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A House Divided: HD (59) Secession

Constitutional? III

Lead: One hundred and fifty years ago the Republic was facing its greatest crisis. This continuing series examines the American Civil War. It is "A House Divided."

Intro.: *A Moment in Time* with Dan Roberts.

Content: Was secession constitutional? That was a major issue as the South departed in 1861. The Constitution, historical reality, and events in the next four years, proved that it was not. Whereas the states

have retained a rich source of alternative initiatives, experimentation, governmental creativity and efficiency, at each stage of the nation's development, when states have asserted their ability to abridge Federal power, Federal sovereignty prevailed.

During the nullification crisis of the 1830s when South Carolina insisted it could nullify a Federal tariff, President Andrew Jackson, a Southerner and a slave owner, said, "the power to annul a law of the United States, assumed by one State, is incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle

on which It was founded, and destructive of the great object for which it was formed.” He then began a very public unlimbering of the hanging ropes for those who pursued such a traitorous enterprise. South Carolina quickly backed down.

In its only discussion of secession the U.S. Supreme Court emphatically denied in *Texas v. White* (1868) that any state could secede. “When, therefore, Texas became one of the United States, she entered into an indissoluble relation. All the obligations of perpetual union, and all the guaranties of republican government in the Union, attached at once to the State. The act which consummated her admission into the

Union was something more than a compact; it was the incorporation of a new member into the political body. And it was final. The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union between the original States. There was no place for reconsideration, or revocation, except through revolution, or through consent of the States.”

It is ironic that the South did not claim its rights to consummate a revolution, simply to secede from the Union it had freely joined. It fell to Abraham Lincoln, who significantly believed that the Union created the states, not the other way around, to stop that secession from happening. He

did so in the bloodiest of national conflicts. Neo-secessionist movements over the years have reared their heads in times of national distress and dispute, but they don't go very far when confronted with the Constitution itself, historical reality, but most especially the vivid memories of bodies lining the lanes of Antietam, Gettysburg, and Sharp's Landing. For good or for ill, that issue is a settled matter. The Union is indissoluble. Secession is unconstitutional.

**From Richmond Virginia, this is
Dan Roberts.**

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