

ESSENTIAL CIVIL WAR CURRICULUM

The Confederate Constitution

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Resources

If you can read only one book

Author	Title. City: Publisher, Year.
Lee, Charles Robert, Jr.	<i>The Confederate Constitutions</i> . Chapel Hill: University of North Carolina Press, 1963.

Books and Articles

Author	Title. City: Publisher, Year. "Title," in <i>Journal</i> ##, no. # (Date): #.
Amlund, Curtis Arthur	<i>Federalism in the Southern Confederacy</i> . Washington, D.C.: Public Affairs Press, 1966.
Anastaplo, George	"The Confederate Constitution of 1861," in George Anastaplo, <i>The Amendments to the Constitution: A Commentary</i> . Baltimore, MD: John Hopkins University Press, 1995.
Currie, David P.	"Through the Looking-Glass: The Confederate Constitution in Congress, 1861-1865," in <i>Virginia Law Review</i> (2004): 1257-399.
Curry, J. L. M.	<i>Civil History of the Government of the Confederate States</i> . Richmond, VA: B. F. Johnson Publishing Co., 1901.
DeRosa, Marshal L.	<i>The Confederate Constitution of 1861: An Inquiry into American Constitutionalism</i> . Columbia: University of Missouri Press, 1991.

Fehrenbacher, Don E.	<i>Constitutions and Constitutionalism in the Slave-Holding South</i> . Athens: University of Georgia Press, 1989.
Fitts, Albert N.	“The Confederate Convention: The Constitutional Debate,” in <i>Alabama Review</i> 2 (1949): 189-210.
Hamilton, J.G. DeRoulhac	“The State Courts and the Confederate Constitution,” in <i>The Journal of Southern History</i> 4 (November 1938): 425-48.
Hardaway, Roger D.	“The Confederate Constitution: A Legal and Historical Examination,” in <i>The Alabama Historical Quarterly</i> 44, nos. 1 & 2 (Spring & Summer 1982):18-31.
LaCroix, Alison	“Continuity in Secession: The Case of the Confederate Constitution,” in <i>University of Chicago Public Law & Legal Theory Working Paper No. 512</i> , 2015.
Matthews, ed., James M.	<i>Statutes at Large of the Provisional Government of the Confederate States of America, from the Institution of the Government, February 8, 1861, to its Termination, February 18, 1862, Inclusive</i> . Richmond, VA: R. M. Smith Printer to Congress, 1864.
Mitchell, Memory F.	<i>Legal Aspects of Conscription and Exemption in North Carolina, 1861-1865</i> . Chapel Hill: University of North Carolina Press, 1965.
Moore, Albert Burton	<i>Conscription and Conflict in the Confederacy</i> . New York: Hillary House Publishers Ltd., 1963.
Nieman, Donald	“Republicanism, The Confederate Constitution, and the American Constitutional Tradition,” in Kermit L. Hall and James W. Ely, Jr., eds., <i>An Uncertain Tradition: Constitutionalism and the History of the South</i> . Athens: University of Georgia Press, 1989, 201-24.
Powell, Michael A.	“Confederate Federalism: A View from the Governors,” Ph.D. diss., University of Maryland, College Park, 2004, OCLC (70708469).

Robinson, Jr., William M.	“A New Deal in Constitutions,” in <i>The Journal of Southern History</i> 4 (November 1938), 449-61.
_____.	<i>Justice in Grey, A History of the Judicial System of the Confederate States of America.</i> Cambridge, MA: Harvard University Press, 1941.
Smith, Robert Hardy	<i>An Address to the Citizens of Alabama on the Constitution and Laws of the Confederate States of America by the Hon. Robert H. Smith.</i> Mobile, AL: Mobile Daily Register Print, 1861.
Stelluto, Donald L.	““a light which reveals its true meaning’: State Supreme Courts and the Confederate Constitution” Ph.D. diss., University of Maryland, College Park, 2004, OCLC (70846708).
White, III, Edward L.	“The Constitution of the Confederate States of America: Innovation or Duplication?,” in <i>The Southern Historian</i> 12 (1991):5-28.
No Author	<i>Journal of the Congress of the Confederate States of America, 7 vols.</i> Washington, DC: Government Printing Office, 1904.

Organizations

Web Resources

URL	Name and description
http://avalon.law.yale.edu/19th_century/csa_csa.asp#a2	The Avalon Project: Documents in Law, History, and Diplomacy (see Confederate States of America: Documents for the Confederate official document like the Provisional and Permanent Confederate Constitutions, Jefferson Davis’ annual Message to Congress, and other government-related documents.
https://memory.loc.gov/ammem/amlaw/lwcc.html	<i>Journal of the Congress of the Confederate States of America, 7 vols.</i> (Washington, DC: Government Printing Office, 1904) is the official record of the debates and legislation of the Confederate Congress.

https://catalog.hathitrust.org/Record/010942417	<i>Statutes at Large of the Provisional Government of the Confederate States of America, from the Institution of the Government, February 8, 1861, to its Termination, February 18, 1862, Inclusive.</i> Richmond, VA: R. M. Smith Printer to Congress, 1864.
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Other Sources

Scholars

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Topic Précis

After a Confederate Provisional Constitution was drafted in early 1861, the Confederate Permanent Constitution was approved March 11, 1861 by five of the seceded states. Though it retained the overall organization and many features of the U.S. Constitution, the Permanent Confederate Constitution differed noticeably from its forbear, incorporating changes that its southern framers hoped would eliminate the abuse of government power, facilitate reform and efficiencies, incorporate parliamentary features, and restore the mid-century American understanding of federalism (the balance of government power between state and national governments). Significant revisions were made in Articles I, II, and V, with more than half of all changes in the southern constitution made in Article I, reflecting the framers' objectives to prevent self-expansion of congressional powers while maximizing efficiency. Moreover, the various rights included in the U.S. Constitution's Bill of Rights were incorporated into the text of the Constitution rather than appearing as a separate section. The constitution was hailed in the North for its innovations. Though a Confederate Supreme Court was envisaged in the constitution, the court was never formed so interpretation of the constitution was left to state supreme courts. Provisions to enhance democracy and sovereignty included election of senators by state legislators, easier provisions for impeachment of officials including federal judges, and easier provisions for amending the constitution. The framers included mechanisms designed to provide limited but effective government. Among these were the removal of the General Welfare clause which had been used in the antebellum period to expand national power, the requirement that every bill cover

one subject only to be included in the title of the bill, and that appropriation bills specify the exact dollar amount to be appropriated. During the war, Confederate courts consistently interpreted the constitution's provisions to limit national power. The constitution also clarified the concept of dual federalism in which the constitution was understood as a compact among the states, delegating only specific enumerated powers to the national government and retaining those not delegated for the individual states. However, the constitution did not provide for secession by individual states and judgements made by state supreme courts largely supported the national government, undercutting the idea of States' Rights which had formed part of the rationale for the creation of the Confederacy. While the constitution limited national power it also sought to make the national government a more effective managerial government. The president was appointed for one six-year term in order to free him from party influence necessary for re-election and act as an executive of the whole people. A line item veto gave the president the power to curtail special interest legislation. The president was empowered to initiate appropriation bills and such bills would only require a simple majority unlike congressionally initiated appropriation bills which require a two thirds majority. The president was given constitutional removal powers over cabinet members, diplomats and other civil officers. Executive-legislative collaboration was improved by providing for cabinet representation and participation in congressional debates on matters relating to cabinet members' portfolios. Recess appointments of any person previously rejected by the Senate were proscribed. The constitution included specific provisions to protect slavery though it did prohibit the African slave trade. A Confederate constitutional order never existed during peacetime, as it did for the U.S. Constitution of 1787. If it had, a more objective understanding of the southern charter, the regular operation of government it proposed, and a more direct comparison with the U.S. Constitution might be possible. The Confederate framers developed a constitution they hoped would reform the constitutional and political order they had known while in the Union which provides an historically important American constitutional moment.
