liberation than the man in the moon. They were interested in reunification. The genius of Lincoln was that he put, was able to meld these two threads together, being able to say that, yes, I know there are people in the North that all in for, all in favor of our army being an army of emancipation, and there are also the number of people who see our army as an army purely of reunification, and I've got to deal with both of these constituencies. And he was able to pull it off. When you look at an abolitionist like, uh, Joshua Lawrence Chamberlain, or, uh, Julia Ward Howe, they are a very small minority of people, and when Julia Ward Howe, in Washington, D.C., at the, at the Willard Hotel, which is where Julia Ward Howe stayed when she wrote "The Battle Hymn of the Republic," and you remember the constant refrain, "He died to make men holy. Let us die to make men free," and this was in November of 1861. Right across the street at the Willard Hotel is a statue of General Sherman. General Sherman, uh, there was a biography written about him by the, Burke Davis, a very balanced biography, and he discovered that, um, uh, Sherman's hatred for black people was so passionate that he had to devote a chapter that said, uh, Sherman had almost a pathological dislike for the Negro. And, so, when you're looking at the northern army that is invading the South, it's coming there with two agendas. One

is to bring the South back in, by force, and the other is, "We're going to use the army to bring about liberation of these enslaved people, and, of course, the, the sad thing on the South's part is that it was virtually impossible for southern unionists to prove that he was a unionist, and so once the fires start being lit, I mean, people who loved the Union are being, their property is being destroyed, and many times they're losing their lives, and when you're, "Wait a minute. We, we, we didn't want to leave. We voted to, um, to stay." And, then, like I said, the, the only two states that left unanimously were the Carolinas. And, so, and I don't believe many of those southerners who were unionists before the war stopped being unionists after the war. Look at, like, Maryland. I mean, the eastern part of Maryland was much more supportive of the Confederacy. Uh, the western part of Maryland was more supportive of the North. I mean, Abraham Lincoln was petrified that Maryland would join the Confederacy, and then Washington would, would be surrounded by two states that have left the Union completely cut off from the North, which is not until you get to Pennsylvania. We wouldn't have been able to survive.

Speaker 1: Could you just mention, I don't know if you said this, um, I know we've talked about it. I'm getting things confused, I don't know if you said it today. Could you mention, you talk about people considering themselves mem, uh, citizens of their state first?

Professor Edward C. Smith: Okay.

Speaker 1: And then, that, that's why there was so much that Davis, for instance, didn't want to, didn't want to leave, but he was, when it came right down to it, like, Lee was a Virginian first. Davis was a Mississippian.

Other Speaker: Yeah, and was there federal citizenship, you know, uh, that, that kind of notion, when did that come about? Federal citizenship?

Speaker 1: So, please educate the people.

Other Speaker: Yeah.

Professor Edward C. Smith: Well, you, well, the, the simple answer to that question is that the colonies that became states, the understanding is that your first loyalty went to your state. That was the case with, let's say, Thomas Jefferson. It was not the case with his cousin John Marshall. John Marshall was a nationalist. He thought of America as one, from the beginning, and there were several prominent members of the Founding Fathers generation that identified with the nation, as opposed to with their states. More people tended to relate to the state sovereignty more than national sovereignty. Lee's greatest remark that I quote constantly is that after, he said, "Before and during the war between the states, I was a Virginian. After the war, I became an American," and what the war does, is allow the United States of America to become a singular noun, and not a collective, and the war changed all that. If there was no war, we probably would not define ourselves in that, in that way, and because, before the war, the United States was just the United States. These states, uh, uh, said that we, you know, we, we are in this union voluntarily. If we decide to leave, I mean, South Carolina left entirely alone. She had no idea anybody was gonna follow her. It didn't really matter to her, and, uh, I mean, imagine living back then, someone is going home with you after they've done grocery shop, shopping and said, "Have you heard the news?" You say, "What?" "South Carolina seceded." "What? What happened?" "I mean, she decided to leave the Union, voted unanimously. What's going to happen now?" Lincoln had just been elected. He hasn't been inaugurated; 117 days elapsed between Lincoln's election and his inauguration, and during that 117 days, a whole new country comes into existence to be led by Jefferson Davis, probably the most prominent politician Washington had since the days of his namesake, Thomas Jefferson. And, uh, um, and so, here is a man that leads reluctantly. He loves the Senate, and he then becomes the president of this new, new nation, or this new, this independent country. He is the founding father of a second American Revolution, and that's how he saw himself.

Speaker 1: And now, he is, Davis is inextricably entwined with, all kinds, today, inextricably, uh, entwined with all kinds of n, negative imagery –

Professor Edward C. Smith: Yeah.

Speaker 1: – or imagery that's been made negative, and I have a, a question for you.

Professor Edward C. Smith: Well, let me just say this.

Speaker 1: Okay.

Professor Edward C. Smith: The, the, the, they, the thing that has really, really done Jefferson Davis in is the attitude that people had, have towards the Confederate flag, because his reputation is inextricably bound up with all that people think about when they see that image, and so, there is no pre-Confederacy Davis. It's almost as if he were in the average American's mind, born in 1861 out of nowhere, and the idea that there was a Davis before and a Davis after simply does not exist, and, and that's where, that's the reason why it's very hard for people to look at him in any kind of a balanced way, because he's completely associated with the cos, Confederacy, and there, in the minds of most people, the Confederacy had nothing good about it. Uh, its Declaration of Independence was simply a pretense, in these peoples' minds, to continue slavery and, and, uh, the inhumanity of man, and against man and so on, and so Davis is all wrapped in that, I mean, and it's, it's not going to go away until people begin to see the full picture, and then when you see the full picture, you've got all of these other issues to deal with. It's just like with Robert E. Lee. Most people think of Lee almost as if he dropped dead at Appomattox. They forget those 5 years at Washington College, where Lee himself said, "This is what I should have done in the first place. I should have been a teacher." The 5 last years of Lee's life mostly follows, they don't want to be bothered with, because that is not Lee the soldier. That is Lee the civilian. That is Lee the educator, and that, that, they're not interested in that part of Lee, and yet, at the same time, he says, "These were my best years."

Speaker 1: You know what's funny too –

Other Speaker: Okay, I think we're gonna change the [tape.]

PART 2

Speaker 1: Ah, in fact, when we started this project in earnest, the research, ah, in May, there was a man in Kentucky who wanted it removed. And anyway, there are many movements across

the country to remove Davis statues. We've talked about this at length, ah, remove streets, highway signs, all that kinda thing. Combining that with historic, ah, erasures, the ones like Meigs, Meigs's removal of Davis's name from the [Washington] aqueduct [Cabin John Bridge]. Looking at all of that, what damage is done to our collective history? In essence, professor, what damage to our collective history, ah, when we start hand picking, kind of like administrators and not historians are hand picking, ah, Congress, people are hand-picking who they want removed from the [Capitol] Rotunda.

Smith: Yeah, the damage that is done when you start being selective about history is that you are amputating yourself from a significant aspect of your ancestry, and you're only choosing to tell the part of the story that you want told. And a historian is at his worst when he reads into the past the prejudices of the present, and that is not history. I'm not quite sure what it is. Maybe it's journalism, but it's not history. Ah, because our job is to tell the story as completely and as accurately as we possibly can. If it offends some people or upsets some, makes them feel uncomfortable when they learn certain things, well that's, I'm sorry. That is a part of the story. And, and our job is to tell the story as completely as we possibly can. And so, um, I mean, most of my students here at American University are kids from the North, I mean, so most of my students are from New Jersey, New York, Pennsylvania, Connecticut, and so forth, and they're from private, ah, suburban schools, and they bring to my classes an incredible ignorance and lack of understanding of diversity and regionalism and so forth. And they've been burdened down with these really horrible misrepresentations of what happened pre-Civil War, during the Civil War, and during the immediate aftermath after the, ah, Civil War, and so you spend the first few weeks just trying to open them up so that you can pour some new water in and start the process of going, um, in the, in the right direction. And many of them are very open to it, I mean, they, they feel uncomfortable, somehow this story that I've been told is not quite right, but they don't know where it's wrong. And that's what our job as teachers are, um, ah, wheret our jobs as teachers are important. I'm most flattered when my students come up to me after a course, and they say, Professor Smith, I really enjoyed your class, but I really don't know how you feel on these issues. And I say, you're not supposed to know. I'm not supposed to use my classes to teach me. It's me teaching my classes. And, and my job is to share as much as I possibly can

with you. Now, if you wanna know my personal opinion on this now that the course is over, I'll be more than happy to tell you, but that would never happen in the classroom.

Speaker 1: It's not your pulpit?

Smith: No.

Speaker 1: Ah, where, do you have a question?

Other Speaker: ****.

Speaker 1: OK. We'll move on to Lee, because this is your, this is your big one. I know that he's your favorite general, right? If you could talk about the relationship between Davis and Lee, and take your time.

Smith: Yeah.

Speaker 1: Ah, although you've been teaching this for 35 years, you probably don't have to take your time. Um, did you think that the, the Davis and Lee friendship, ah, or relationship was friendship or a deeply respectful comradeship, that they were both military, they were both West Pointers, um, and here's my big conjecture for you. I was thinking about this last week.

Other Speaker: Well, let the professor answer that.

Smith: Well, well, I would, I would not characterize Lee and Davis being friends. They were partners, and they were fighting for the same cause. Ah, Lee was the kind of person that probably had very few people that would be awarded the title of friend. Ah, I don't even think that his relationship, as intimate as it was with Stonewall Jackson, would be what we would call friendship. I think Lee, there was always a formality about Lee. I think of him, in the way I think of General George Marshall. No one except Marshall's wife felt close to him. Even Truman called him General Marshall. No one called him George. I don't believe anyone called

Lee, Robert, except, you know, maybe some neighbors or few family members, probably a few older family members. Um, and Lee and Davis had a partnership, but there is a part of Davis that envied Lee, and the part of Davis that envied Lee was that Lee was a commander of troops in the field. Jefferson Davis wanted to be a soldier. Jefferson Davis was a soldier when he and Lee fought in the Mexican War. At one point towards the end of the [Civil] War, he says to one of his daughters [his wife], if Lee would take one wing and I could command another wing, I think we could wrestle our independence from those people. I mean that's how, and so there was that dimension of Davis that didn't want to be the president of the Confederacy. He wanted to be the commander out in the field. I think some of the people in the, in Richmond sensed that this man is not fit for this job. He doesn't really wanna be here. It's like the student who sees a teacher for the first time, and knowing fully well the teacher doesn't wanna be in the classroom. And they can, they can read it. And I think that's how some of Davis's problems started happening in Richmond, I mean, a lot of people tolerated him in some respects because they adored Varina, and, ah, she was the Jackie O of the, of the southern Civil War experience. And, um, ah, and so they're thinking, my God, if she loves him and, and, um, tries to explain him to those of us who don't fully understand him, then we have to give him the benefit of the doubt, ah, but the relationship was respectful, ah, and Lee corresponded with Davis towards the end up until after Davis's speech on April 4th. That's when their contact ceased. And this is very interesting. Because, remember, Lee is trying to break out of Petersburg on, um, April the 1st, and General Phil Sheridan cuts Lee off at Five Forks. Lee wants to see if he can rendezvous with General [Joseph E] Johnston, who's being pushed up from North Carolina. The understanding of that, if Lee and Johnson are able to come together, then they can annihilate Sherman and perhaps even Grant's troops. So Sheridan cuts Lee off, forcing Lee to go west. Now, on April the 4th Abraham Lincoln and his son Tad are in Richmond. April 4, Jefferson Davis is in Danville. He gives this speech: The government is simply relocated, we're going to fight on, we're going to win our independence, don't give up, don't allow yourself to submit to the invader. Lee hears that speech, realizing, well, not hear it, but he knows of the speech. And he does not correspond with Lee, I mean, Davis, at all. The next and last major battle is the battle of Sailor's Creek on April 7. Lee's troops are just horribly, badly defeated by Sheridan's forces. By this time Lee realizes I've got to correspond with General Grant. He does not correspond with his commander in chief, which is President Davis. If he writes Davis and says, "I want to start negotiating with

Grant,” he knows, based on the rhetoric of the April 4 speech, Davis is not going to give Lee permission to do that. So Lee effectively disobeys Jefferson Davis by establishing a line of communication with General Grant, who he knows is corresponding with his commander in chief, who is President Lincoln. And so when Grant lets Lincoln know that General Lee is making some feelers, “what should I do?” and of course the word is “respond.” And then he said, well, do you have any guidance for me, and Lincoln tells Grant, “if I were in your place, General, I would let Lee up lightly,” meaning give him the most generous surrender terms, um, as possible. I think the beauty of, of Lee, and no other American has played such a role, is that for a man whose father was George Washington's military chief of staff, a man who had two ancestors sign the Declaration of Independence, a man whose wife is George Washington's foster great-granddaughter, who considered himself to be a Washingtonian, a man from a family that founded the Union, a man who probably throughout the Civil War no family, for no family did the Union mean as much as to Lee. And when President Lincoln offered Lee command of the Union Army at the Blair House, not Lincoln personally, but, ah, one of his emissaries [Winfield Scott], ah, when he offered Lee command of the Union Army, 75,000 volunteers being raised for 90 days, Lee said, “No, I will not raise my sword against my fellow Virginians.” Virginia hadn't left yet, but they were moving in that direction. He knew what was going on. And then, instead of contacting Davis before he meets with Grant, because he knows Davis is going to want to keep the war going. And Lee has made up his mind: I have fulfilled my duty, this, there's no way we can win now, and I need to go and negotiate the best of terms. He said, “I would, I would rather die a thousand deaths than to do that.” At one point, which is, you know, almost makes you teary when you think about, ah, before he was going to meet, um, to meet, ah, Grant, Lee said to General Wise, ah, who had been the governor of Virginia earlier, ah, he said, “I've gotta go meet with General Grant, and I would rather die a thousand deaths to do that, than do that.” He said, “what will the country think of me?” And General Wise looked at him and he said, “what country? There hasn't been a country for the past year and a half. Far as these men are concerned, you are the country.” And Grant knew that. If we treat Lee with respect, everything will turn out fine. If we humiliate him and embarrass him, those boys will go up in the hills and we'll have a guerrilla war until God knows when. And so, what Lee did in, in rejecting Lincoln's offer to lead the Union soldiers, and rejecting Davis's demand that the war continue, ah, I mean, where this guy gets this sense of, of destiny and independence of mind is

truly remarkable. One can only imagine what would have happened had Lee not ignored Jefferson Davis's April the 4th speech. Most Americans, most Civil War people, they have not read Davis's speech. Um, many people have no idea where Davis wound up on the fourth of, after Richmond fell on the third. Ah, and so those documents and, and understanding all of that sort of thing really puts the Civil War in a much more convoluted context. I mean, this is not, none of this is black or white, I mean, the shades of gray are so gradated, I mean, it's just, it's impossible to figure out and understand what it means if you want to do it on purely a very simplistic superficial manner, which is where most people come to.

Speaker 1: You know, I, I'm –

Other Speaker: I think right there we, we follow up the, ah, –

Speaker 1: That's exactly what I'm gonna do.

Other Speaker: Yeah.

Speaker 1: Yeah, because Professor Smith is going there. Um, we have a specific question about Lincoln, ah, about Lee, and Lincoln and Davis's offer. So Lincoln offered Lee the, the commander of all Union forces, the first time since George Washington, correct? That was for the first time since George Washington had someone been offered commander of all forces, both sea [and land], is that correct?

Smith: Well, he, well, no, he was, the, the, he was offered command for 90 days of 75,000 volunteers.

Speaker 1: Okay.

Smith: Okay, so the war was supposedly only last 90 days, so the whole idea of a navy and what have you, that had never, the war was supposed to be over in July, early August at the latest. And ah, so that's ah, that's not, you know, that's, um, –

Speaker 1: Well, another question, um, nonetheless he was offered, ah, Lee was offered by Lincoln the commander of Union forces.

Smith: Mm hmm.

Speaker 1: Why didn't Davis offer Lee a similar post at the onset of the war?

Other Speaker: Why was it, why did it take him until at the very end of the war, when it was pretty much.

Speaker 1: Why did it take so long?

Smith: Well, I mean, he didn't know Lee, ah, except as a, Lee was a fellow West Pointer, he knew Lee when all of them were under the command of General Winfred [Winfield] Scott in the Mexican War, but, um, Lee, ah, was never a general in the Union army, he was only a colonel, ah, and Joe Johnston was a general in the Union army, I mean, and became a general in the Confederate army, and of course it's May of 1862 at, at the Seven Pines, that Joe Johnston is seriously wounded, and out of necessity, ah, Davis has to go to Lee, who he had been using purely as a military advisor up until that point. Now he goes to Lee and of course Joe Johnston makes that famous remark which I wish, wish I could have remembered verbatim, that, that the best shot that was fired in the Civil War was the one that wounded me. Because in wounding me, taking me out of, out of the mix, he, Davis went to Lee and there is the man who really, ah, was the one who was the miracle worker, and, and so afterwards, and then of course Davis would, you know, Davis showed up at the first Battle of Manassas and, and, ah, he really wanted to be in the action. And so, ah, Lee had to reprimand him at one point in time that, I mean, you know, am I comman, he asked Davis one day, I forget which battle Davis showed up, but he said, "Am I in command of this field?" And Jefferson Davis said, "Yes you are, General," and he [Lee] said, "Well, would you please leave?" And, and Davis said, "Yes, I will show to the men my obedience to your command," and he left. And that was very, and there were several instances, um, ah, like that, I mean, he [Davis] almost got himself all caught up in the Battle of

Yellow Tavern, which killed, ah, which eventually led, led to the death of, ah, Jeb Stuart, and he [Davis] was misplaced, I mean, he really, really wanted to be a, a, a field commander, I mean, I think he did the best that he could under the trying circumstances that the Confederacy was engulfed with from the very, ah, beginning, um, the only person I could think of that would have been better than Davis in terms of being from beginning to end the war president, would have been Lee himself, and there wasn't a political bone in Lee's, ah, body, so that would have never happened. [Robert] Toombs and Robert Barnwell Rhett and Cobb, and all those guys, I mean, and then there's the other thing, and I've often wondered, did Jefferson Davis ever think about the symbolic sense of the Confederacy was doomed from the beginning, when you think that Jefferson Davis is named after Thomas Jefferson? His vice president is Alexander Hamilton Stephens, and knowing the relationship between Thomas Jefferson and Alexander Hamilton in the Washington administration, secretary of state and secretary of treasury, just the names alone should have said to somebody, this ain't gonna work. It, it didn't work back then, and it's not gonna work now. And, ah, but of course they plowed on.

Other Speaker: Kinda to follow, follow that up, follow that question up, um, how, how do you feel Davis in terms of, um, in terms of management, war management, being a commander in chief of generals, how do you think he performed, and then you can just answer ****.

Smith: I think that, um, as a manager, as a military manager, um, being a teacher, I give people grades, um, I think he probably would have gotten maybe a, a B. Ah, I think Davis was gifted in that the South with fewer resources, both manpower and materiel, had better commanders in the field. I think that, ah, the, there was no Stonewall Jackson in the, in the North, there was no Robert E. Lee in the North. Um, there was no Beauregard, no Nathan Bedford Forest, I mean, these, the Sheridan and Sherman, ah, and Grant became successful, not because of strategy or because of tactics, but because of scorched earth. Remember that after Grant takes command in March of '64, the Civil War dramatically changes. All the romance and chivalry that we see, even as late as Gettysburg, all of that's gone. Now is scorched earth, it's a war of attrition, and Sherman was the master, and so it's not tactics, I mean, when you, Sherman never planned a battle like Chancellorsville, where you are undermanned, and you've gotta figure out how can we defeat a much superiorly manned, ah, force with what we've got. So you gotta figure out a plan.

I mean, when your plan is burn, I mean when after the Battle of Cedar, Cedar Creek and Shenandoah and Sheridan in October, I mean, we all know what the Shenandoah Valley looks like in October, and Sheridan looks out at the Valley and he says to his commanders, I'm going to so destroy this valley that if a crow flies across it it's going to have to carry its own rations. And then he sought to burn the Valley. I mean you burn the Shenandoah Valley, I mean, that's, that's crazy. And, um, and so Davis was gifted in that he had probably the best that West Point produced, ah, and, and it helped that he was a West Pointer himself. Um, so there was a, there was a bond there, I mean they, the, I mean when you go to West Point you're, you're stamped. I mean, it's like going to Harvard or Yale, I mean, ah, and so that bond worked with him for a, for a while, and of course the two, the most important army in the entire Confederacy, the one that he spent most time trying to deal with, was the Army of Northern Virginia, and up until Jackson died in '63, and up until, ah, Stewart died in, in '64, and straight on through Lee's, ah, surrender, that was the most important, um, army. And of course you have to understand, and when you under, I think there's a very important part of understanding Davis, is that the Civil War really is a war, a, a tale of two cities. You've got Richmond, ah, versus Washington. And they literally are a hundred miles apart. So the Army of Northern Virginia's job is to protect Richmond, and if possible, conquer Washington. Washington's job is it's got to conquer Richmond. It's gotta conquer the capital of the rebellion. And so Davis is, he loved Washington, I mean, he loved his days on, in Capitol Hill, he loved being secretary of war, he loved being a member of the original board of the Smithsonian Institution, I mean the fondness that he had for this place is, is just believable. And, um, and yet because of the demands of war, ah, this place had to, I mean, he had to fight it. Ah, and, and basically what he wanted to do was to win a sufficient number of victories in the field that the people of Washington would begin to demand that the government stop the war, and that they could achieve their independence in the way in which Vietnam achieved their independence, because the greatest weapon that an army has is the will to win. Once you strip them of that weapon, it doesn't matter how much fire power they have, if they don't have the will to win, then the war's over. And, ah, and that didn't happen, and Lee understood, when Lee saw Lincoln's second, I mean his Gettysburg address, he knew that that was Lincoln's first campaign speech for re-election. If we don't continue this work at hand, then these men will have died in vain, and we can't let that happen. And when Lincoln was re-elected, Lee knew, not only have these people re-elected the president--no president had been

re-elected since Andrew Jackson--when they re-elected Lincoln as president, they were also re-electing him as commander in chief, and there is no way that we have four more years of being able to resist these invaders. It was like he knew it was all over. I have my duty to fight to, to, to the last, but then, remember, he betrays his duty to a certain extent when he realizes that Davis has gone, as far as he was concerned, he probably would not be disrespectful, but in fact he was saying he's gone off the deep end, I mean, we've gotta bring this thing to a halt under the best of circumstances.

Other Speaker: I'm really, do you need a break?

Smith: No.

Speaker 1: Okay. I only think we've got, ah, oh, here's one. This is my *****, this conjecture. I was thinking about this. Was Lee, in effect, and I understand that you're not a Davis scholar, but you know a lot about him, um, you know anything about his relationship with his brother Joseph, and if you do, do you think that Lee was for Davis, in effect, a wartime replacement for brother Joseph, kind of a avunc, there's a sort of avuncularity, um, and unbounded confidence, he had unbounded confidence in Lee, despite Gettysburg when Lee offered to resign, and when Lee, and, and ***** finally said okay, ah, I acquiesce and he realized we have to move slaves to combat, as per Lee?

Smith: Well, I think that they were very close in age, I mean, Lee was only a year older than Davis, um, and I mean, 'cause Lee is 1807, Davis is born in 1808, and Lincoln's born in 1809, so we're talking about men who are really, really close together in terms of age, and, and all three of these men were all really, really accomplished, um, Lincoln was, um, you know, a lawyer's lawyer, ah, and um, highly respected in the plains of Illinois. Um, the relationship with Davis and his older brother Joseph, um, was, I've always felt it was a little bit more than an older brother, it was almost like a, a kind of father/son type thing, I mean, there was a, a worshipfulness about him, um, and Joseph was always there, you know, whenever he went through these horrendous crises, when he almost went out of his mind after his first wife died, the daughter of Zachary Taylor, I mean, he, you know, the whole idea of thinking about going

into the priesthood and stuff, and, and, um, so Joseph was always the, the, the rock, and, and I think in a certain way, Lee, ah, sort of replaced Joseph as, as rock; someone that he could trust without, without reservation, I mean, that Lee was like his brother Joseph, truly a man of honor, ah, a man who had no ambitions, ah, he could see in Lee Washington, you know, that, that I want to win because I think the cause is just and then I want nothing else to do with it. I mean, you have anointed me with this command in the same way that the people anointed, um, ah, anointed Washington, and then after the war was won, what does Washington do? I wanna go back home. I don't want any part of this. And then of course they go to him and say, no, you can't stay at Mount Vernon, you gotta come to Philadelphia. And so he goes up there and helps them put together the Constitution. Then he goes back home, and said please leave me alone, that's it, I mean, we won the war, we now have a Constitution, let me enjoy my retirement. And of course they go back and say, well, you gotta come to New York, we've unanimously chosen you as president, but I tell you what, you're not gonna have to stay up there, we're building a new capital, not that far from your home in Mount Vernon, just up the river. As a matter of fact, we're gonna name it after you and, and, ah, how can Washington say no? And then while they're building Washington he conveniently dies the last year of the 18th century, 1799, in effect saying I'm passing the baton to you guys. I've done my share, now I can retire forever. And I think that in Lee, Davis saw all that. In Lee, Davis saw America, and I, I think there was a, a, an, a warmth that Davis felt when he was around Lee. It was [as] if he was being embraced by all the founders who had died so many years before, um, because unlike Davis's family, the Lees had such a direct connection to the creation of the country. And, um, none of the other men that he commanded had that link; this guy did. And, um, so there were, it must, you know, as a historian there are moments when you like to try and imagine that you were that proverbial fly on the wall, and, and I can just see how Davis would just light up when Lee was in his presence. Ah, I don't, I don't think Lee felt that way about anyone, with the exception of, of Jackson, um, ah, I mean, Lee first, I think the only times you'll see Lee light up was when he was around little girls, and, ah, he loved little girls, same way Stonewall Jackson did. Um, and of course Lee's children were the thing that really lit him up, I mean, ah, and of course his wife, but in terms of men, these, both of them were really reserved, you know, these, ah, it goes back to that thing about, you know, George Marshall, that there was that, that distance, um, and I think that, ah, for Davis he, he, I think he became more of himself, ah, when he was in the company of Lee, I mean, he really

felt like I have a mission. And, and it must have been difficult for Lee. He never wrote anything about it, he never, we have no idea what was in his mind when he said, "I've got to contact General Grant," and then the follow-up question would be, "What will President Davis think of me?" Ah, and we don't, we'll, we'll never know. Davis wrote an autobiography, Lee didn't, um, so he took all that to his grave. We know of nothing that he shared with family members, um, he never talked about his war experiences with his students and faculty down at Washington College. And so, it remains a mystery.

Other Speaker: Pause a second, let me change tape.

PART 3

Smith: Ready?

Speaker 1: Yeah.

Smith: Why wasn't the war put on trial? The answer to that question is in the first inaugural, where Lincoln feels, as he says, that I have an oath registered in Heaven to preserve and protect the Union, and the Union has been, not at that time, that's March 4th, the Union has not been attacked. Seven states have left the Union, but the Union is still intact, and of course, it is Lincoln who uses his political skills to get it in such a way that the South has to fire first and that this oath that I have registered in Heaven now requires me to wage war to preserve the Union, period. So the war itself, uh, as, could never go on trial because it was not in Lincoln's mind illegal, uh, uh, and therefore, he never accepted the South as a country. He never accepted the South independent, therefore, he never declared war on the South. He was simply putting down a rebellion. Had he recognized the rebellion as a – I mean had he recognized the South as a nation, then he would have been, that would have been a tacit admission of the, the moral justification for the war. By not doing that, he never got into that muddy water, which was why what happened at Antietam was so important because had Lee won at Antietam, the British and the French had made up their mind with that Southern victory we will recognize you as a belligerent and they would come, uh, they would come to, uh, the South's aid in the same way in which the, the French came to our aid during the, uh, Revolutionary War, so by, by Lee not

winning, this, I mean the question of what happened in Antietam is debatable. I mean whether it was a draw, whether it was a defeat or a victory, who knows? Uh, a hell of a lot of men lost their lives in 1 day, but, uh, but had it been a decisive victory, uh, then with, with a foreign power recognizing the South as a belligerency, then that puts Lincoln in a much more difficult role, and although it's interesting Lincoln becomes a correspondent with Czar Alexander of Russia because, remember, both men are assassinated--Czar Alexander in 1881 and Lincoln in 1865--and the Russians emancipate their serfs in 1861, and we were emancipating our slaves in 1863, and, and the correspondence between the two men, we have here it here at the Li, Library of Congress, um, the czar says to Lincoln if the French and the British intervene on the side of the South, you will have my support, and he sent two fleets of ships, one to San Francisco, one to New York. I mean, we almost had World War I in the 1860s. And, uh, so the point of Davis's not going on trial was the fear that he would, he would win in court. Think of it this way. This is a wonderful way for a nice little footnote. In 1861, when Lee left, the family left, they moved down to Richmond, and in 1864, Montgomery Meigs' son, John Rogers Meigs, was killed in the Shenandoah Valley. It was bushwhacking, or at least that's the way the story goes. And when, and remember, Meigs and, and Lee are classmates. I mean, these guys adore each other. Um, uh, they were out in St. Louis working on the embankments on the Mississippi. Mrs. Meigs and Mrs. Lee like each other. Oh, it's a really, really a hell of a bond, and, and so when Meigs' son dies, he contacts Stanton, secretary of war. He said, "I want you to confiscate the property of Robert E. Lee and turn it into a cemetery for our Union dead," and that's how Arlington Cemetery is born, 1864. Mrs. Lee lives until 1873. Her husband dies, the general, in 1870. A few months before her death, she visits Arlington and she sees, my God, they have turned my 1,100-acre estate into a cemetery. She's heart, she's heartbroken, and her son [Custis], after her death, the oldest son who succeeds his father as the president of what is now Washington and Lee University, um, he files a lawsuit in the Senate. "You people illegally confiscated my family's property. My mother is dead. I'm the heir. I want it back." The Senate says, "You are no, you've got to be crazy. Your father was the worst traitor of them all. We're not going to give you a thing." So young Lee puts his case in the Virginia court system. Eventually it works its way up, and then it's heard 9 years later, in 1882, in the Supreme Court. In a 5 to 4 ruling, the Supreme Court says, "You were right. The government not only illegally confiscated your property," and the case was a case of ejectment, meaning that everybody at Arlington, living and

dead, because remember a large part of the cemetery became a freedmen's village. A lot of blacks that were living over there, about maybe 10,000 of them, probably 1,500 of those blacks who lived over at freedmen's village and are still, uh, and died there are buried there. Uh, and so Lee won his case, that everybody that's buried has to be disinterred and taken someplace else. Can you imagine un-burying 35,000 people on the side that won? As irony would have it, the secretary of war who would be in charge of returning Arlington to its rightful owner is Robert Todd Lincoln, the president's oldest son. So he lets word go out that he needs to talk to Lee. So they meet downtown at the famed Willard Hotel, and they walk into this parlor, and Lincoln looks at Lee, this is the oldest son of the president, the oldest son of the general, and he says to Lee's son, "What would our fathers wish us to do?" And Lee's answer was, "The honorable thing." The honorable thing for Lee was to accept the money that Congress had appropriated to pay him as in buying the estate, so rather than disinter and create a more, I mean we'd probably start another Civil War over, over that kind of – and there were many, many people in the South that despised Lee's son because the U.S. Supreme Court was giving him vengeance, and he knew there was no honor in revenge, and my father raised me to be an honorable man. Lincoln's son was so moved by that gesture of generosity, where the highest court in the land says, "You're right. The government was wrong," that he decided that is where I'm going to be buried, and so when I take people to visit Arlington Cemetery and we go to the gravesite of Robert Todd Lincoln, the president's daughter-in-law, [Robert Todd] Lincoln's wife, Mary Harlan Lincoln, and Abraham Lincoln II [Robert Todd Lincoln's son] are buried at Arlington National Cemetery, not in Springfield, Illinois, because Robert Todd Lincoln recognized how everything would have been different, and of course, Lee's oldest son knew how much, uh, Lincoln's father admired his father. And so when I walk around the grounds of Arlington Cemetery, and I think, thank God we had such noble men in our history because all of this could have been completely different.

Other Speaker: And so then in terms of David and him actually being, having a day in front of the Supreme –

Smith: Right. Well, the –

Other Speaker: – Court, why did that never come to pass?

Smith: – the, the fear, the fear was that since you can't predict the Supreme Court's ruling, and Salmon B. [P.] Chase was always on slightly, he was, he was never comfortable with the idea that the Civil War was just, that, that, that he felt that in a court of law, a very capable attorney could win victory for, uh, Davis, which would be defeat for the Union. They would then be the aggressors, uh, and, and he was fearful of that. Remember, New York City, where Chase is largely from [Chase was from Ohio; he died in New York City in 1873], was so supportive of the South that Mayor Lorenzo [Fernando Wood] would try to get New York City to secede from the state and join the Confederacy. How in God's name that would've been possible, it, I, but anyway that's how it, and because there were a tremendous amount of Wall Street investors in the South. I mean, they stood a, a major benefit, considerably, from a southern victory, but again, it goes back to those sentiments that I talked about earlier, that we today cannot say that people back then were consistent because of where they were located. There were all these, these, these differences. So the fear of thinking that we would lose, and there was a real fear, uh, I mean a wonderful story can be told about that. I mean, the, to go and read Chase's writings, uh, justifying refusing to allow Jefferson Davis to stand trial, having locked, having had this man locked up for 2 years on no charges--I do not know when that has ever happened in American history before or after--to have the pope at that time send to Jefferson Davis a crown of thorns for fearing that the unrest of, the arrest of Jefferson Davis was as unjust of the crucifixion of Christ. And, um, you know, we don't know these stories. I mean, it just completely changes the way, um, uh, we understand history, and you can bet your bottom dollar that when Chase saw how the Supreme Court ruled in Lee's son's favor, he, you, he had all the reason in the world to be able to say to people, "You see, I told you so. This is the reason why we're not gonna put this man on trial because something like that could've happened."

Speaker 1: What is treason and, in your opinion, is, ya know, and I guess the prevailing opinion at the time was Lee, and Davis, guilty of treason?

Smith: I don't think they were. I mean I think that, um, if, if, if Lee is guilty of treason, so is George Washington. What Lee and Washington show is that you can be a traitor, with quotes, "and a patriot" –

Other Speaker: Actually, we'll start, uh –

Speaker 1: I have to –

Other Speaker: – **** and re-answer the question and then answer –

Speaker 1: ****.

Other Speaker: – it maybe –

Smith: Uh –

Other Speaker: So the question is, is a definition of treason and does –

Speaker 1: Were Lee and Davis –

Other Speaker: Yeah, guilty of treason.

Speaker 1: – guilty of committing treason?

Smith: Uh, I mean, obviously, uh, a great many historians believe they, uh, they were. Uh, I'm not one of them. Uh, and I think if you say that Robert E. Lee was a traitor, uh, then you have to lump George Washington in that group, and which means that he certainly was a traitor as far as King George was concerned. And, um, I think that what Lee and Washington show is that you can be a "patriot" and a "traitor," so to speak, at the same time. I mean you have to remind people that both Robert E. Lee and George Washington have statues in the rotunda of the U.S. Capitol, and so there obviously would be no statute of Robert E. Lee as a traitor, um, if we

truly believed he committed treason. I mean the Arlington Cemetery is federal property. The park service maintains Robert E. Lee's home as a museum. Would we be spending taxpayers' dollars to have people come and visit the museum of a traitor? Of course not. When you go to the National, uh, Cathedral here in Washington, on the south side of the cathedral you have stained glass windows commemorating Robert E. Lee and Stonewall Jackson. Would they be there? This is the second largest church in America, the sixth largest church in the world, and there are these beautiful stained glass windows of Robert E. Lee and Stonewall Jackson. The statues of Lincoln are on the north side of the church, the stained glass windows of Lee and Jackson are on the South side. So, um, I mean there's even a Polaris submarine, uh, named the Robert E. Lee. So, no, that's, that's, I, I mean and of course I know plenty of people for whom Lee will always be a traitor. They will, they will, they will never accept him. In the same way, uh, people in the South that Linc, to Linc, to them Lincoln is the invader and the conqueror. He is not the restorer, and so, and there's nothing you can do about it. I mean, I don't even allow myself to get in in arguments about these things anymore because you're not going to change these people's point of view. They –

Speaker 2: Is that, is that why then in the “Apotheosis” in Washington, I mean in the Capitol building where D, D, uh, Davis and Stephens are depicted very harshly in that, uh, mural and then you have, ya know, prevailing sentiment that's very anti-Davis in terms of any kind of images about him, why, I mean you kind, you, you've touched on it in several things.

Speaker 1: It's practically estab, I mean it's, it's –

Other Speaker: Yeah.

Speaker 1: – established.

Other Speaker: But why is it okay to say Davis is a traitor and Lee and Jackson are not?

Smith: Well, I think, again, you can't escape the whole how Jackson and Lee are not scarred by the issue of slavery and how it just completely engulfed Jefferson Davis, and, and because today

we find slavery so morally reprehensible and I don't see Davis ever coming out from underneath of that rock. I mean, it's always going to be there, and, um, and Lee and, and Jackson were never associated with it from the very beginning. I mean when you, I mean when you go down 95 [I-95] going to Richmond and you see the Park Service has the building where Stonewall Jackson died and there's a sign that says Stonewall Jackson Shrine, [laughs] I mean, come on, I mean and I think that because of the distortions associated with the imagery of the, of the Confederate flag, and the constant thinking of the Confederate flag with, with the Ku Klux Klan and the White Citizen's Council and all that kinda stuff, and Davis being the poster boy for those people who want to hate the Confederacy and hate the South and hate him, um, that that is a, a element that he is burdened down with that the others are free of. I can't think of any other.

Other Speaker: Yeah.

Speaker 1: And –

Other Speaker: And I have one, one last question.

Speaker 1: Yeah, and then, um, I'm just gonna **** and the irony is, they were actually very, I could say this to you. You can't say this in some company, um, because you're a scholar, the scholarship is proof that they were, and, and actually they were, the Montgomerys, who were formerly owned and became freed from **** Joseph Davis, Da, the Davis brothers were, were very good to their slaves. They were considered by some to be a little too lenient.

Smith: Yeah.

Speaker 1: Um, they created a place called, I wanna say Freedom's Mound [Mound Bayou] but it's not, it's – I'm forgetting, but at any –

Smith: I know, they created a little community.

Speaker 1: It was a community –

Smith: Yeah.

Speaker 1: – of the Montgomerys.

Smith: Yeah.

Speaker 1: And, and the Montgom, Montogomerys even, uh, a descend, one of the descendants said at, uh, one of them asked Davis –

Other Speaker: So we can really clarify, why, in your opinion, and if this is also a general opinion held please let us know, is the Emancipation Proclamation unconstitutional? And if you could answer Wendi [Speaker 1].

Smith: The reason why I feel that the Emancipation Proclamation is unconstitutional is because you have to go back to Federalist No. 54 when Madison makes a case, and I think it, he makes a good case, that for representational purposes, the slave should be seen as both property and person, albeit three-fifths of a person, a person nonetheless, which means that in the House of Representatives the three fifths of that person is represented, which means because the House represents the people and the Senate represents the states. So no matter how many people live in your state, you're going to have two senators, depending on how many people live in your state determines the number of representatives. So by pulling that off which must, I mean I, I really enjoy it because it's, it's, it's fascinating to see how he works his argument. Federalist No. 54 eventually evolves into the Fifth Amendment because the Fifth Amendment protects the primacy of private property. One cannot be removed of his property without due process, and of course, uh, in the beginning Lincoln wanted com, uh, compensated emancipation which meant that he wanted to buy the slaves and then set, let them go free. Uh, the Emancipation Proclamation does not provide compensation and effectively it robs people of their property because in the Federalist Number 54, which is the same focus of the Fifth Amendment, your property can be in the form of persons. And so it would've had to be found unconstitution, unconstitutional on a strict interpretation of what the Fifth Amendment means. When we think of the Fifth

Amendment, we always think of the first part of it which is that we can't incriminate ourselves. The second part is the part that spoke to the emancipation of its legitimacy. And remember, Roger B. Taney is the same chief justice that presided over the Amistad case in '41. He's the same chief justice that presides over the Dred Scott case in 1857. He's the same chief justice that swears Lincoln into office for the first term and he swears him into office on the second term. He's an old man now. The idea I'm gonna take on a powerful president who is waging a war as commander in chief and I'm 80-some years old, whatever, he didn't do it. It shoulda been done, and, um, and then let them wrestle with it, um, and of course, I mean, I, it, emancipation probably would've come in another form. It would've probably come, as it did, 2 years later in the 13th Amendment to the Constitution. So the 13th Amendment to the Constitution makes slavery unconstitutional. The, the Emancipation Proclamation was not an amendment. It was a proclamation. It was an executive, um, whatever you call it.

Other Speaker: Order.

Smith: Executive order, which is not legally bound.

Speaker 1: I know Davis thought that, that, that Lincoln was an inferior intellect because Davis was so concerned for, uh, for the African-Americans that he thought the Eman, Eman, Emancipation Proclamation was so, um, it was sort of spat out as a political order. It was, it was, it was, it was, it was, it was undigested at best.

Smith: There was a lotta people who –

Speaker 1: Because it did not –

Smith: Yeah.

Speaker 1: – it, it, it, it didn't provide for them afterwards.

Smith: Yeah.

Speaker 1: And that was Davis's concern, um, although you can't talk to people about that these days, um –

Smith: No, I mean when, when I tell people that every free black had a job, had a home, had a livelihood. The last thing that the master class would wanna do is to put people out on the street who had no way of providing for themselves, which would force them into a life of criminality, which would force the master class to maintain these large, cumbersome police forces and so forth, they don't wanna hear that. They wanna think, even though they know it's not true, that there were a band of free blacks roaming the countryside, stealing farms and living in caves and what have you, I said I didn't, it was, it wasn't like that, and so, and when a person has their, their mind closed to these things. There are many historians that I know that will not allow me to take them over to Arlington Cemetery, to go to Stonewall Jackson's circle and see Moses Ezekiel's monument “New South.” [“The South” on the Confederate monument]. They don't wanna see that black Confederate soldier in uniform with a, a weapon. They don't wanna see this white soldier giving his small child to this black woman to take care of while he goes off to fight with who may very well be her brother, the black guy that we see. They don't wanna see this white girl embedding her head into this black woman's dress with a sign of interracial affection between the races that I've ever seen. There is no other piece of sculpture in this country that, that shows it. The people at Arlington Cemetery on the tourmobile, they say nothing about it. Nobody goes there--and it's the largest memorial in the cemetery--because going there, they're going to have to confront a truth that they have rejected. I rest my case.

Speaker 1: But in the South –

Other Speaker: Thank you.

Speaker 1: – white and black were much closer.

Smith: Oh, sure they were. I mean, of course we were, I mean, um, when I went down to the, I gave a speech at Beauvoir, I think I was telling you about it, and, I'm on the Jefferson Davis, uh,

uh, um, honorary board, and it's on my, it's on my bio, ya know, that I'm one of the honorary members. And when my students read, read my, my bio, they think that I'm on the board of the Li, Abraham Lincoln Institute at the Library Congress and I'm on the board of the Jefferson Davis, uh, library and museum in Beauvoir. And my students say, "Well, how can you be on both?" I say, "Why not?" I mean, what they want me to say is that Davis was wrong and Lincoln was right, so why are you, um, associating your, yourself with him, and I say, "Well, I don't believe what you just said. In the same way that you probably saw up there that award that, and I'm a honorary whatever the hell they call me, honorary Son, the Virginia Sons of Confederate Veterans. I mean, that's something I'm proud of, and that's the reason why it's hanging out there, and, uh, the students don't understand it because they've been poisoned and polluted, uh, with the misunderstanding through the misrep, through the misrepresentation of the whys and, and, and why nots of why the war was fought. And my job is very difficult because, um, I'm going up against all these movies and TV shows and the History Channel and, and, and all of this other stuff, and, and, um, um, I mean when you mentioned the magic word to me was Bill Allen and that's the reason why you have, because I don't do this. I mean, the History Channel has been tryin' to get me on for quite some time, convinced that everybody, uh, wants to be a star, and I said, "Well, I don't wanna be," and this one producer said, "Well, ya know, we can come over to your office," and I said, "Listen, lemme, lemme explain somethin'. You want my students to watch more. I want my students to read more, therefore, we're in competition with each other," and nobody had ever said that to her. And, uh, and so she was like, "Oh, well, I," and, um, so it never happened. So this is ****.

Other Speaker: Bill Allen, you said?

Smith: Yeah, Bill Allen, yes. Bill is a very wonderful guy, so when you said him then, uh, he's one of those people you can't say no to.

Other Speaker: Yeah, I can see that.

Speaker 1: He was our first interview.

Smith: Mm hmm.

[filming of exterior of Fort Monroe follows]