

The Confederate and U.S. Constitutions and the Ways They Contrast

When considering what events have had the most sizable impact on America, the Civil War is certainly in contention. A transformative reckoning over the fate of the nation, the war ushered in a new era of America: a recognition of federal preeminence and legislated acceptance of equality of races, though certainly not complete at that time. The results of the war have had far-reaching implications in the institutions of today, and one needs only to watch the debate over Confederate symbols to see the still-bitter fight over issues from that time period. Highlighting the causes of the Civil War is the Constitution adopted by the Confederacy in its infancy. An integral document to the Confederacy's creation, its outlining of Southern aims provides an insightful glimpse into the fundamental divides in America that led to war, and, to a lesser extent, to conflict today.

Better understanding the Confederacy's founding document begins with examining the principal differences with its Union counterpart. What drastic changes would the disgruntled, avowed slaveholders of the South deliver upon the Constitution? Analyzing the two documents, the answer is surprising in that very little was changed. No matter, the words changed certainly altered the intent of the document in an overtly racist and states'-rights way. The end of the last sentence in the preamble presages the religiousness of the text: "--invoking the favor and guidance of Almighty God--do ordain and establish this Constitution for the Confederate States of America."

¹ Including more direct references to God shows how Southerners so badly wanted--and needed--to sanction their departure on religious grounds. Another facet to the appeal to God by Confederates was the logical implication that if they had the favor of God, the Union clearly did not.

¹ "The United States Constitution," *US Constitution*, <https://www.usconstitution.net/const.html>.

Further analysis of the preamble shows the importance of the presence of two additional segments--"... each state acting in its sovereign and independent character..." and "...to form a more permanent federal government..."²--demonstrating the beginning of the Southern attempt at reconciliations of a polar duality, that of country and of state--which they never realize. In the former phrase, one can see the validation of states' rights to decide whether they ought to secede, yet at the same time the attempt to forge a unified front to carry on war. The desire of the South to be in a United States it defines is never on greater display. For example, Jefferson Davis described the new constitution as: "a Constitution differing only from that of our fathers in so far as it is explanatory of their well-known intent."³

Furthermore, the preamble contains the replacement of "...to form a more perfect union.." with "...to form a more permanent federal government..."⁴ a profound linguistic overhaul. The replacement is a subtle refutation of all the Union was and its designs. That succinct rebuttal of the U.S. as it was in 1861 was two-fold: the country changed too much and should not have been allowed to do so in the first place, and all further societal and governmental change must be precluded in order to maintain the country as a habitable place for future generations. The use of "permanent" also seems to imply that the U.S. was bound to dissolve and it was not the Confederacy's fault for finally heralding it. Therein lies the root of Southern differences from the North: the paths of the two regions had diverged so far as to make Southerners feel they had lost

²"The United States Constitution," *US Constitution*, <https://www.usconstitution.net/const.html>.

³ Aaron Hall, "Reframing the Fathers' Constitution," *The Journal of Southern History*, doi:10.1353/soh.2017.0081

⁴ "The United States Constitution," *US Constitution*, <https://www.usconstitution.net/const.html>.

the country of their forebears. Consequently, secession and formation of a new country seemed to be the proper response to the disavowment of the founding principles.

Echoing the resistance to change in the C.S.A Constitution is the very first article which addresses the legislative branch and its electoral processes. A glaring contrast to the U.S. Constitution was the focus on citizenship and those who were being barred from participation. While the U.S. Constitution briefly mentioned that only citizens would be allowed to vote and hold office, the Southern version blatantly advertised “citizens of the Confederate States” as a clear indication of nativist and prejudicial sentiments. Even more glaring were the explicit references to slaves as property--a right viewed as inalienable to many at the time.

The Southern rallying cry of the centrality of slavery to America’s existence was highlighted by the addition of an accommodation to the Upper South through the first clause in Section 9 of the 1st Article of the C.S.A. Constitution: “The importation of negroes of the African race, from any foreign country, other than the slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.”⁵ The addition of such a statement would seem diametrically opposed to the South’s aims. After all, were they not a slave-holding populace that wanted more slaves? As explored by James McPherson in *Battle Cry of Freedom*, the Upper South was using far fewer slaves by the year 1861 and so many wealthy planters became even wealthier through the north-south trade of slaves in the U.S. Barring further importation can then be seen as a placating measure for the Upper South, which had more reservations about secession and their willingness to fight for slavery. It is also important to note that at the time of the writing of the C.S.A. Constitution

⁵ “The United States Constitution,” *US Constitution*, <https://www.usconstitution.net/const.html>.

none of those critical states were in the Confederacy. The inclusion of such wording shows how the Confederacy was really an enterprise undertaken to enrich the wealthy planters who had the most to lose from the loss of slaves. In that way, such sentiments and clauses foreshadowed the way in which a divide between wealthy and poor emerged near the end of the war--which only exacerbated the fall of the South.⁶

Taken as a whole document, the C.S.A. Constitution shows the fierce independence of the Southern states and their contrasting views with the North about what society should be and how. The pointed inclusion of slavery as something permanently legal and impossible to limit in intra-state trade set the field for the Emancipation Proclamation and the cessation of slavery in seceded states. Retroactively, great debate has long raged on the true reasons for the war. A diversity of opinion and civil discourse can be helpful, but the views outlined in the C.S.A. Constitution show a consistent defense of slavery as a greater piece in state independence. As Robert H. Smith, one of the Southern framers, put it: “[W]e have dissolved the late Union chiefly because of the negro quarrel.”⁷

Slavery and its trade was not the only Southern complaint; the use of tariffs felt extremely one-sided and beneficial to the North at the cost of the South. The tariff dichotomy largely resulted from the differing foci of the regional economies. While the South was an exporter of commodities and importer of finished goods, thus susceptible to tariff wars, the North had a more advanced economy and was able to be far more self-sufficient.⁸ Agriculture founded on slaves was the

⁶James McPherson, *Battle Cry of Freedom* (New York: Ballantine Books, 1989).

⁷Aaron Hall, “Reframing the Fathers’ Constitution,” *The Journal of Southern History*, doi:10.1353/soh.2017.0081

⁸*History.com* Editors, “Confederate States of America,” *History.com*, Aug. 21, 2018, <https://www.history.com/topics/american-civil-war/confederate-states-of-america>.

primary goal of the South, and developments that helped independent white workers were discouraged.⁹ The reasoning for tariffs was also pro-North in that they sought to protect nascent industries--none of which the South had in any comparatively large number, something they would regret when it came time for the production of war materials. Therefore, the inclusion of tariff restrictions and limits on spending money on other states' improvements were all pointedly designed to prevent an industrial region gaining at the expense of rural ones. Like other debates in 1861, the parallels can be easily extended to modern day in examples such as the urban vs. rural divide.

While the Confederacy ultimately met a quick demise and its Constitution imparted few advantages, one section of the Constitution proved to be beneficial for its aims and forced austerity to better finance the war. That clause is the 7th of the 8th section of Article 1, "...but the expenses of the Post Office Department, after the first day of March, in the year of our Lord eighteen and sixty-three, shall be paid out of its own revenues."¹⁰ That clause and subsequent appointment of John Reagan as Postmaster General led to a fiscally-efficient service. In his tenure, rates were negotiated lower and inefficient areas of the postal service were pared away. The result was a post office running a yearly surplus.¹¹ However, some complained of the lack of service and thus the debate over the goals of the post office persisted even then. Overall, due to the dire financial straits the Confederacy was in, a bare-bones and effectual post office was the best solution to their problems.

⁹ Aaron Hall, "Reframing the Fathers' Constitution," *The Journal of Southern History*, doi:10.1353/soh.2017.0081

¹⁰ "The United States Constitution," *US Constitution*, <https://www.usconstitution.net/const.html>.

¹¹ James McPherson, *Battle Cry of Freedom* (New York: Ballantine Books, 1989),

Yet the Confederate Constitution framers still believed in the majority of decisions made in the U.S. Constitution. Notable similarities include similar dispersal of power between the legislative branch and presidency. However, a Confederate Supreme Court was never established and trials were settled by military tribunals and state supreme courts. Other minor differences include that the president can only serve one six-year term. Still, the general dispersal of power was similar to that in the Union. Independent states after all, ran counter to the importance of a unified war effort in the face of far superior Union forces.¹²

In summation, the experiment of America has historically been one of great tension in states' rights and responsibilities within the nation. States' rights beliefs crescendoed with the Civil War, but have endured and continued to torment to this day. Yet state individuality is simply a manifestation of individual grievances and disagreements over matters such as tariff policy and slavery--in the case of the Civil War. Thus, the importance of learning from the Civil War is centered on the fact that conflict is a constant in any social group. The Civil War may have taken place years ago, but the examples of social conflict illustrate commonalities in our history such as racial and class discrimination. To that end, analyzing the Confederate Constitution is an important first step to identifying the areas of conflict. Forging effective solutions to today's problems rests on an understanding of their origins and what has failed to quell them in the past.

¹² Aaron Hall, "Reframing the Fathers' Constitution," *The Journal of Southern History*, doi:10.1353/soh.2017.0081

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Constitution of the Confederate States of America

Preamble

We, the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent federal government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity — invoking the favor and guidance of Almighty God — do ordain and establish this Constitution for the Confederate States of America.

Article 1. - The Legislative Branch

Section 1 - The Legislature

1. All legislative powers herein delegated shall be vested in a Congress of the Confederate States, which shall consist of a Senate and House of Representatives.

Section 2 - The House

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall be citizens of the Confederate States, and have the qualifications requisite for electors of the most numerous branch of the State

Legislature; but no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, State or Federal.

2. No person shall be a Representative who shall not have attained the age of twenty-five years, and be a citizen of the Confederate States, and who shall not when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States, which may be included within this Confederacy, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all slaves. The actual enumeration shall be made within three years after the first meeting of the Congress of the Confederate States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every fifty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of South Carolina shall be entitled to choose six; the State of Georgia ten; the State of Alabama nine; the State of Florida two; the State of Mississippi seven; the State of Louisiana six; and the State of Texas six.

4. When vacancies happen in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment; except that any judicial or other Federal officer, resident and acting

solely within the limits of any State, may be impeached by a vote of two-thirds of both branches of the Legislature thereof.

Section 3 - The Senate

1. The Senate of the Confederate States shall be composed of two Senators from each State, chosen for six years by the Legislature thereof, at the regular session next immediately preceding the commencement of the term of service; and each Senator shall have one vote.
2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation, or other wise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.
3. No person shall be a Senator who shall not have attained the age of thirty years, and be a citizen of the Confederate States; and who shall not, then elected, be an inhabitant of the State for which he shall be chosen.
4. The Vice President of the Confederate States shall be president of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers; and also a president pro tempore in the absence of the Vice President, or when he shall exercise the office of President of the Confederate states.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the Confederate States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under the Confederate States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

Section 4 - Elections, Meetings

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, subject to the provisions of this Constitution; but the Congress may, at any time, by law, make or alter such regulations, except as to the times and places of choosing Senators.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

Section 5 - Membership, Rules, Journals, Adjournment

1. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of the whole number, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6 - Compensation

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the Confederate States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the Confederate States, which shall have been created, or the emoluments

whereof shall have been increased during such time; and no person holding any office under the Confederate States shall be a member of either House during his continuance in office. But Congress may, by law, grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his department.

Section 7 - Revenue Bills, Legislative Process, Presidential Veto

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed both Houses, shall, before it becomes a law, be presented to the President of the Confederate States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law. The President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved;

and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in case of other bills disapproved by the President.

3. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary (except on a question of adjournment) shall be presented to the President of the Confederate States; and before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

Section 8 - Powers of Congress

The Congress shall have power -

1. To lay and collect taxes, duties, imposts, and excises for revenue, necessary to pay the debts, provide for the common defense, and carry on the Government of the Confederate States; but no bounties shall be granted from the Treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry; and all duties, imposts, and excises shall be uniform throughout the Confederate States.

2. To borrow money on the credit of the Confederate States.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this, nor any other clause contained in the Constitution, shall ever be construed to delegate the power to Congress to appropriate money for any internal improvement intended to facilitate commerce; except for the purpose of furnishing lights, beacons, and buoys, and other aids

to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation; in all which cases such duties shall be laid on the navigation facilitated thereby as may be necessary to pay the costs and expenses thereof.

4. To establish uniform laws of naturalization, and uniform laws on the subject of bankruptcies, throughout the Confederate States; but no law of Congress shall discharge any debt contracted before the passage of the same.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the Confederate States.

7. To establish post offices and post routes; but the expenses of the Post Office Department, after the 1st day of March in the year of our Lord eighteen hundred and sixty-three, shall be paid out of its own revenues.

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Confederate States, suppress insurrections, and repel invasions.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the Confederate States; reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of one or more States and the acceptance of Congress, become the seat of the Government of the Confederate States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the Confederate States, or in any department or officer thereof.

Section 9 - Limits on Congress, Bill of Rights

1. The importation of negroes of the African race from any foreign country other than the slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.

2. 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.

3. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

4. No bill of attainder, ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed.

5. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

6. No tax or duty shall be laid on articles exported from any State, except by a vote of two-thirds of both Houses.

7. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

8. No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

9. Congress shall appropriate no money from the Treasury except by a vote of two-thirds of both Houses, taken by yeas and nays, unless it be asked and estimated for by some one of the heads of departments and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the Government, which it is hereby made the duty of Congress to establish.

10. All bills appropriating money shall specify in Federal currency the exact amount of each appropriation and the purposes for which it is made; and Congress shall grant no extra compensation to any public contractor, officer, agent, or servant, after such contract shall have been made or such service rendered.

11. No title of nobility shall be granted by the Confederate States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

12. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and petition the Government for a redress of grievances.

13. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

14. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

15. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

16. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.

17. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the

accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

18. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact so tried by a jury shall be otherwise reexamined in any court of the Confederacy, than according to the rules of common law.

19. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

20. Every law, or resolution having the force of law, shall relate to but one subject, and that shall be expressed in the title.

Section 10 - Powers prohibited of States

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, or ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports, or exports, shall be for the use of the Treasury of the Confederate States; and all such laws shall be subject to the revision and control of Congress.

3. No State shall, without the consent of Congress, lay any duty on tonnage, except on seagoing vessels, for the improvement of its rivers and harbors navigated by the said vessels; but such duties shall not conflict with any treaties of the Confederate States with foreign nations; and any surplus revenue thus derived shall, after making such improvement, be paid into the common treasury. Nor shall any State keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. But when any river divides or flows through two or more States they may enter into compacts with each other to improve the navigation thereof.

Article 2. - The Executive Branch

Section 1 - The President

1. The executive power shall be vested in a President of the Confederate States of America. He and the Vice President shall hold their offices for the term of six years; but the President shall not be reeligible. The President and Vice President shall be elected as follows:

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or person holding an office of trust or profit under the Confederate States shall be appointed an elector.

3. The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the Confederate States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by States ~ the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice President shall act as President, as in case of the death, or other constitutional disability of the President.

4. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President;

a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

5. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the Confederate States.

6. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the Confederate States.

7. No person except a natural-born citizen of the Confederate States, or a citizen thereof at the time of the adoption of this Constitution, or a citizen thereof born in the United States prior to the 20th of December, 1860, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the limits of the Confederate States, as they may exist at the time of his election.

8. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the Vice President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly until the disability be removed or a President shall be elected.

9. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the Confederate States, or any of them.

10. Before he enters on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the Confederate States, and will, to the best of my ability, preserve, protect, and defend the Constitution thereof."

Section 2 - Civilian Power over Military, Cabinet, Pardon Power, Appointments

1. The President shall be Commander-in-Chief of the Army and Navy of the Confederate States, and of the militia of the several States, when called into the actual service of the Confederate States; he may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the Confederate States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties; provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the Confederate States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The principal officer in each of the Executive Departments, and all persons connected with the diplomatic service, may be removed from office at the pleasure of the President. All other civil officers of the Executive Departments may be removed at any time by the President, or other

appointing power, when their services are unnecessary, or for dishonesty, incapacity, inefficiency, misconduct, or neglect of duty; and when so removed, the removal shall be reported to the Senate, together with the reasons therefor.

4. The President shall have power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session; but no person rejected by the Senate shall be reappointed to the same office during their ensuing recess.

Section 3 - State of the Union, Convening Congress

1. The President shall, from time to time, give to the Congress information of the state of the Confederacy, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the Confederate States.

Section 4 - Disqualification

1. The President, Vice President, and all civil officers of the Confederate States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

Article 3. - The Judicial Branch

Section 1 - Judicial powers

1. The judicial power of the Confederate States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2 - Trial by Jury, Original Jurisdiction, Jury Trials

1. The judicial power shall extend to all cases arising under this Constitution, the laws of the Confederate States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the Confederate States shall be a party; to controversies between two or more States; between a State and citizens of another State, where the State is plaintiff; between citizens claiming lands under grants of different States; and between a State or the citizens thereof, and foreign states, citizens, or subjects; but no State shall be sued by a citizen or subject of any foreign state.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before

mentioned, the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3 - Treason

1. Treason against the Confederate States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

Article 4. - The States

Section 1 - Each State to Honor all others

1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2 - State citizens, Extradition

1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; and shall have the right of transit and sojourn in any State of this Confederacy, with their slaves and other property; and the right of property in said slaves shall not be thereby impaired.

2. A person charged in any State with treason, felony, or other crime against the laws of such State, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No slave or other person held to service or labor in any State or Territory of the Confederate States, under the laws thereof, escaping or lawfully carried into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such slave belongs; or to whom such service or labor may be due.

Section 3 - New States

1. Other States may be admitted into this Confederacy by a vote of two-thirds of the whole House of Representatives and two-thirds of the Senate, the Senate voting by States; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations concerning the property of the Confederate States, including the lands thereof.

3. The Confederate States may acquire new territory; and Congress shall have power to legislate and provide governments for the inhabitants of all territory belonging to the Confederate States, lying without the limits of the several States; and may permit them, at such times, and in such manner as it may by law provide, to form States to be admitted into the Confederacy. In all such territory the institution of negro slavery, as it now exists in the Confederate States, shall be recognized and protected by Congress and by the Territorial government; and the inhabitants of the several Confederate States and Territories shall have the right to take to such Territory any slaves lawfully held by them in any of the States or Territories of the Confederate States.

4. The Confederate States shall guarantee to every State that now is, or hereafter may become, a member of this Confederacy, a republican form of government; and shall protect each of them against invasion; and on application of the Legislature or of the Executive when the Legislature is not in session) against domestic violence.

Article 5. - Amendment

1. Upon the demand of any three States, legally assembled in their several conventions, the Congress shall summon a convention of all the States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said convention ~ voting by States ~ and the same be ratified by the Legislatures of two-thirds of the several States, or by conventions in two-thirds thereof ~ as the one or the other mode of ratification

may be proposed by the general convention ~ they shall thenceforward form a part of this Constitution. But no State shall, without its consent, be deprived of its equal representation in the Senate.

Article 6. - The Confederacy

Section 1 - Transition from the Provisional Government

1. The Government established by this Constitution is the successor of the Provisional Government of the Confederate States of America, and all the laws passed by the latter shall continue in force until the same shall be repealed or modified; and all the officers appointed by the same shall remain in office until their successors are appointed and qualified, or the offices abolished.

Section 2 - Debts of the Provisional Government

2. All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the Confederate States under this Constitution, as under the Provisional Government.

Section 3 - Supremacy of the Constitution

3. This Constitution, and the laws of the Confederate States made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the Confederate States, shall be the

supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

Section 4 - Oaths of Office

4. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the Confederate States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the Confederate States.

Section 5 - Reservation of unenumerated rights

5. The enumeration, in the Constitution, of certain rights shall not be construed to deny or disparage others retained by the people of the several States.

Section 6 - State powers

6. The powers not delegated to the Confederate States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people thereof.

Article 7. - Ratification

1. The ratification of the conventions of five States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

2. When five States shall have ratified this Constitution, in the manner before specified, the Congress under the Provisional Constitution shall prescribe the time for holding the election of President and Vice President; and for the meeting of the Electoral College; and for counting the votes, and inaugurating the President. They shall, also, prescribe the time for holding the first election of members of Congress under this Constitution, and the time for assembling the same. Until the assembling of such Congress, the Congress under the Provisional Constitution shall continue to exercise the legislative powers granted them; not extending beyond the time limited by the Constitution of the Provisional Government.

Adopted unanimously by the Congress of the Confederate States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, sitting in Convention at the capitol, in the city of Montgomery, Alabama, on the Eleventh day of March, in the year Eighteen Hundred and Sixty-One.

HOWELL COBB,

President of the Congress.

1. South Carolina: R. Barnwell Rhett, C. G. Memminger, Wm. Porcher Miles, James Chesnut, Jr., R. W. Barnwell, William W. Boyce, Lawrence M. Keitt, T. J. Withers.

2. Georgia: Francis S. Bartow, Martin J. Crawford, Benjamin H. Hill, Thos. R. R. Cobb.

3. Florida: Jackson Morton, J. Patton Anderson, Jas. B. Owens.

4. Alabama: Richard W. Walker, Robt. H. Smith, Colin J. McRae, William P. Chilton, Stephen F. Hale, David P. Lewis, Tho. Fearn, Jno. Gill Shorter, J. L. M. Curry.

5. Mississippi: Alex. M. Clayton, James T. Harrison, William S. Barry, W. S. Wilson, Walker Brooke, W. P. Harris, J. A. P. Campbell.

6. Louisiana: Alex. de Clouet, C. M. Conrad, Duncan F. Kenner, Henry Marshall.

7. Texas: John Hemphill, Thomas N. Waul, John H. Reagan, Williamson S. Oldham, Louis T. Wigfall, John Gregg, William Beck Ochiltree.