# Secession and the Confederate Interpretation of its Legality

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The issue of secession in the United States has usually been associated with the American Civil War although there have been other instances where several groups have advocated secession. The Constitution is silent on the subject, but the debates over its ratification brought up the issue. When several states in the southern portion of the United States declared their secession in 1861, it was the first and only time in American history that any state actually attempted to do so. The resulting conflict wrought devastation throughout the South and engendered significant change to all levels of American society. Despite the failure of the Confederacy to secede from the Union, the question remains—why did the South think it had the legal right to secede? In exploring that question, this paper will examine the issue of secession in America and three pivotal documents in history, which when compared to each other will provide significant clues as to why the South interpreted secession as a legal right.

The Declaration of Independence in 1776 created the United States during the American Revolution. The revolution was in itself an act of secession from Great Britain. This sentence of the Declaration shows one of the leading reasons for the concept of secession from the United States, "But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."[1] The question that is still a matter of debate today revolves around the understanding of just what constitutes despotism.

The states ratified the Articles of Confederation in 1783 as the first formal agreement between the states that formed a national government. The thirteenth article stated, "And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual," which is understood to mean that secession from the national government of the United States is not possible.[2] However, at that time, many individuals felt that a preceding article, the second, "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the

United States, in Congress assembled," meant the states were sovereign independent entities capable of leaving the United States if they so desired.[3]

The inadequacies of the Articles of Confederation were one of several reasons that resulted in its replacement by the Constitution in 1789. The Founding Fathers designed the Constitution to negate the power of the state legislatures from overriding the centralized or federal government. There was a tremendous argument over the ratification of the Constitution; the nation's newspapers publicly published much of the debate in the form of letters, now referred to as the Federalist and Anti-Federalist Papers. They deliberately arranged the actual ratification process to occur through special conventions within each state and not by the state legislatures. The secessionists in 1860 would later mimic this to give legitimacy to their attempt to leave the Union.

One of the differences between the Articles of Confederation and the Constitution lay in the nature of the state's relationship to the new federal government. The Articles considered the states to be in a compact relationship and stated this at several points in the document. However, they considered this Union a perpetual relationship, but this was a contradiction. The Constitution did not refer to a compact relationship and instead stated in its preamble that its power derived from the people, not from the states, which was the exact opposite of the Articles.[4] The Constitution itself made no reference of how states could leave this new perpetual Union. An argument by the Anti-Federalists addressed this issue.

Patrick Henry of Virginia had originally declined participating in the Constitutional Convention and made his opposition to the convention painfully and publicly clear.[5] During the argument over ratification, he steadfastly opposed ratification. The argument advanced by many in the antebellum years consistently revolved around the issue of whether the United States under the Constitution was a compact or not. Henry's argument against ratification made it clear that he, as well as many Anti-Federalists, knew the nation would not be a compact between the states.

> The fate . . . of America may depend on this. . . . Have they made a proposal of a compact between the states? If they had, this would be a confederation. It is otherwise most clearly a consolidated government. The question turns, sir, on that poor little thing—the expression, We, the *people,* instead of the *states,* of America.[6]

The Federalists expressed their response to Henry's challenge by expounding the many rights the states would possess under the Constitution.

However, the Federalists never addressed the issue of secession. Rather, there was a deafening silence. Instead, the language used dwelled upon the strengthening of the bonds between the states and the indissoluble Union it would create.[7] Proponents of secession often state today, and most certainly, proponents of Southern secession in the antebellum years advanced that three states placed conditions upon their ratification of the Constitution. No state did any such thing. New York attempted to do so during its convention, but Alexander Hamilton and John Jay steadfastly opposed any such condition being made and even went so far to say that any conditional ratification would be null and void. They withdrew the condition.[8]

Those who say secession is legal often make definitive statements that the people in 1788 thought they could secede from the Union if they so desired. The enormous volume of correspondence and the newspaper articles as well as the letters published in those papers by the Federalists and Anti-Federalists do not bear this out. If anything, the exact opposite is true. Many people, especially the Anti-Federalists, thought secession would not be possible after the ratification of the Constitution.[9]

The first challenge involving secession from the new Union came in 1798 as the result of the reaction to the Alien and Sedition Acts. The state legislatures of Kentucky and Virginia took the position that the acts were unconstitutional and exceeded the authority allotted to the federal government by the Constitution. The author of the 1798 Kentucky Resolution was Thomas Jefferson, who was the Vice President at that time. Jefferson opposed the Federalists and their vision of the national government. He particularly opposed the idea of the perpetual Union and continually advocated that the states were in a compact and had the right to leave at any time.

He advanced this position as such in the Kentucky Resolution, "That the several states composing the United States of America are not united on the principle of unlimited submission to their general government; but that, by compact, under the style and title of a Constitution for the United States," which would be a hallmark of Jeffersonian government.[10] This resolution also illustrated another key element of Jeffersonian government that concerned the strict constructionist view of the Constitution. Jefferson had advocated for a completely decentralized national government with less power than the Articles spelled out, and by 1798, was actively opposing the Federalists.[11]

At the same time, James Madison wrote the Virginia Resolution, which

was not quite as inflammatory as the Kentucky Resolutions. The Kentucky Resolutions stated that individual states could override or nullify any act of the federal government which the Constitution did not specifically delineate, while the Virginia Resolution adopted the idea that the states "have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them."[12] In effect, the states had the right to seek the overturning of federal law in the judicial system according to Madison, while Jefferson said any state could nullify a federal action if not in the Constitution.

Southern secessionists would later cite these Resolutions as having the same substance as actual law, and some refer to them today in the same way. However, both parties neglected to mention that these Resolutions asked for help from the other states in affirming the ideas contained in the Resolutions. Seven formally rejected the Resolutions; three passed resolutions expressing disapproval of the Resolutions, and four took no action. Other states shared New Hampshire's response, "That the state legislatures are not the proper tribunals to determine the constitutionality of the laws of the general government; that the duty of such decision is properly and exclusively confided to the judicial department."[13]

The next serious mention of secession in America took place in 1814 when Federalist extremists, opposed to the war with Britain that was wrecking American commerce, openly advocated secession in an attempt to force President Madison to end the War of 1812. Saner heads prevailed and a convention of Northern states met at Hartford where they issued a report condemning the Republicans, but they specifically rejected the extremists' demands for secession.[14] Two Supreme Court cases, *Martin v. Hunter's Lessee* (1819) and *McCulloch v. Maryland* (1819) repudiated the issue of the compact theory, which served as the foundation for Jefferson's views that the federal government derived its powers from the states and not the people. These cases affirmed that the Constitution and federal government derived its authority and power from the people and not the states.

These Supreme Court cases reduced the power of state governments by ruling state judicial interpretations and state laws invalid where they conflicted with the Constitution.[15] The *Martin v. Hunter's Lessee* case was the first to assert that the Supreme Court had authority over state courts. Justice Joseph Story's opinion for the unanimous court decision clearly stated that federal power derived from the people and not the states, nor was the country a confederation like had existed

under the Articles of Confederation.[16] In the *McCulloch v. Maryland* case, Chief Justice John Marshall asserted once again that the supreme power did not derive from the states, and that, "The States have no power, by taxation or otherwise, to impede or in any manner control any of the constitutional means employed by the U.S. government to execute its powers under the Constitution."[17] Both cases refuted the idea of the United States being a confederation of compact.

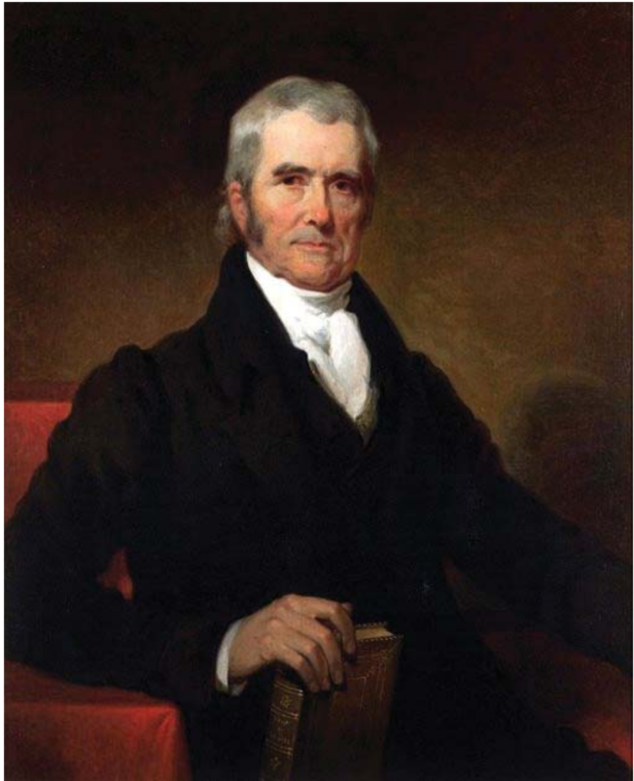

Figure 1 *John Marshall*. Oil on canvas by Henry Inman, c. 1832. Located at the Library of Virginia, Richmond, Virginia.

The Nullification Crisis in 1832 would once again bring the issue of secession to center stage. The cause of the argument this time dealt with a national protective tariff, which many in South Carolina considered unfair as it supported manufacturing interests over those of agriculture. They called for a convention, which then declared the tariffs of 1828 and 1832 to be unconstitutional and unenforceable. They also said that if the federal government took any action to force South Carolina, it would be,

> as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will henceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States; and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do.[18]

Here once again, a disgruntled state legislature brought the views of Thomas

Jefferson as expressed in the Kentucky Resolutions to the forefront. Despite the complete failure of those resolutions to garner support, the idea of nullification persisted. President Andrew Jackson met the demand with the Force Bill when he asked for authorization to use military force to enforce the laws of the United States. The legislature stalled the bill to explore diplomatic measures and eventually defused the crisis. However, they sowed the seeds of discord. The compromise did not mollify ardent secessionists, such as Robert Rhett. He refined his secessionist rhetoric for years until the thought became a reality with South Carolina's secession in 1860.

The issue of slavery was not part of the Nullification Crisis, but from that point on, slavery would become the underlying issue that drove the sectionalism that would eventually result in the Civil War. The South Carolina nullifiers were not satisfied by the compromise or by the fact that many saw the issue of nullification as unconstitutional. Rhett remarked "but it is despotism which constitutes the evil and until this Government is made a limited Government . . . there is no liberty . . . no security for the South."[19] In 1834, the South Carolina legislature, dominated by nullifiers, passed a law requiring a test oath for state office holders swearing primary loyalty to the state and only conditional loyalty to the federal government.[20] Jackson himself thought the nullifiers would probably bring up the Negro or slavery question.[21]

When the country elected Abraham Lincoln president in November 1860, the sectional issues revolving around slavery came to a head. For the previous ten years, secessionists like Rhett had advocated secession. They had a convention in Nashville in 1850, which failed to generate any support in the South. During the 1850s, the sectional strife intensified with the secessionists using inflammatory rhetoric to support their case. In order to support their goals, they developed a doctrine that revolved around state sovereignty and states' rights. Once again, the dead hand of Thomas Jefferson showed with the repeated references to the Kentucky Resolutions as well as many of Jefferson's writings regarding his opinions of government.[22]

Unlike the ratification arguments over the Constitution in 1788, when it was obvious that secession was not possible under the Constitution, people living in 1860 did think secession was legal for the most part. Evidence of this showed in the slave states calling for state conventions on the subject as the secessionists worked to further their cause. Had the people thought secession not to be legal,

then there would have been no conventions in the first place. The fact that they were called for, shows just how much control the elite planter class of the South, who made up the majority of the secessionist faction, had over the political and economic systems in the South. The planters owned or patronized most newspapers, which meant the information system in the South was disposed to support slavery. Robert Rhett himself owned the Charleston *Mercury,* which his son edited.[23]

Prior to the 1860 Election Day, South Carolina and other Southern states battled over the issue of secession during the nomination process at the Democratic convention. Lack of support for secession during the summer significantly changed with Lincoln's election. South Carolina immediately called for a convention following a large secession rally. Other Southern states staged similar rallies where secessionists promoted their cause.[24] One by one, the states of the Deep South called for conventions to decide on secession. South Carolina was the first to secede on December 20, 1860. This only fueled the fire for the secession movement in the other states.

Despite the swift speed with which the secessionists worked to accomplish their goals, a significant number of people still opposed them. The elections of the convention delegates belied the events at the conventions. Only in South Carolina did a large majority elect secessionists. In the rest of the states, the votes showed the secessionist delegates received a majority of the vote, but not by a comfortable margin. Areas with fewer slaves tended to vote for delegates opposed to secession, which demonstrated why the secessionists moved with such speed, striking before any opposition to their goals coalesced around cooperationist leaders.[25] The same comparison can be made between the states of the Upper and Lower South. Only seven states initially seceded and all were from the Deep South, where with the exception of Texas, all had large slave populations and relied upon the cotton crop as the primary basis of their economies.[26]

Once the conventions ended, the seceding states met in Montgomery, Alabama, to create a new national government, which they called the Confederate States of America. Here in Montgomery, the secessionists now worked to create a nation that they said was what the Founding Fathers had intended to do, but had been altered by the Northern states in ignoring state sovereignty in favor of a strong centralized government.[27] The new Confederacy created a provisional constitution in order to create their nation, and elected its new president and other members in

order to get started. Once this occurred, they appointed a committee chaired by Robert Rhett to create a permanent constitution. The finished Confederate Constitution was a testimony to what the elite planter class thought was wrong with the federal Constitution and revealed the real motivations for secession.

For the most part, the Confederate Constitution was a word for word copy of the original Constitution. Where it differed from the original Constitution, the Confederate version revealed significant motives behind the secessionist plans. It should also be noted that Rhett was himself disgusted with the final version, which he felt did not go far enough in granting the oligarchs, elite planters and upper class men of the South, permanent power.[28] The new vice president of the Confederacy, Alexander Stephens, was also on this committee, and he thought it was a good work fashioned out of compromise to make an effective document. All of the committee members had put forth ideas, but like any undertaking of that magnitude, they understood compromise was a necessary part of the process, with the exception of Rhett, who was never satisfied unless they did everything according to his desires.[29]

The first major change was in the preamble where the words, “each State acting in its sovereign and independent character, in order to form a permanent federal government,” was inserted in place of, “in Order to form a more perfect Union.”[30] Right there in the very first line of the new constitution, they brought up the old Jeffersonian concept of state sovereignty and this time clearly defined it. There would be no mistake in the Confederacy where the power laid with this statement. With the state constitutions written so that the oligarchs had power in each state, they would then have the overall power in the new Confederacy as well.[31] This was probably the most important aspect of the Confederacy. While white males still were eligible to vote, the oligarchs, who consolidated power in their hands, had rejected the concept of egalitarian democracy. In this way, they did share the fears of some of the original Founding Fathers concerning democracy. Yet, the Constitution the Founders created had left the issue of voting rights to the states, which then over time expanded suffrage beyond that envisioned in 1787.

The Confederate Constitution also addressed this issue. In Article I, Section II, the new constitution strips away some of the powers of the states by specifically denying the right to vote to persons who are not citizens. It barred persons of foreign birth the right to vote in elections.[32] There were two reasons

behind this. The first clearly meant to deny any black person from ever voting. The second reason was to prevent immigrants from gaining power in the South, as some in the South theorized was happening in the Northern states. Ironically, this contradicted the theme of states' rights by stripping what had been a right of the states to determine away from them.

Some members of the committee like Rhett had tried to make the document one that reflected their extremist positions, but the compromises resulted in one that was more moderate than they would have liked.[33] One issue which they did get pushed through again stripped the states of their rights, that regarding the institution of slavery. Despite modern day adherents to the Lost Cause mythology regarding the cause of the Civil War not being about slavery, the Confederate Constitution gave no such illusions about the subject. Slavery was not only allowed, it was permanently enshrined in the new constitution as part of Article I, Section 9 as, "or law denying or impairing the right of property in negro slaves."[34] This was one of the most fought over issues the committee dealt with. Rhett and the rest of the delegates from South Carolina wanted a loophole in the ban on slave importation from places that were not part of the United States, which failed. Some attribute this to the desire to avoid alienating Great Britain whose support the moderates in the new Confederate Congress knew they had to have in order to gain international recognition to secure independence for the Confederacy.[35]

However, to allow the country to punish slaveholding states that might now secede from the U.S., they inserted a new section in Article I, Section 9. They designed this provision, "Congress shall also have power to prohibit the introduction of slaves from any State not a member of, or Territory not belonging to, this Confederacy," as an economic threat to recalcitrant slave states that failed to join the Confederacy.[36] A careful look at this area of the Confederate Constitution revealed another denial of states' rights and exposed the myth behind the Lost Cause regarding slavery as not being an issue they fought the war over.

Another major change lay with the issue of tariffs, the cause of the Nullification Crisis of 1832. South Carolina had never forgotten its humiliation in being forced to compromise over the issue. Article I, Section 8 forbade protective tariffs, as well as any appropriations for internal improvements.[37] The argument over the national government providing for internal improvements went back to shortly after the ratification of the original Constitution. Since the South was still

primarily an agrarian based economy in the mold of Jeffersonian idealism, internal improvements such as canals, roads, and railways were not desirable. Add to that the fact that the South also relied upon water routes for the shipment of its products and one can understand the reasoning behind this line of thinking. This veritable lack of transportation routes would be a major impediment for the South during the war as the Union armies built an extensive fleet of ironclads to dominate the waterways, which wreaked tremendous havoc on the South's transportation system.[38] Rivers were so important to the South that the Confederate Constitution contained a provision in Article I, Section 10 allowing for its states to make treaties with each other regarding their use.[39]

The new constitution did not appear to restrict the power of the national government at first, but the concept of state sovereignty prevailed throughout the document. Not only did the authors address the major disagreements with the original Constitution and federal government in Washington; they specifically spelled out the powers of the new government in order for the strict constructionist interpretation to prevail. This in effect limited the national government to be a small government reliant upon the individual states, much like the situation under the Articles of Confederation. Article IV contained provisions granting Confederate citizens the right to move their slaves anywhere in the Confederacy with no prohibitions, which intended to refute the motivation behind the Dred Scott case; that slave owners could not take slaves into free states. Of course, the idea was that there would be no free states in the Confederacy. The committee actually proposed that concept, but the moderates voted it down, because some envisioned that some free states in the Union might someday desire to join the Confederacy.[40]

In addition, the argument that dominated the 1850s revolved around the expansion of slavery into the territories of the United States. Article IV, Section III firmly established the fact that slavery would be allowed in all territories of the Confederacy. The final major change between the Constitution and the Confederate version revolved around its permanency. The Confederacy needed only three states to call a constitutional convention, which practically ensured that the Deep South states could either force changes or leave the new nation if something in the future came about that they did not like. This provision was a key safety valve, which the committee agreed was important in securing the goals for which they seceded from the Union.[41]

They ratified the Confederate Constitution, which became the law of the

Confederacy, but the Confederacy itself failed to survive its birth by fire. It took military force, but Lincoln preserved the Union and every state that attempted to secede failed in separate as well as collective efforts. The wording regarding secession is often misused. The common saying is that the Southern states seceded. They did not secede; rather, they attempted to secede. The rationale for this thought lies with a Supreme Court case from 1869. This case is also the most definitive statement by the United States government short of the use of military force regarding the issue of secession.

In 1867, the Reconstruction government of Texas claimed that the Texas legislature in power during the Civil War had illegally sold United States bonds owned by Texas. The U.S. Supreme Court skillfully decided this case, known as *Texas v. White;* there were several major issues at stake concerning the case. The Radical Republicans wanted the Confederate states treated as captured and conquered territories, which would then give them the legal right to administer. They were fighting President Andrew Johnson over the issue of Reconstruction. On the other hand, the Democrats wanted acknowledgement that there was a state government operating in Texas, which would mean that they fully restored Texas to the Union.

The Court's decision did not please either side, but solved the argument over secession, its legality, or even future possibility. Chief Justice Salmon Chase wrote the majority opinion, which stated Texas had never left the Union because secession was not permissible under the Constitution. He brought up the issue of the perpetual Union in this statement. "The Constitution was ordained 'to form a more perfect Union.' It is difficult to convey the idea of indissoluble unity more clearly than by these words. What can be indissoluble if a perpetual Union, made more perfect, is not?"[42] From there, he proceeded to absolve the Union from waging the war by saying it was necessary to put down the insurrection and not to subjugate or conquer enemy territory.

The result of the decision determined that secession was illegal under the Constitution and always had been. Some Radical Republicans tried to overturn the decision, but it fell short. Since that time, there have been legal attempts to secede from the United States, but none successful. The arguments brought up by numerous modern day proponents of secession base their reasoning on many of the issues already discussed and make allegations which do not stand up to scrutiny. Modern-day proponents of secession often invoke Thomas Jefferson and his

Kentucky Resolutions, together with James Madison and his Virginia Resolutions. There is a crucial distinction; Madison rejected the issue of nullification and secession, while Jefferson repeatedly advocated it. Secessionists often quote Jefferson, just as pre-Civil War secessionist had done. Ironically, for all involved, the quotations they use only reflect Jefferson's opinions and are not indicative of federal policy. They ignore the fact that the rest of the nation rejected the Kentucky and Virginia Resolutions.

One would think the decision rendered in *Texas v. White* would have rendered this issue moot, but a poll in 2008 revealed that 22% of Americans thought secession was legal in today's time. This is also borne out by the claim made by the former governor of Texas, Rick Perry, at a Tea Party event in 2009, where he stated that Texas had the right to leave the Union based upon its 1845 annexation into the United States.[43] It does not have that right. Governor Perry perpetuated a long-held myth that is often confused with the original agreement. Texas has the right to split into five smaller states if it so desires, but it does not now nor ever has had any agreement with the United States regarding leaving the Union.[44]

While the most serious attempt at secession was by the Southern states during the Civil War, it failed after a devastating war. The Supreme Court decision should have resolved the issue of secession in *Texas v. White,* but several groups keep the idea alive to further their own political agenda. The most glaring problem is how these groups bring up the causation of the Civil War as justification for secession while ignoring the issue of slavery, which was the root cause of the war. The idea that secession was legal was actually part of the South's reaction to Lincoln's election and the oligarchs only promoted it in order to protect their rights to own slaves. The Confederate Constitution was an attempt to codify and legalize their version of a government, which would guarantee those rights. Their constitution was a contradiction to their own statements concerning states' rights in several places and revealed slavery to be the real motivation for their secession.

Notes

1. Library of Congress, *The Declaration of Independence,* http://www.loc.gov/rr/program/bib/ourdocs/DeclarInd.html (accessed November 26, 2011).

2. Library of Congress, *Articles of Confederation,* Art. XIII, http://www.loc.gov/rr/program/bib/ourdocs/articles.html (accessed November 26, 2011).

3. Ibid., Art. II.

4. U.S. Constitution, Preamble.

5. Carol Berkin, *A Brilliant Solution: Inventing the American Constitution* (Orlando: Harcourt Books, 2002), 63.

6. Akhil R. Amar, *America's Constitution* (New York: Random House, 2005), 35.

7. Ibid., 37.

8. Ibid., 38.

9. Kenneth M. Stampp, "The Concept of a Perpetual Union," *The Journal of American History* 65, no. 1 (Jun 1978): 19, http://www.jstor.org/ (accessed November 25.2011).

10. Library of Congress, *The Kentucky Resolution, 1798*, http://memory.loc.gov/cgi-bin/query/r?ammem/mtj:@field(DOCID+@lit(tj080201)) (accessed November 26, 2011).

11. Gordon S. Wood, *Empire of Liberty* (Oxford: Oxford University Press, 2009), 270.

12. Library of Congress, *The Virginia Resolution, 1798,* http://memory.loc.gov/cgi-bin (accessed November 26, 2011).

13. Wood, *Empire,* 270.

14. Ibid., 696.

15. Ibid., 455.

16. U.S. Supreme Court Center, *Martin v. Hunter's Lessee (1816),* Justia, http://supreme.justia.com/us/14/304/case.html (accessed November 26, 2011).

17. U.S. Supreme Court Center, *McCulluch v. Maryland* (1819), Justia, http://supreme.justia.com/us/17/316/case.html (accessed November 26, 2011).

18. The Avalon Project, *South Carolina Ordinance of Nullification, 1832,* Yale Law School, http://avalon.law.yale.edu/19th_century/ordnull.asp (accessed November 27, 2011).

19. William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (Oxford: Oxford University Press, 1965), 297.

20. Daniel W. Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* (Oxford: Oxford University Press, 2007), 410.

21. Ibid., 410.

22. David M. Potter, *The Impending Crisis: America before the Civil War 1848-1861* (New York: Harper Perennial, 1975), 482.

23. William C. Davis, *Look Away!* (New York: The Free Press, 2002), 77.

24. Potter, *Crisis,* 490.

25. Ibid., 502-504.

26. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (Oxford: Oxford University Press, 1988), 255.

27. Potter, *Crisis, 482*.

28. Davis, *Look Away!,* 105.

29. Ibid., 105.

30. Maury Klein, *Days of Defiance: Sumter, Secession, and the coming of the Civil War* (New York: Alfred A. Knopf, 1997), 293.

31. Davis, *Look Away!,* 106.

32. The Avalon Project, *Confederate Constitution,* Art I, Sec. 9, Yale Law School, http://avalon.law.yale.edu/19th_century/csa_csa.asp (accessed November 27, 2011).

33. Davis, *Look Away!,* 105.

34. The Avalon Project, *Confederate Constitution,* Art. 1, Sec. 9, Yale Law School, http://avalon.law.yale.edu/19th_century/csa_csa.asp (accessed November 27, 2011).

35. McPherson, *Battle Cry,* 258.

36. The Avalon Project, *Confederate Constitution,* Art. I, Sec.9, Yale Law School, http://avalon.law.yale.edu/19th_century/csa_csa.asp (accessed November 27, 2011).

37. Klein, *Days of Defiance,* 293.

38. McPherson, *Battle Cry*, 393.

39. The Avalon Project, *Confederate Constitution,* art. I, sec. 10, Yale Law School, http://avalon.law.yale.edu/19th_century/csa_csa.asp (accessed November 27, 2011).

40. Davis, *Look Away!,* 104.

41. Ibid., 106.

42. U.S. Supreme Court Center, *Texas v. White* (1869), Justia, http://supreme.justia.com/us/74/700/case.html (accessed November 27, 2011).

43. Bill Adair, “The Truth about Gov. Rick Perry and Secession,” *Politifact.com,* August 18, 2011, http://www.politifact.com/truth-o-meter/article/2011/aug/18/truth-about-gov-rick-perry-and-secession/ (accessed November 26, 2011).

44. Howe, *God Wrought,* 699.

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