To the Graduate Council:

I am submitting herewith a thesis written by Melody R. Durham entitled "'To Secure These Rights': Richmond, the Constitution, and the Union, 1787-1861." I have examined the final copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

Paul H. Bergeron

Paul Bergeron, Major Professor

We have read this dissertation
and recommend its acceptance:

Accepted for the Council:

Interim Vice Provost and
Dean of The Graduate School

"TO SECURE THESE RIGHTS": RICHMOND, THE CONSTITUTION, AND THE UNION, 1787-1861

A Thesis
Presented for the
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Degree
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ABSTRACT

The secession of southern states in 1860-61 appears, on the surface, to be a rebellion against the Constitution and government of the United States. This study investigates the interpretations of and beliefs about the Constitution from its creation through secession for a prominent southern locale throughout that time period, Richmond, Virginia. Richmond, with the wealth of newspapers and manuscripts available to the researcher, provides a microcosm for the study of such broad concepts. Richmond served as Virginia's capital throughout the time period of study and offered leadership to the state, the region, and the entire country through its native statesmen, its extensive commentary on national issues, and its initiative during crises.

When the Constitution was created in 1787 and debated by Richmond in 1788, Richmond demonstrated great concern with the established balance of power between the state and federal governments. The city sought to affirm the continued sovereignty of the states which would be voluntarily bound under the Constitution for mutually beneficial purposes. This philosophy represented a consistency of thought dating back before the War for American Independence when Thomas Jefferson declared the right of any party to a governing compact to withdraw when the compact ceased to protect—and perhaps began to destroy—essential rights such as life, liberty, or the pursuit of happiness.

Richmond demonstrated a loyalty to this principle from 1787 through 1861 at which point Richmond citizens determined that the Constitution no longer provided adequate safeguards for their rights. After having exhausted all means within the Union to reestablish needed security, Richmond chose secession as the only option which could preserve such long- and dearly-held principles. Virginia's secession was not a rebellion against the Constitution, but a protest against its misinterpretation by other parties to the contract, represented in the federal government. Such "revolutionary" action actually highlighted Richmond's consistency and conservatism in its interpretation of the Constitution throughout 1787-1861.

TABLE OF CONTENTS

CHAPTER PAGE

1. The Dichotomy 1
2. Principles and Practicality 24
3. Governed by Principle 62

Conclusion: The Point of Separation 94

BIBLIOGRAPHY 101

VITA 106

CHAPTER 1

THE DICHOTOMY

It was obvious to the average Richmonder, as it was to people throughout the country, that something had to be done to strengthen the federal government. The papers had been full of the commotion taking place—Shays' rebellion in Massachusetts, the stubborn refusal of some states to provide the money needed to pay the federal militia, the independent coining of money pursued by some states wreaking havoc on interstate commercial endeavors.[1] While there was no oppression from the federal government, there was also little guarantee of equality or protection under the law. The Confederation Congress was unable to force the British to allow free passage on the Mississippi River or to leave the forts, and trade was suffering.[2]

Virginia's House of Delegates had submitted resolutions to Congress the previous fall. The resolutions protested that the federal government was "formed on the broad basis of equal rights in every part thereof, to the protection and guardianship of the whole"; and that sacrificing "the rights of any one part, to the supposed or real interests of another part" constituted a "flagrant violation" of the justice that the federal government was created to guarantee.[3] The *Massachusetts Centinel* had sent queries to all the states, challenging their adherence to the Articles of Confederation. It pointed out that in order for the Confederation to work, each state would have to sacrifice "part of the

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[1] *Virginia Independent Chronicle*, Dec. 20, 1786, Jan. 10, 24, Feb. 28, Mar. 7, Apr. 11, 1787.

[2] Ibid., Dec. 6, 1786, Mar. 14, 1787.

[3] Ibid., Dec. 6, 1786.

sovereignty of your state to the general welfare."[4] In February 1787, Congress had acknowledged a need for a revision of the Articles and believed that a convention of delegates from each state was the "most probable means of establishing in these states, a firm national government."[5] The convention was to meet in Philadelphia in May.

The newspapers called for Richmonders and Virginians to consider carefully whom they would send to Philadelphia. "Aristides" reminded readers of the *Chronicle* that "the only object of all government is to secure our rights against invasion from enemies abroad, or neighbors at home. —No obedience is or can be due, where either of these are delayed or refused."[6] He called for delegates who would firmly support that principle. Virginia selected seven of its most eminent statesmen to serve at the Philadelphia Convention: Congressional president George Washington, lawyer James Madison, statesman George Mason, justice John Blair, Richmond physician James McClurg, law professor and author George Wythe, and the current governor Edmund Randolph. A natural choice would have been the state's ardent defender of liberty, Patrick Henry, but he distrusted the convention's intentions, fearing an attempt to reinstate a monarchy or other centralized power which might prove abusive to personal and state liberties. Thus, he declined to serve.

The convention's proceedings were kept secret, so Richmond, along with the rest of the country, waited with eager anticipation throughout the summer for the report of the

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[4] Ibid., Jan. 24, 1787.

[5] Ibid., Mar. 14, 1787.

[6] Ibid., Mar. 21, 1787.

delegates at Philadelphia. The papers speculated on the result, all criticizing the "anarchy" that had characterized the last few months and declaring that whatever the result of the convention, "a strong and efficient executive power must be somewhere established."[7] The Richmond press discussed the nature of a revised government's structure, whether it was possible to have so large a country unified as one republic, and if America might be forced to return to a monarchy. Several articles recognized the difficult concept of divided sovereignty that the Articles of Confederation exemplified, asking how thirteen sovereign, independent states could also be united. All discussions conceded the government's existence as a mutual compact between those governing and the governed. One news article proposed an "Equalizing Court" to serve as a mediator between the state and federal governments "in order to prevent an oppressive exercise of the powers deposited with Congress."[8] Most expressed faith in the character of the Philadelphia delegates, certain that they would construct a government both strong and preserving liberty.[9]

Unbeknownst to Virginians throughout the summer, the state's delegates remaining at the convention—George Wythe and James McClurg had returned to Richmond early to attend to other matters—were much divided over the new plan. James Madison had authored a good portion of the proposed governing document, and although many of the changes made throughout the session did not suit him, he strongly favored it

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[7] Ibid., May 23, 30, June 20, Aug. 29, 1787.

[8] Ibid., June 20, 1787.

[9] Ibid., June 13, 20, 27, 1787.

as a significant and much needed improvement. George Washington knew firsthand as leader of the Continental Army of the need for a stronger executive, and thus supported the power the Constitution afforded that branch of government. John Blair also concurred with the more nationalistic measures. George Mason and Edmund Randolph, however, were troubled by what they believed was excessive power granted to the central government, and also by the lack of explicit guarantees of personal rights or state powers in the document. Thus, as the convention wrapped up its work and prepared to submit its proposal to Congress, only the signatures of Washington, Madison, and Blair provided Virginia's endorsement.

On September 26, 1787, the *Chronicle* reported that Governor Randolph was en route to Richmond bearing his report from the Philadelphia Convention. Richmonders eagerly anticipated his arrival. The Federal Constitution had been unanimously passed in convention on the 17th of the month, and most observers were anxious to investigate its contents.[10] Currently, the Confederation Congress in New York City was voting on a motion to send the proposed constitution to the states for consideration.

On the 27th, the *Virginia Gazette and Independent Chronicle* printed the constitution in full. Immediately, discussions began over its merits and its faults. Richmond speculated as to why the governor and a premier member of the state legislature had not given their consent. Counties across the state immediately called meetings to express their approval of the document's plan and noted its improvement over the Articles. The county that Philadelphia delegate George Mason called home was

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[10] Ibid., Sept. 26, 1787

one of the first to do so, and clearly instructed him to vote to call a convention for ratification of the Constitution, despite his personal reservations.[11] Meetings were held at Mason's Hall in Richmond and nearby in Williamsburg and Petersburg. The attendants at these meetings all praised the efforts of the Philadelphia Convention, called for and appointed delegates to a state convention to ratify the Constitution, and noted that while the proposed plan of government might not be perfect, it constituted a significant improvement and should be supported.[12]

Soon, prominent leaders in Virginia began to weigh in with their opinions—Federalists in favor of the new Constitution and Anti-federalists against it. The debate in Virginia over the new Constitution promised early on to be a passionate and intense one among several brilliant and well-respected American statesmen. Pamphlets and broadsides explicating both sides could be acquired at the newspaper offices in town. Richard Henry Lee, George Mason, and Patrick Henry were three of the most vocal opponents of the plan, whereas James Madison was the Constitution's most able supporter in Virginia. The primary objection on the part of the Anti-federalists concerned the lack of explicit statements protecting individual rights or state powers under the new government, the same concerns also voiced by Mason and Randolph in Philadelphia. Richard Henry Lee proposed amendments before the Constitution ever left the Confederation Congress, declaring that "as it is, . . . either a tyranny will result from it, or

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[11] *Virginia Gazette and Independent Chronicle*, Oct. 20, 1787; *Virginia Journal*, Oct. 11, 1787, in Merrill Jensen, et al., eds., *The Documentary History of the Ratification of the Constitution* (18 vols. to date, Madison: The State Historical Society of Wisconsin, 1975-), 8:22-24.

[12] *Virginia Gazette and Weekly Advertiser*, Oct. 18, 25, 1787, *Petersburg Virginia Gazette*, Oct. 11, 25, 1787, in ibid., 8:39-40, 93, 96.

it will be prevented by a Civil war."[13] Patrick Henry, the arch-defender of liberty from the days of the Revolution, feared the new government would prove despotic and threatening to sacred revolutionary principles. George Mason, like the other Anti-federalists, did not fear for liberties in the hands of an executive like George Washington, but did not trust the virtues of future office-holders.[14]

Madison defended the increased strength of the federal government, saying, "A voluntary observance of the federal law by all the members, could never be hoped for. A compulsive one . . . [would be] both obnoxious and dangerous. . . . Hence was embraced the alternative of a Government which instead of operating on the States, should operate without their intervention on the individuals composing them."[15] Elaborating, Madison identified several goals of the Philadelphia Convention:

> 1. to unite a proper energy in the Executive and a proper stability in the Legislative. . . . 2. to draw a line of demarcation which would give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them. 3. to provide for the different interests of different parts of the Union. 4. to adjust the clashing pretensions of the large and small States.[16]

Madison noted, "Each of these objects was pregnant with difficulties. The whole of them together formed a task more difficult than can be well conceived. . . . It is impossible to

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[13] Richard Henry Lee to George Mason, Oct. 1, 1787, in ibid., 8:29.

[14] Patrick Henry to George Washington, Oct. 19, 1787, George Mason to George Washington, Oct. 7, 1787, in ibid., 8:43, 79.

[15] James Madison to Thomas Jefferson, Oct. 24, Nov. 1, 1787, in ibid., 8:96.

[16] Ibid.

consider the degree of concord which ultimately prevailed as less than a miracle."[17] It was yet to be seen whether that miracle of harmony could be preserved throughout future decades and keep a diverse country united under the Constitution.

By November, debate among the city's newspapers was in full force. One author saw adopting the Constitution as "forging fetters for Virginia and reducing her to receive laws" from New England states that would overpower her commercially.[18] "An American Citizen" writing in the November 7 *Chronicle* attempted to assure readers of the checks on the abuse of power inherent in the structure of the new government.[19] In the November 21 *Chronicle*, the same "American Citizen" encouraged Virginians to "give it a trial; and when experience has taught its mistakes, the people, whom it preserves absolutely all powerful, can reform and amend them." Just a column away in the same issue, "Centinel" noted that in the Articles of Confederation it "was thought proper" to declare states sovereign, free, and independent; "the omission of such a declaration now, when such great devolutions of power are proposed, manifests the design of reducing the several states to shadows." He concluded by expressing his concern for the security of the liberties of the people, especially liberty of the press, under the Constitution.[20]

On October 25, the House of Delegates approved resolutions calling for the state convention. The *Virginia Independent Chronicle* explained that the only debate among

[17] Ibid.

[18] *Virginia Independent Chronicle*, Nov. 14, 1787.

[19] Ibid., Nov. 7, 1787.

[20] Ibid., Nov. 21, 1787.

legislators had been whether or not the convention should be able to consider amendments, which was decided in the affirmative. The *Chronicle* believed this was wise,

> for although it be admitted that the great leading principles of the proposed Constitution [establish] the foundation of a wise, safe, and happy government, it is equally certain that a change of one or two exceptionable or doubtful clauses may be made to the advantage of all the States, and without risking [the] union."[21]

The date set for the convention was the following June, with the elections of delegates taking place March 3–27. While in Richmond a vote taken at the Political Club meeting tallied 128 votes in support of the Constitution to 15 against,[22] overall early enthusiasm for the Constitution quickly waned. Reports flowed from Richmond speculating on the count of Virginians in support of or in opposition to the plan. While most agreed something needed to be done to save the Union, many feared the increased, consolidated power of the stronger national government. Observers from all over Virginia reported a division between Federalists and Anti-federalists that was too close to call.[23]

As 1787 ended and the early months of 1788 unfolded, Anti-federalist sentiment rose. Newspaper articles and letters coming out of Richmond raised the same unsettling issue responsible for swaying Virginians to the Anti-federalist side—state sovereignty under the new national plan. The following comments are a revealing sample:

> I much doubt whether the people in this State . . . are yet ripe for the great change which the new plan will ultimately effect—There would have been

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[21] Ibid., Oct. 31, 1787.

[22] Ibid.. Jan. 16, 1788.

[23] See numerous letters reproduced in Jensen, et al., eds., *The Documentary History*, 8:132-175, *passim.*

> less repugnance to it here had the judiciary been less exceptionable and the Executive and legislative had been separate. The true line . . . was to have yielded full management of all exterior matters to Congress, leaving interior matters to the States.[24]
>
> Under this proposed constitution each state will dwindle into 'the insignificance of a town corporate.' . . . This, Virginians, will be your mighty, your enviable situation after all your struggles for independence! . . . –without a single article of covenant for the preservation of those inestimable rights, which have in all ages been the glory of freemen.[25]
>
> If the several states suffer the federal sovereignty to interfere in things of their respective jurisdictions . . . [it will be] a dangerous precedent as to all. . . . The trustees . . . of the several states will not dare . . . to violate the independent sovereignty of their respective states, that justly darling object of American affections.[26]

Meanwhile, those in favor of the Constitution continued to place their faith in the structure of the government—its checks and balance of power—and accused Anti-federalists of opposing centralization for selfish, political reasons. Federalists termed their opponents as "disunionists," since most believed that any chance of preserving the Union would perish with a defeat of the Constitution. The more radical of the Anti-federalists declared that they would rather see Virginia independent or a member of a Southern confederacy than bound by the potential abuses under the Constitution.[27]

As other states ratified the Constitution, however, the reality of an independent Virginia in the midst of a Union of its neighbors caused both sides to consider a

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[24] Joseph Jones to James Madison, Nov. 22, 1787, in ibid., 8:173.

[25] *Virginia Independent Chronicle*, Feb. 20, 1788.

[26] Ibid., May 14, 1788.

[27] "Extract of a letter from Richmond, dated June 9," in *Pennsylvania Gazette*, June 18, 1788, in Jensen, et al., eds., *The Documentary History*, 10:1649-50; Herbert J. Storing, ed., *The Anti-Federalist* (Chicago: University of Chicago Press, 1985), 273.

compromise. Moderates in both camps began to suggest that the Constitution be approved with conditions—amendments that would address the chief concerns such as the guarantee of personal liberties and clarification of state sovereignty. This increasingly became a middle ground that would allow the Constitution to be adopted as the Federalists hoped while appeasing the strong voice of dissent coming from the Anti-federalist camp.[28]

Elections to the ratification convention loomed in Richmond. In a letter to James Madison, Edmund Randolph noted that

> the persons proposed are Dr. Foushee, Marshall and myself. Nothing but a small degree of favor . . . could send me; my politics not being sufficiently strenuous against the Constitution. Marshall is in danger; but Foushee is not popular enough on other scores to be elected, although he is perfectly a Henryite.[29]

Randolph acknowledged Richmond's Anti-federalist bent, and predicted that election results would hinge on the candidates' degree of opposition to the Constitution. John Marshall, at the time a young but prominent Richmond attorney, had declared himself strongly in favor of the Constitution. Dr. William Foushee, a Richmond physician, was clearly in the Anti-federalist camp. Randolph's position was more complex.

Randolph, soon to serve as Virginia's governor, had refused to sign the Constitution back in Philadelphia, and had explained his viewpoint to Richmonders in a pamphlet published in the *Virginia Independent Chronicle*. Randolph's pamphlet explained that as much as he agreed that a new Constitution was needed, he could not

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[28] See numerous documents in Jensen, et al., eds., *The Documentary History*, 8:127-524, 9:564-896, *passim*.

[29] Edmund Randolph to James Madison, Feb. 29, 1788, in ibid., 8:436-37.

endorse the proposed document as it was. He had supported Mason's call for a Bill of Rights before adjournment in Philadelphia, and continued to encourage this change. Still, Randolph conceded that he would vote—with grave reservations—for the proposed Constitution even without amendments if it was the only step that would save the Union.[30] Thus, Randolph's Anti-federalism was believed to be less than stalwart. On election day, however, the eminent Randolph was elected by an overwhelming margin; and in a tight race between Marshall and Foushee, the more renowned Marshall was selected to join Randolph in representing Richmond at the ratification convention.[31]

Throughout April and May, the dialogue in Richmond newspapers and conversation on the streets heatedly debated the wisdom, or lack thereof, of ratifying the Constitution. Once the election results of the Virginia delegates were posted, predictions were made on the result of the upcoming convention's vote. Though the capital and counties south of the James River were thought to breed Anti-federalist sentiment, the views of Richmond's representatives caused most to believe Virginia would support ratification. Speculation held that the Federalist delegates had the majority, but only by a few votes. The true majority could be found in those who supported Union and a more energetic federal government, but believed a few key amendments were essential to perfect the new plan.[32]

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[30] *Virginia Independent Chronicle*, Jan. 2, 1788; "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution, Richmond, 27 December," in Jensen, et al., eds., *The Documentary History*, 8:260-274.

[31] *Virginia Independent Chronicle*, Mar. 5, 1788.

[32] See documents in Jensen, et al., eds., *The Documentary History*, 9:632-896, *passim*.

Just before the convention was to meet, James Monroe recorded his "Observations on the Constitution." Monroe was a young respected lawyer whose opinions reflected a well-reasoned perspective. He first noted the history of the "states" association with each other, initially to resist a common enemy in Great Britain. The Articles of Confederation had allowed "individual states to retain their respective sovereignties," however, and Monroe believed that factor alone to be the reason for the central government's weakness and the present commotion . . . in America."[33] The Articles needed amending, but many people were reluctant to "subvert the state sovereignties" in an effort to gain stability. He did not believe that a consolidated government was practical in any case due to the size and diverse interests of the country.

Monroe recognized that the new proposed Constitution had strengthened the executive office in order to compensate for the looseness of interstate bonds. But he feared a strong executive would "risk the enjoyment of those blessings we now possess."[34] Achieving a proper balance was tedious, and without precedent. He stated that the basic goal in such an attempt should be to

> mark the precise point at which the powers of the general government shall cease, and . . . those of the states shall commence, to poise them in such manner as to prevent either destroying the other. . . . No possible ground of variance or even interference should be left, for there would the conflict commence, that might perhaps prove fatal to both. . . . If the federal government has a right to exercise direct legislation within the states, their respective sovereignties are at an end.[35]

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[33] "James Monroe: Some Observations on the Constitution," c. May 25, 1788, in ibid., 848, 850.

[34] Ibid., 857.

[35] Ibid., 858.

Monroe believed that the utmost priority in forming the revised government should be the equal protection of liberties for everyone in the republic with carefully constructed checks on federal powers. The power held by the federal government that he most feared was its power to tax, and thereby control or abuse, the states.[36]

Once the convention began debating the Constitution, this concern over taxation and direct federal involvement in the affairs of the states rose again and again. George Mason, seen as the logical voice of the Anti-federalists in the state of Virginia, represented Stafford County in the ratifying convention. Mason was the elder statesman of Virginia, having served in the House of Burgesses as early as 1758 and the revolutionary conventions of 1775 and 1776. He was the principal author of the Virginia Declaration of Rights and the Virginia Constitution of 1776, and therefore was widely respected throughout the country and certainly in his home state. In his speeches and writings during the convention, his fear of consolidated power and its potential abuse of the states' sovereignty surfaced repeatedly.

On June 4, 1788, Mason rose to address the ratification convention on the taxing power that the Constitution proposed to grant the federal Congress. He argued:

> The assumption of this power of laying direct taxes, does of itself, entirely change the confederation of the states into one consolidated government. . . . The very idea of converting what was formerly a confederation, to a consolidated government, is totally subversive of every principle which has hitherto governed us.[37]

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[36] Ibid., 867-68.

[37] Robert A. Rutland, ed., *The Papers of George Mason: 1725-1792* (3 vols., Chapel Hill: University of North Carolina Press, 1970), 3:1050-51.

While he may have rightly been accused of being overly dramatic, his fear was legitimate. Excessive and oppressive taxation was what had driven the colonies away from Great Britain, so Mason knew firsthand the danger inherent in the power to tax. Taxation was inextricably linked to representation in the minds of Americans, therefore arguments over taxation usually included concern over the limited number of representatives in the house holding the taxing power. Mason questioned whether so few representatives could truly know the will of so many citizens.

> Is it to be supposed that one national government will suit so extensive a country, embracing so many climates, and containing inhabitants so very different in manners, habits, and customs? It is ascertained by history that there never was a government over a very extensive country without destroying the liberties of the people.[38]

To adjust the Constitution to meet these objections, Mason drafted a set of resolutions recommending amendments. He called for explicit statements on the "Sovereignty, Freedom and Independence" of each state. Congress would be given the power to meddle in a state's affairs only after non-compliance on a matter affecting the general government, i.e., taxes or elections.[39] Mason summarized his intent, "There are many gentlemen in the U.S. who think it right, that we should have one great national consolidated government . . . but I hope there are many in this convention of a different opinion, and who see their political happiness resting on their state governments."[40] The Anti-federal Committee of Richmond concurred in Mason's sentiments and proposed

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[38] Ibid., 1051-2.

[39] Ibid., 1055.

[40] Ibid., 1102.

several amendments of its own. The committee sought explicit recourse for any possible future abuse of federal power. Its resolutions declared that if the national government failed to insure the "Benefit, Protection and Security of the People," it was the "indubitable, unalienable, and indefeasible Right to reform, alter, or to abolish it, and Establish another, in such Manner as shall be judged most conducive to the Public Weal."[41] The committee further specified amendments condemning the suspension or non-execution of laws without consent of the federal legislature, and affirming personal rights to freedom of speech, press, religion, and property.[42] The charismatic Patrick Henry introduced the collective efforts of Mason and the Richmond Caucus in the ratification convention on June 24, 1788.

Debates continued for over three weeks as Virginia and the country watched and waited for the climactic vote. James Madison was brilliant in his defense of the Constitution. While those who spoke against the proposal were passionate, no one could counter Madison's logical, methodical defense.[43] Though George Washington was not present at the convention, his letters to friends in Richmond clearly stated his support for the Constitution.[44] As Marshall noted, "so small . . . was the majority for the Constitution, as to afford strong ground for the opinion that had the influence of character been removed, the intrinsic merits of the instrument would not have secured its

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[41] Ibid., 1068-9.

[42] Ibid., 1070.

[43] Archibald Stuart to John Breckinridge, June 19, 1788, in Jensen, et al., eds., *The Documentary History*, 10:1651-52.

[44] Virginius Dabney, *Richmond: The Story of a City* (Rev. and exp. edition , Charlottesville: University Press of Virginia, 1990), 42.

adoption."[45] Thus, by the third week, complete rejection of the Constitution seemed unlikely; the focus soon shifted to the amendments many believed were needed. Should ratification be strictly conditional—dependent upon the adoption of proposed amendments—or could Virginia offer unfettered approval, request and suggest amendments, and trust the new Congress to follow through?

On June 25, the committee that had been meeting to work out a compromise between the factions involved was ready to report its recommendations to the whole assembly. It opened by reminding everyone that the powers granted to the new federal government originated in the people and that the people entrusted those powers in a limited fashion to the proposed government. The report acknowledged imperfections in the proposal, but believed that those should be "examined in the mode prescribed therein"—through the amending process called for in Article V of the Constitution. For the sake of the safety of the union, the committee supported this slower method rather than asking other states to consider amendments prior to adoption.[46] Therefore, the committee recommended ratification without conditions. After hearing the report, someone made a motion to amend the resolutions, calling for the addition of a declaration of rights and amendments before ratifying. This motion failed, but only by eight votes. Then, as the *Virginia Herald and Fredricksburg Advertiser* reported, "the main question"

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[45] Edward Payson Powell, *Nullification and Secession in the United States: A History of the Six Attempts During the First Century of the Republic* (New York: G.P. Putnam's Sons, 1897), 67.

[46] *Virginia Herald and Fredricksburg Advertiser*, July 3, 1788.

was put forward to ratify the Constitution; "it was resolved in the affirmative—ayes 89—noes 79."[47]

Prior to the adjournment of the convention, George Mason called for a meeting of the minority, purportedly to prepare a statement demonstrating support for the convention's decision and to diffuse any significant opposition that might arise upon news of ratification. *The Virginia Independent Chronicle* published a report from a spectator at the minority's meeting. Mason read a statement he had prepared, but, rather than being one of pacification, it seemed inflammatory. Mason's listeners attempted to suggest modifying the statement to no avail, until Benjamin Harrison, an Anti-federalist, proposed adjournment without action. He noted that "they had done their duty as free and independent men in opposing the constitution, but as it had been adopted by a majority of their countrymen it became their duty to submit as good citizens, until those destructive consequences to their liberty should appear."[48] He hoped there would never be cause to rebel. His fellowmen, including Patrick Henry, concurred with this sentiment and the meeting dispersed.

Virginia's notice of ratification, sent to the federal Congress, clearly reflected the fears expressed by so many during the convention. The convention declared that

> the powers granted under the Constitution, being derived from the people of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby remains with them at their will: That therefore no right of any denomination, can be cancelled, abridged, restrained or modified, by

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[47] Ibid.

[48] *Virginia Independent Chronicle*, n.d., reprinted in *Virginia Herald and Fredricksburg Advertiser*, July 17, 1788.

> the Congress . . . acting in any capacity, by the President or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes.[49]

Virginians wanted union between themselves and their fellow Americans, but were resistant to any complete consolidation among states. They sought to gain the benefits of association with the rest of the country without relinquishing interests that were purely Virginian or essential liberties for which they had fought.[50] A significant minority in Virginia remained unconvinced that government under the new Constitution could maintain the appropriate balance; their submission to Union under such a plan was reluctant.

Commentary on the Constitution's faults and merits continued after the Virginia convention adjourned. Some newspaper editorials mourned the "death of liberty" because of the Constitution's adoption,[51] but most celebrated the strengthened union. New York ratified shortly after Virginia, also recommending amendments that would more explicitly protect states' power and individual rights. The Anti-federalists in these two states called for a second constitutional convention to consider the amendments. But Federalists opposed a second convention, fearful that the work of the first would be undone and that postponement of an endorsed constitution would prolong the chaos of the confederation.[52]

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[49] Ibid.

[50] "Many," *Virginia Independent Chronicle*, June 18, 1788, in Jensen, et al., eds., *The Documentary History*, 10:1638-40.

[51] "An Obituary for Constitutional Liberty," *Virginia Gazette and Independent Chronicle*, June 28, 1788, in ibid., 1691-93.

The debate over amendments increased once the Virginia legislature convened in October. It was the legislature's duty to validate and give force to the new Constitution through any needed enactments in the state; however, the majority of the legislators were decidedly of Anti-federalist sentiment. Therefore, many counties across the state requested that amending the Constitution be the first priority of their legislators. Patrick Henry, his passion and fears lingering from the ratification convention, was the clear leader of the assembly and did not have to contend with the brilliance of Madison or the influence of Randolph as he had in early summer since the two were not members of the legislature. Henry declared that he would oppose all efforts to institute the new government, until the state had called for a second federal convention that would consider both structural and individual rights amendments. The legislature, meanwhile, endorsed the amendments drawn up at the ratifying convention, entailing twenty additions that would protect personal liberties and twenty more that significantly limited and specified the power of the federal government. Resolutions were drawn up and sent to the other states asking their support for and participation in a second convention. New York issued a circular letter calling for the same.[53]

The federal Congress, however, simply commenced business under the new plan in the spring of 1789, virtually ignoring suggestions for a second convention. Madison did compose a Bill of Rights for consideration as amendments in the method prescribed in the Constitution. This method of amending the Constitution was the slower way, but

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[52] "The Aftermath of Ratification: June-November 1788: Introduction," in ibid., 1709-12.

[53] Richard R. Beeman, *The Old Dominion and the New Nation, 1788-1801* (Lexington: University Press of Kentucky, 1972), 11-23.

offered Federalists more control over exactly what the proposed amendments would say. The congressional elections that had taken place in the fall and winter of 1788-89 had elected primarily Federalist legislators, a disappointment for Anti-federalists across the nation. Virginia was the only state to send both Anti-federalist senators and representatives to the new Congress.[54]

Madison, who had won a very tight race for the House of Representatives over James Monroe, became the chief advocate for adding a "Bill of Rights." He continued to believe it was unnecessary for actual protection from federal power, but realized that such amendments were essential for creating a solid majority of people across the country who supported the Constitution.[55] The Federalists in Congress, most of whom had been elected because of their support for amendments, were surprisingly reluctant to follow through. They busied themselves with setting up the monetary and judicial systems called for in the Constitution. It was August before they debated amendments and then sent only twelve primarily personal rights-oriented proposals to the states. This did suffice to calm fears in North Carolina and Rhode Island which entered the Union within six months. The appropriate number of states had approved ten of the proposed amendments by December 15, 1791.[56]

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[54] Ibid.; "The Aftermath," in Jensen, et al., eds., *The Documentary History,* 10:1709-12.

[55] "James Madison: Speech Placing the Proposed Bill-of-Rights Amendments before the House of Representatives," June 8, 1789, in Alpheus Thomas Mason, ed., *The States Rights Debate: Antifederalism and the Constitution* (2d ed., New York: Oxford University Press, 1972), 183-88.

[56] Helen E. Veit, Kenneth R. Bowling, Charlene Bangs Bickford, eds., *Creating the Bill of Rights: The Documentary Record from the First Federal Congress* (Baltimore: Johns Hopkins University Press, 1991), xi-xvii.

This small step in the right direction quieted the mass of Anti-federalist voices across the country. Letters from Richmond reported that politics were calm throughout the state.[57] Most people were willing to give the Constitution a try. The Anti-federalist leaders in Virginia, however, were disgusted with the lackluster efforts of Congress and remained convinced that the Constitution would be the downfall of state and individual rights. Some felt betrayed, for as James Madison noted in an August letter to Richard Peters of Philadelphia,

> In Virginia . . . the Constitution was adopted under a tacit compact in favor of some subsequent provisions. . . . It would have been certainly rejected, had no assurances been given by its advocates that such provisions would be pursued. . . . If no amendments be proposed the language of antifederal leaders to the people will be, we advised you not to adopt the Constitution without previous amendments. . . . In Virginia a majority of the Legislature last elected, is bitterly opposed to the government and will be joined, if no amendments be proposed, by great numbers of the other side who will complain of being deceived.[58]

Richard Henry Lee, serving as senator from Virginia in the new federal Congress, called the promise of amendments after ratification a "delusion altogether."[59] The "Bill of Rights" proposed, Lee believed, were still too weak and ambiguous to protect much of anything. He accused the Senate of revising the proposed amendments by "carefully cull[ing] the English language to find words feeble in their Nature or doubtful in their

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[57] Edmund Randolph to James Madison, Mar. 27, 1789, Patrick Henry to William Grayson, Mar. 31, 1789, Edward Carrington to James Madison, May 12, 1789, Edmund Randolph to James Madison, June 30, 1789, Archibald Stuart to James Madison, July 31, 1789, Edward Carrington to Henry Knox, Aug. 3, 1789, in ibid., 223-24, 226, 239, 256-27, 270, 271.

[58] James Madison to Richard Peters, Aug. 19, 1789, in ibid., 282.

[59] Richard Henry Lee to Patrick Henry, Sept. 14, 1789, in ibid., 295.

meaning."[60] Lee believed that the power held by the federal government was still sufficient to impinge on the rights declared in the amendments. He continued to believe that the "most essential danger from the present System arises . . . from its tendency to a Consolidated government, instead of a Union of Confederated States."[61] Senators Lee and Willam Grayson presented a grim report to the Virginia House of Delegates in late September, apologizing that the amendments to the Constitution looked very little like those Virginia had submitted. The Virginia legislature, however, observed the calm throughout the state and chose not to make Lee and Grayson's report public for fear of stirring up the tensions again.[62]

At this early point in the nation's history, Virginia had already demonstrated its proud independence, its passionate adherence to its sovereignty, and its struggle to walk the fine line of allegiance to both the Union and the Old Dominion.[63] Though a supporter of strength in unity under the Articles of Confederation, the state had stubbornly refused to submit to requisitions when other states were lax in doing so. Virginia was one of the earliest to call for a federal convention to strengthen the Articles, yet two of its

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[60] Richard Henry Lee to Patrick Henry, Sept. 27, 1789, in ibid., 298-99.

[61] Richard Henry Lee to Patrick Henry, Sept. 14, 1789, in ibid., 295.

[62] Richard Henry Lee and William Grayson to the Speaker of the Virginia House of Delegates, Sept. 28, 1789, in ibid., 299-300.

[63] Among those whose works support this statement are: Marie Tyler-McGraw, *At the Falls: Richmond, Virginia, and Its People* (Chapel Hill: University of North Carolina Press, 1994); Dabney, *Richmond*; William G. Shade, *Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861* (Charlottesville: University Press of Virginia, 1996); Saul Cornell, *The Other Founders: Anti-federalism and the Dissenting Tradition in America, 1788-1828* (Chapel Hill: University of North Carolina Press, 1999); Beeman, *The Old Dominion*; Henry T. Shanks, *The Secession Movement in Virginia, 1847-1861* (New York: Da Capo Press, 1970); and Beverley B. Munford, *Virginia's Attitude Toward Slavery and Secession* (New York: Longmans, Green, and Co., 1909).

representatives to that convention vocally and pointedly refused to sign the resulting proposal. In Madison, Virginia possessed the ablest defender of the federal system of Union under the Constitution, yet in Patrick Henry the state harbored the Constitution's most zealous critic. The fight over ratification amongst the brilliant statesmen of Virginia was the most closely contested in the country. While the state revered the Union from the outset, Virginia was quick to declare its ability to stand alone or join in a separate southern confederacy if necessary to protect its interests. From the time of the Philadelphia Convention and the commencing of a "more perfect Union" under the Constitution, Virginia sought to preserve the legitimacy and integrity of dual sovereignty, a task that became more arduous as the divide between the states around it developed into a chasm. Virginia's response to the constitutional issues that arose throughout the first several decades of Union exemplified the complications of the dichotomous loyalties to which it adhered.

CHAPTER 2

PRINCIPLES AND PRACTICALITY

A year and a half after the Philadelphia Convention adjourned, James Madison had stood in front of the newly-created House of Representatives and recommended twelve changes to the as yet untested Constitution. While Madison still claimed that an explicitly stated Bill of Rights was unnecessary, he believed that a careful statement of the rights and liberties that would remain secure under the Constitution would do nothing to harm the document's strength and would satisfy most moderate Anti-federalists. Ten years later, Madison was less confident that the strong government he had helped create would not abuse personal liberties or the states' sovereignty, even with the ten amendments that the states had adopted as the Bill of Rights. The acts of the federal government under the leadership of President John Adams throughout 1798-99 caused Madison to reconsider some of his earlier-held philosophy. He sounded more and more like the Anti-federalists against whom he had argued so brilliantly during the ratification process a decade earlier.

In 1798, the United States was again at risk of becoming embroiled in the instabilities that had plagued Europe and especially France during the 1790s. The strong federal government had been created in part due to the failure of the Confederation government to manage foreign economic affairs effectively. Since 1788, the new government's concerns continued to coalesce around the economic needs of the country, particularly those associated with trade overseas. France had been an ally since the American Revolution, but recently, the democratic revolution taking place in France was pursuing a course of action disturbing to many Americans. As the uproar in France

threatened the security of her European neighbors, tensions mounted and alliances became more risky. Commercial interests in the United States could not afford a break with Britain over loyalty to France, yet many Americans remained Anglophobic and decried any implied abandonment of the French as traitorous to democracy.

The second half of the decade brought Britain and the United States to the bargaining table and resulted in the weak Jay Treaty. The treaty with Britain and Adams's coolness toward the French revolutionary effort angered France. Adams recalled pro-French and Republican ambassador James Monroe to the U.S., and sent Charles C. Pinckney in his place. Miffed, the governing French Directory refused to receive him. Further, French naval vessels began harassing American trading ships within French harbors. Knowing that a hostile response was not a wise course of action for the fledgling country, Adams sent John Marshall and Elbridge Gerry to assist Pinckney in attempting to restore diplomatic relations with France. The French minister Talleyrand sent secret emissaries to meet the Americans, rather than receiving them himself. The French messengers demanded a bribe from the American ambassadors in return for peace with France. Marshall, Pinckney, and Gerry were insulted; and, in defense of American pride and independence, they returned to the U.S. to reveal the deceit and corrupt actions of the French. Appalled, some Americans called for war in retaliation. The conservative Adams, resistant to a costly war, did commence moderate war preparations. He also allowed American naval vessels to interfere with French trade. Throughout 1798-99, the United States walked a tightrope of diplomacy with the European powers.

Ostensibly to prevent internal division from weakening any possible military engagement with Europe, the Adams administration called for legislative action that would encourage unity among Americans. Across the country, newspapers and citizens were bickering over their preferred loyalties to France or Britain. Some Americans saw alliance with Britain as an endorsement of monarchy; further, champions of democracy believed that the U.S. could not desert France in her effort to establish a republican form of government. Others depended on the trade benefits of a peaceful relationship with Britain and called for an alliance with the British against the French. Also, many Americans were disturbed by the violence and chaos which characterized the French Revolution. Thus, the Adams administration struggled to present a united American front in its diplomatic maneuverings with Europe. Congress responded to Adams's request by passing two acts, known as the Alien and Sedition acts.

The Alien Act restricted European, and especially French, immigration, and threatened to send home those aliens thought to foster dissent. The Sedition Act prohibited the "printing, publishing, uttering or writing [of] any thing whatever that may be construed to defame, or bring into disrepute or excite the hatred of the people against the President, the Congress or either houses thereof; into which may be construed any expression of censure issuing from the Press, or even found in the written correspondence of individuals."[1] While Federalists defended the right of the federal government to establish these acts as constitutional protection of the republican form of government in the states, Republicans saw this justification as a smoke-screen for an attempt to quiet

[1] *Virginia Argus*, Oct. 12, 1798.

criticism of the Adams administration. Protests erupted across the country as many Americans believed their liberties were being unconstitutionally trounced upon.

Edward Payson Powell reports that "popular protest against the acts of Congress of '98 grew rapidly in force. Indignation passed into alarm."[2] Richmonder John P. Little recorded,

> During the summer of 1798, Virginia and the whole Union were agitated, from one end to the other, by the passage of the Alien and Sedition Laws. . . . Far more excitement prevailed than during the momentous times of '88 [in Virginia] and a stormy session of the Legislature was looked for.[3]

Virginia, with eminent leaders such as Thomas Jefferson, James Madison, and James Monroe, had become a stronghold of Republican sentiment. Only one of its nineteen congressmen voted for the Alien and Sedition Acts. As a commercial city, Richmond harbored a significant Federalist minority, but Republicans still swayed most Richmonders at the polls.[4]

The Republican government in Richmond had for some time believed that the federal government was inching closer to encroachment on personal liberties. Little reports that the legislature of Virginia quietly formed an armory and "encouraged" the manufacture of arms in preparation for any future confrontation with the federal government. The Alien and Sedition acts were more offensive than the Republicans had

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[2] Edward Payson Powell, *Nullification and Secession in the United States: A History of the Six Attempts during the First Century of the Republic* (New York: G.P. Putnam's Sons, 1897), 63.

[3] John P. Little, *History of Richmond* (Richmond: The Dietz Printing Company, 1933), 94.

[4] "Congressional Election Campaign: Editorial Note," in Herbert A. Johnson, ed., *The Papers of John Marshall* (10 vols. to date, Chapel Hill: University of North Carolina Press, 1974-), 3:495-96.

expected. Little notes the astonishment of Richmonders at the power assumed by the acts; this "excited the most strenuous efforts to combat them."[5]

Richmond newspapers reflected almost unanimous revulsion to the acts. As early as June, the young men of Richmond were questioning the President's motives with France and requested a rationale for their joining an increased army. At a meeting on June 11, 1798, they expressed their loyalty to defend the Union against any foreign invasion, even to the death, but pledged "unanimity and death, or victory . . . even against our own government should it lead to tyranny or oppression."[6] Henry Tazewell, Virginia senator, spoke against the constitutionality of the Alien Act, believing that it trampled on state sovereignty and "create[d] an arbitrary and despotic power."[7] In August, Richmond newspapers printed the Sedition Act. The *Virginia Herald* of September 4 declared that "the real friends to the liberties and happiness of America will rejoice at the decided part which the people of Virginia have taken against the alien and sedition bills." It reported well-attended meetings around the state expressing their "strongest disapprobation . . . . against the late obnoxious acts of government," and calling for a vindication of the liberties of speech, press, and trial by jury.[8] Majorities of twenty and thirty to one opposed the "diabolical acts," and called for their repeal.[9] By October, the criticism of the Adams administration had grown so strident that meetings were held to remind

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[5] Little, *History of Richmond*, 91, 94.

[6] *Virginia Herald*, June 16, 1798.

[7] *Virginia Gazette and General Advertiser*, July 17, 1798.

[8] *Virginia Herald*, Sept. 4, 1798.

[9] Ibid., Sept. 18, 1798.

Virginians of their loyalty to the Union and to encourage moderation while opposing the two laws "which have excited so much jealousy and alarm." There were very few who saw the acts as "necessary and proper" to guarantee "every state in the Union a republican form of government" and protection from invasion.[10]

While many Americans quickly recognized the affront to their rights that the acts represented, not all cared to delve into the constitutional theory of federalism or lawful resistance to the federal government. Some debate did appear in the newspapers as candidates geared up for elections to the House of Representatives which would take place in the spring of 1799. Marshall had returned from his mission to France and received a hero's welcome for standing up to the French ministers. George Washington urged him to enter the contest for office. Marshall's popularity upon his return increased his chances for success in the primarily Republican district, despite his Federalist views. His opponent John Clopton was the incumbent and had a strong record of resistance to federal power. He had voted against the Alien and Sedition acts and believed them to be unconstitutional.

A "Freeholder" posed queries in the *Virginia Herald* for Marshall, seeking a declaration of his views on the Acts. Marshall responded,

> I am not an advocate of the alien and sedition bills. . . . Yet, I do not think them fraught with all those mischiefs which many gentlemen ascribe to them. I should have opposed them, because I think them useless; and because they are calculated to create, unnecessarily, discontents.[11]

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[10] *United States Constitution*, Art. 1, Sec. 8; Art. 4, Sec. 4.

[11] *Virginia Herald*, Oct. 2, 1798.

A "Republican" then challenged Marshall's reasoning for rejecting the bills, believing it important to establish their unconstitutionality.[12] Clopton was vehement in his support of the Constitution's checks on federal power and in his belief that the Alien and Sedition acts overstepped proper boundaries.[13] The question of the constitutionality of the acts proved to be the only substantial political debate of the legislative contest.[14]

In late November, a lengthy argument appearing in the *Virginia Argus* debated the question. "Philodemos" opened by asserting that "before the new government was formed the state governments existed," and then explained that he sought to "ascertain what powers the state of Virginia designed to transfer to congress by the adoption" of the Constitution. He cited "a distinguished opponent to, and . . . a powerful advocate for, its adoption," Patrick Henry and Henry Lee, to support his argument that the acts violated the Constitution.[15]

Philodemos first recalled the warnings issued regarding the doctrine of implication. Proponents of the Constitution in its original form had claimed that the protection of personal liberties was implied. Henry had said, "If they can use implication for us, they can use implication against us. . . . Implication is dangerous because it is unbounded. . . . If we trust our dearest rights to implication, we shall be in a very unhappy situation." Lee had believed a Bill of Rights unnecessary, because "the rulers have no powers but what are enumerated in that paper." A debate over constitutionality

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[12] *Virginia Argus*, Oct. 26, 1798.

[13] "Congressional Election Campaign," Johnson, ed., *The Papers of Marshall*, 3:499.

[14] *Virginia Argus*, Oct. 12, 1798.

[15] Ibid., Nov. 27, 1798.

would be subjected to the following query: "Is it enumerated in the Constitution? If it be, it is legal and just. It is otherwise arbitrary and unconstitutional."[16] Thus, both Henry and Lee, on opposite sides of the ratification question, concurred in a call for a strict interpretation of the Constitution on the subjects of power and liberty.

Having summoned the authority of the Framers to establish the accepted limitations on federal power, Philodemos next investigated whether or not the power recently wielded by the Adams administration exceeded the limits. He cited the preamble to the governing document, reminding readers that the people granted certain power to the federal government and that whatever was not granted remained with the people of the states. Considering each power wielded by the federal government under the acts, Philodemos showed its reservation to the states, expressly or by implication of limited sovereignty. Specifically, Virginia in her form of ratification had declared that "liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States." Even the federal Congress, when creating the preamble to the Bill of Rights, had justified the amendments by stating,

> The convention of a number of states having at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added. . . .

Philodemos closed by dealing the blow of logic: "Considering the design then, with which the amendments were proposed, and with which congress declare them,--Is it

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[16] Ibid.

possible that congress could have a right to act upon the subject in question?" His clear but unwritten answer is negative.[17]

James Madison agreed with the conclusions of Philodemos. The Alien and Sedition acts had roused Madison's attention despite his official retirement the previous year. Jefferson and he had discussed the need for significant protest from the people of the nation in order to gain Federalist attention. Late in November 1798, Madison prepared a declaration of protest, using resolutions Jefferson had authored as a reference point.

Madison's resolutions began by expressing support for the Constitution and the "Union of States," but declared that the states were duty-bound to protest infringements upon "those principles which constitute the only basis of that union." Madison and Jefferson both viewed the Constitution as a "compact to which the states are parties," and were concerned about what they saw as the enlargement of the powers of the federal government defended by a loose interpretation of the Constitution. Both sets of resolutions expressed alarm at the "infractions of the constitution" which the Alien and Sedition acts represented. Madison pointed explicitly to the federal government's lack of power to dismiss someone from the country without a trial and expressed incredulity that the Sedition Act exercised a power "expressly and positively forbidden" to the federal government in the Constitution. This abuse of power "more than any other ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people, . . . the

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[17] Ibid.

only effectual guardian of any other right." Madison also cited Virginia's form of ratification and her recommendation of the specific amendment that protected the freedom of speech and press. He declared that

> in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the states who are parties thereto 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.

Jefferson had gone so far as to declare the acts void and without legitimate authority; Madison was less clear about how the states should "interpose," but called for consideration of the principles by other states and for their joint action against the unconstitutional Acts.[18]

Richmond observed two weeks of debate on the resolutions authored by James Madison as they were introduced at the beginning of the new legislative session in early December. The resolutions were thought to be the work of John Taylor of Caroline, a man "well-known for his attachment to republican principles."[19] Madison had asked that Taylor introduce them into the legislature as their author watched from a distance. Writing prior to the Civil War, Richmond historian John P. Little said that what became known as the Virginia Resolutions were "subjected to the most thorough and fierce ordeal that the rancour of party spirit, aided by strong and well-informed intellects, can devise; and they have stood the test."[20] In early 1799, Virginia submitted the Resolutions

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[18] "Virginia Resolutions: Editorial Note and Text," in William T. Hutchinson and William M.E. Rachal, et al., eds., *The Papers of James Madison* (17 vols. to date, Chicago: University of Chicago Press; Charlottesville: University Press of Virginia, 1962-), 17:185-90.

[19] Little, *History of Richmond*, 95.

[20] Ibid., 94-95.

to the other states for their perusal and reaction. Combined with Kentucky's version of the Resolutions, prepared by Jefferson, the Virginia Resolutions were criticized for their expression of disloyal, disunionist sympathies. With the deceitful actions of France and the tensions on the high seas playing in Adams's favor, most states believed the country needed to unify and present a strong defensive stance to the European nation. They were hesitant to endorse resolutions that brought serious charges against the administration regarding such crucial and foundational issues.

Over the next twelve months, Richmond led Virginia's resistance to the Alien and Sedition acts. The "great armory" built at Richmond and the obstinate non-enforcement of the acts in the capital city caused Adams to term Virginia's position as "menacing."[21] Material maligning the Adams administration was published and circulated throughout Richmond; records show that several of the city's prominent citizens purchased such books and pamphlets.[22] Letters sent out of Richmond were more cautious. Richmonder Everand Meade wrote his nephew James to advise him on several "principles" and "convictions." Meade feared the "fetters" forged by the federal government on the people and the states would, in a "very little time," bring about monarchy. He bemoaned the raising of troops without a declaration of war, the strengthening of the navy, and the increased taxation to support the military build-up. He said, "It has been long my opinion that a secession from the union is the only thing that can save the southern States." Southerners' common interests would allow a union among them to be beneficial and not

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[21] Powell, *Nullification and Secession: Six Attempts*, 65.

[22] Bookseller and printer Samuel Pleasants, publisher and attorney James Lyons, William Duval, John Dixon, and Meriwether Jones are examples. United States v. Callender, 25 F. Cas. 239 (D. Virg. 1800).

oppressive. Meade concluded by expressing his fear that he "may come under the Sedition law for saying this much," but he refused to have his freedom of speech subjugated by an unconstitutional statute.[23] Even Madison's letters regarding the acts were guarded out of respect for the penalties his negative opinions could incur.[24]

In the spring of 1800, Richmonder James Thompson Callender faced charges under the Sedition law for writing and publishing "a false, scandalous, and malicious writing against the president of the United States." Callender had written a book, entitled *The Prospect Before Us*, in which he had contended that Adams's "grand object" had been to "exasperate the rage of contending parties, to calumniate and destroy every man who differs from his opinions." Callender accused Adams of inciting hostilities with France in order to pursue a British alliance, and of using funds to pay bureaucrats rather than Revolutionary veterans. He even implied that Adams was responsible for the death of a Connecticut sailor. Callender was indicted and tried in federal court, Samuel Chase presiding.[25] John P. Little reported that the trial "agitated" Richmond for some time.[26]

Callender's prominent Richmond attorneys, state Attorney General Philip Norborne Nicholas, George Hay, and William Wirt, defended Callender on two points: "First, that a law contrary to the [C]onstitution is void"; and second, that if the jury in the

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[23] Everand Meade to James, (month illegible) 27, 1799, Cocke Family Papers, Virginia Historical Society, Richmond.

[24] Drew R. McCoy, *The Last of the Fathers: James Madison and the Republican Legacy* (Cambridge: Cambridge University Press, 1989), 142-43.

[25] United States v. Callender, 25 F. Cas. 239 (D. Virg. 1800).

[26] Little, *History of Richmond*, 99.

Callender case determined that the Sedition Act was "contrary to the [C]onstitution," they could not find him guilty under it. Chase had been warned that the Virginian lawyers would raise this point, but he claimed that the first Congress had established the national judiciary, not a petit jury, as the final authority on the constitutionality of a law. Thus, in Chase's view, no matter the jury's opinion of the Sedition Act, it was bound to judge Callender by it. All parties involved in the case conceded that "a question of great importance depends on this decision; much of the public happiness, of the public peace, of the public liberty, depend on the final decision which shall be pronounced on this subject."[27] Chase's interpretation governed the trial, despite the defense's strenuous efforts to derail any attempt to convict Callender and instead make a constitutional statement about the Act. Callender was found guilty and spent nine months in jail, and Richmond remained bitter about the verdict for some time.

John P. Little believed that the Callender verdict represented an attempt by a representative of the federal government, namely Judge Chase, to "intimidate where most opposition [to the Sedition Act] had been made."[28] Little reports that, though the law remained in effect, Virginians' belief in its unconstitutionality caused people to retaliate "by the ballot-box," removing from office those who had voted for or upheld the law.[29] Other Virginians were indicted under the Alien or Sedition laws, and a few were convicted. Interestingly, all those convicted under the acts were Republicans.

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[27] United States v. Callender, 25 F. Cas. 239 (D. Virg. 1800).

[28] Little, *History of Richmond*, 99.

[29] Ibid.

The champions of the Republican party dominated the Virginia legislature again in December 1799. James Madison and John Taylor led the challenge to Federalist policies for a second term. Republicans carefully pieced together a report defending the much-maligned Resolutions from 1798. While the resolutions had been designed for the dramatic impact they were intended to achieve, the Report that was submitted to the full assembly in January 1800 was an in-depth exposition of federal-state relations and the nature of the governing compact. Madison, the primary author of the Report, maintained that states did indeed have ultimate sovereignty and thereby possessed the right to dissolve the compact they each had made with the federal government. He was adamant, however, that this right be exercised only in clear-cut, extreme cases as the last resort. He stressed that

> in the case of an intimate and constitutional union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by measures only deeply and essentially affecting the vital principles of their political system. . . . [The violation of the Constitution] must be of a nature dangerous to the great purposes for which the Constitution was established.[30]

Further, a majority of the people of the state must see the violation as irreconcilable apart from disunion. Madison did not claim that the Virginia Resolutions of 1798 had attempted this step, but rather had expressed the Virginia legislature's opinion on the constitutionality of the Alien and Sedition acts.[31] Madison defined the sovereign "state" as the people making up the political society, not the government of the state or the legislature of the state. Therefore, Virginia's legislature did not have the authority to

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[30] Jack N. Rakove, ed., *James Madison: Writings* (New York: The Library of America, 1999), 609-14.

[31] Ibid.; Richard R. Beeman, *The Old Dominion and the New Nation, 1788-1801* (Lexington: University Press of Kentucky, 1972), 213-15.

speak conclusively for the sovereign people of Virginia on so grave an issue; they had not been elected explicitly for that purpose.

The rhetoric coming out of Richmond in 1798-99 contributed significantly to the understanding of Virginians and southerners attempting to interpret the nature of government under the Constitution. Little credits Madison's Report for settling

> the question in the minds of most men; and [giving] to our people the first clear and well-understood character of the Constitution. . . . [It] serve[s] as a standard by which to measure the powers of the Constitution. . . . No point in politics is now better understood and believed in than that these laws were unconstitutional and unjust; no man now defends them, and no party would ever adopt them.[32]

Voting records indicate that in 1788 Richmond and the Tidewater counties surrounding it had been moderately Federalist. By 1800, this area had shifted decisively into the Republican camp.[33] As in 1788, Richmond again had been the site of a serious and thorough examination of the principles of the Constitution. Once again, the city registered its concern regarding a proper balance of power and questioned whether the federal government was too strong. The measures taken in 1789 to appease such fears had not protected Richmonders such as James Callender; the federal government demonstrated that its authority extended into freedoms supposedly guaranteed and protected by the Bill of Rights.

Now, the dissenting voice drew upon the Anti-federalist arguments made during ratification while protesting the Alien and Sedition acts. They looked once again to the compact theory of government and the idea of federalism to provide protection for

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[32] Little, *History of Richmond*, 95, 98.

[33] Charles Henry Ambler, *Sectionalism in Virginia from 1776-1861* (repr., New York: Russell & Russell, Inc., 1964), 58-72.

liberty. Many felt that the power wielded under the Adams administration had violated the compact between the federal government and the people of the states. The balance of power had been tipped, with the central government weighing in with the heavy hand; some who remembered the compact's establishment firsthand, as well as others new to the political arena, feared the intent of the Constitution had been violated. Dissenters in this new era faced the task of explaining how to challenge the constitutionality of a law in a legal way; in 1788, dissenters had predicted the inability of the Constitution to protect liberties in the first place. The opposition of 1798 did not forsake the Union or the Constitution; yet they were just as concerned as old Anti-federalists about how to ensure their rights and liberties. Their dissension required a more complete look at the provisions of the Constitution and the method by which any abuse of power should be checked. In 1788, those wary of federal power lobbied for a new convention, a rejection of the proposed Constitution, or required, precise amendments. In 1798, solutions had to be sought under the Constitution; Virginia had given its allegiance to the Union and, as state and constitutional father James Madison had advised, it would take grievous wrongs to cause the state to back out. As Virginians withstood the consequences that were brought upon them by the acts which impinged their freedom of speech, they demonstrated their great forbearance of unconstitutional abuse for the sake of preserving the Union. Still, the dissenters of 1798 entreated Federalists to curb their use of power through the national government and restore a narrow interpretation of the Constitution.[34]

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[34] For a more in-depth look at the role of Anti-federalist thought after ratification and specifically during the 1798-99 crisis, see Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828* (Chapel Hill: University of North Carolina Press, 1999), 221-45.

Once again, however, the dissenting minority blinked first. While Virginia and Kentucky hailed the Resolutions and Madison's Report, most states, and certainly the federal government, reviled them. The Alien and Sedition acts remained in effect throughout their appointed term, and as previously mentioned, Americans were indicted and convicted under them. The opposition was caught again by the concept of Union under the Constitution—a Union that most wanted under a Constitution that did not clearly explain how to keep it. Madison was unprepared to go to any extreme in taking a stand against the federal government, a move which would have affirmed the right of secession, and possibly even recommended this action. The Constitution had established the Supreme Court to determine the constitutionality of federal acts, yet as a branch of the federal government itself, the Supreme Court's jurisdiction represented a conflict of interests. According to the underlying theory of the Constitution as a compact among sovereign states, the states—as the parties to the compact—should be the ones to determine the constitutionality of an act of the federal government and overturn unconstitutional statutes. But Madison, like others, was unsure how this should work. How could the Union exist energetically in the face of challenges by individual states regarding any law they deemed illegal? This was obviously impractical, and yet if states could not interpose on constitutional abuses of power that they felt were being ignored by Congress and the President—and upheld by the Supreme Court—what recourse did the states have? In a system of divided sovereignty, logically each division would check the power of the other. Could the states embrace this privilege and responsibility within the practical confines of a vibrant Union?

Madison could not answer this question, and in 1798, neither could anyone else in Virginia. They were forced to settle on a continued hope that the existing balance of interests represented in the federal government and the goodwill of officeholders would be enough to guarantee federal policies that all could live with so that no challenge to federal power was needed. As long as policies were not enacted or a majority empowered that severely abused or restricted the rights and interests of individuals or significant minorities, including states themselves, then the difficult question could go unanswered. After all, most differences between any substantial interests in the country did not involve matters "deeply and essentially" affecting vital principles of the Union or its grand purpose under the Constitution. Madison actively involved himself in the upcoming congressional and presidential elections of 1800, for the only way he believed the current controversy would be resolved was by an overturning of Federalist power in the executive and legislative branches. With Republicans in power, liberties would not be threatened and further consolidation of power within the federal government would be halted. The threat to the Union would be abated.

Once Jefferson entered the White House after the election of 1800, Madison hoped to see a stricter interpretation of the Constitution dictate the new President's actions and become the trend of a long line of executives. He hoped the executive would adhere to the principles of federalism he had outlined in the resolutions and reports of the previous years. But the first three decades of the new century brought about situations that the Constitution had not addressed. Expediency dictated the wielding of questionable power by the federal government in cases such as the Louisiana Purchase, the Bank of the United States, and internal improvements. Many Americans benefited

from these exercises of power, but men loyal to the principles of strict construction continued to maintain the unconstitutionality of those acts, despite the positive results.

In 1830, Edward Everett, at this time a U.S. Representative from Massachusetts, asked Madison to comment on the principles of '98 in relation to the newest clash of federal and state interests. Passage in the 1828 congressional session of the increased tariff on foreign-made manufactured goods had incensed southern states dependent on these items as barter for the staple crops needed by Europe. They asserted that the tariff unfairly penalized their agricultural economies and benefited the more commercial northern states. While the Constitution clearly allowed for taxes to raise revenue and charged the federal government with regulating commerce, it also called for equality among the states and forbid policies that benefited one section of the country to the detriment of another section.

Throughout the early 1800s, southerners had increasingly objected to the protective tariff as a violation of those latter constitutional principles; they began to call for its reduction or repeal. An increased tariff had been passed in 1824 over southern objections as a short-term necessity; but upon its increase again in 1828 and its resistance to repeal after the 1830 congressional elections, the southern protest rose to a crescendo. This protest had limited effect; for though the 1832 tariff was lower than in previous years, it still exceeded the level called for in the South. Finally, South Carolina threatened to declare that the law was null and void within her borders.

The "nullifiers" within the state claimed that this "constitutional remedy" was the only option in the face of the discriminatory, destructive, and unconstitutional measure which even elections had proven unable to overturn. Further, South Carolina cited the

authors and principles of the 1798 Resolutions in defense of any nullifying action. This was the crisis about which Representative Everett sought guidance. Everett received a long but cogently-argued reply to his request to Madison for clarification. The letter was eventually published in the *National Intelligencer* of January 12, 1833.

In it, Madison stated his belief that the '98 Resolutions had been "misconceived" by the nullifiers who used them in defense of their actions. The Resolutions had been constructed in an attempt to define and defend the original intent of those who had ratified the Constitution in relation to the division of power between the state and federal governments. When questioning the constitutionality of an act such as nullification, Madison believed that, with no example prior to 1788 to fall back upon, it was essential to recollect the intentions of those who ratified the governing document. Did those who gave the federal and state governments their authority and power under the Constitution intend for nullification to be a viable check on federal power? If so, what body had legal right to utilize such a tool—state legislatures, specially elected state conventions, a certain portion of the states acting in concert? The '98 Resolutions were drafted to convey Virginia's viewpoint on the proper interpretation of balance of power under the Constitution, based on that state's understanding and assumptions during the ratification process. In his letter to Everett, then, Madison sought to reiterate the constitutional doctrine proposed by the '98 Resolutions and expounded upon by the Report of 1800.[35]

The Constitution, claimed Madison, is unique in its method of formation and in its division of supreme power. Madison emphasized that the form of government is neither

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[35] James Madison to Edward Everett, Aug. 1830, repr. in the *National Intelligencer*, Jan. 12, 1833.

confederated nor consolidated, but a mixture of both. The authority behind this form of government may be found in "the people in each of the States, acting in their highest sovereign capacity; . . . the same authority which formed the State Constitutions." Thus, "it cannot be altered or annulled at the will of the States individually." This was where the nullifiers erred in their assumption of constitutional remedies. The appropriate response, according to Madison, would be adherence to federal law while waiting for a convention of states to consider the constitutionality of the tariff. For although controversies concerning the proper boundaries of jurisdiction over the power shared by the general and state governments were to be expected, it was impractical for the protest of one state to render powerless a law passed by a majority of the federal legislature. This, averred Madison, was what the Articles of Confederation allowed for and was precisely why they were replaced.[36]

If indeed the general government was found to be abusing its power and usurping the rights of the states, the first step was to amend the Constitution. If this was not possible or not successful—"in the event of a failure of every constitutional resort"—and if the abuses are so great that they produced "a greater evil than resistance and revolution," then the state had as its cautiously taken last resort "an appeal from the cancelled obligations of the constitutional compact to original rights and the law of self-preservation." Madison stated that the natural right to make this appeal "cannot be doubted" in light of the way the government was formed.[37]

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[36] Ibid.

[37] Ibid.

Madison stated that the Resolutions and the Report he had authored for Virginia in 1798 and 1800 had been intended to protest the unconstitutionality of the Alien and Sedition acts, warn against "encroachment" by the general government, point out other instances where the general government had overstepped its legitimate authority, caution against deriving power "by implication," and encourage watchfulness over the "consolidating tendencies" of federal policies. "But nothing is said that can be understood to look to means of maintaining the rights of the States, beyond the regular ones, within the forms of the Constitution."[38]

Finally, Madison pointed out that had the messages out of Virginia called for extra-constitutional remedies, its sister states would have registered loud protest. Instead, though they defended the Alien and Sedition acts and accused Virginia of unwisely threatening the stability of the Union, they did not denounce that state's right to raise a challenge to the acts. They certainly did not perceive Virginia as attempting to nullify the acts within its own borders or propose any other unconstitutional measure.[39] As John P. Little pointed out in 1851, throughout Virginia's protest against the acts, "no opposition to law, no mob, nothing like nullification disgraced the Capital of Virginia. . . . The noble stand taken by Virginia was rendered more imposing by the patience with which she bore legal injury, and by the means of legal redress which she adopted."[40]

Indeed, in 1832-33, Richmond once again took a moderate stand on the proper recourse a state should take in the face of an imbalance in power. Its newspapers were

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[38] Ibid.

[39] Ibid.

[40] Little, *History of Richmond*, 99.

full of commentary on South Carolina's position. As a commercial center in Virginia with growing success in manufacturing, Richmond itself was less threatened by a rising tariff. Yet it sympathized with the plight of South Carolina and Georgia, states dependent on profit from the trade of staple crops and defensive about rising northern sentiment against the slave system that harvested their fields. Though Richmond had discussed emancipation more frequently in recent years, the domestic slave trade was proving more profitable than raising tobacco in the Old Dominion. Slaves were used in the factories of Richmond more often than they populated any fields surrounding the capital. Nat Turner's attempted slave rebellion in 1831 had brought any abolitionist movements in Virginia to a screeching halt. The white society remembered once more that in order to control the black population among them, slavery must continue. They believed that freeing the people who made up between one-third and one-half the city's population was risky, unwise, and a threat to their stability and superior position in society. Thus, they continued to defend the enslavement of blacks that characterized their own way of life, and made South Carolina's agricultural economy profitable—the same economy threatened by the rising tariff.[41]

To complicate further the issue of federal-state relations, a presidential election was just around the corner. Andrew Jackson of Tennessee had been elected in 1828 as a southern Democrat, but his presidency had divided his party. Conflict within his administration, his crude and often autocratic demeanor, and his unwillingness to take a strong and active stand against the tariff had made many in the tidewater and piedmont

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[41] Marie Tyler-McGraw, *At the Falls: Richmond, Virginia, and Its People* (Chapel Hill: University of North Carolina Press, 1994), 107-13, 123-25.

districts of Virginia reluctant supporters.[42] Jackson had also sided with Webster in his debate against South Carolina's Robert Y. Hayne in which Webster offered strong rebuttal to a state-compact theory of constitutional government and compellingly asserted a nationalistic view of the Constitution.[43] Thus, moderate southerners and Democrats struggled in 1832 to justify continued endorsement of Jackson, and hoped for better representation of their interests by placing Virginia's Philip P. Barbour on the ticket as vice president in place of the tariff-supporting New Yorker, Martin Van Buren. The Democratic party in Virginia divided over this strategy, some feeling Barbour had little chance for election.[44]

The rhetoric surrounding Richmond, then, was complex. While most newspaper articles, meetings, and speeches focused on one or two of the issues, they nevertheless represented a common theme. Regarding the acceptance of Van Buren as Vice President, "One of the People" declared, "it would be a gross violation of principle in Virginia; . . . To vote for him who had knowingly prostrated the constitution of his country, and sustained an odious act of oppression, would be to violate all the principles by which the Old Dominion has been governed."[45] "A Planter" observed, "The vote of Virginia for

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[42] Powell, *Nullification and Secession: Six Attempts*, 265-66; Richard E. Ellis, *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York: Oxford University Press, 1987), 123-27.

[43] Glyndon G. Van Deusen, *The Jacksonian Era: 1828-1848* (New York: Harper & Brothers, 1959), 42-45.

[44] *Richmond Enquirer*, May 22, July 10, 1832; John Floyd to John C. Calhoun, Jan. 2, 1832, in Robert L. Meriwether, et al., eds., *The Papers of John C. Calhoun* (25 vols. to date, Columbia: University of South Carolina Press, 1959-), 11:536-37.

[45] *Richmond Enquirer*, May 25, 1832.

Judge Barbour . . . is a vindication of the consistent and durable purpose of the State to adhere to her own doctrines; . . . the constitutional doctrines of '98."[46]

There was extensive commentary about the tariff. "It is contrary to that liberal and conciliatory spirit, . . . in which the Constitution was framed. . . . It preys upon one section of the Union; and it pampers another."[47] "It is at war . . . with the character of a federal constitution, and of an extended empire, embracing of course a diversity of local interests. . . . If such a power, as is assumed by the present Tariff, had been engrafted into the Constitution, it would never have been adopted."[48] And, "Virginia is devoted to the Union of the States. But, when we look to the infatuation and obstinacy of the advocates of the manufacturers, and when we turn to the dark cloud which hovers over S. Carolina; how can we help quailing at the very idea of an adjourned Congress and an unadjusted Tariff?"[49] John Tyler of Richmond, serving as Senator in Washington, noted that the nature of the confederacy under the Constitution made the tariff a violation of the "original design," namely equality among the members of the compact—the states. He decried the wrongs perpetrated "through the agency of a Government formed for the benefit of all" in which the "fortunes" of one region were built up "at the expense of another."[50]

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[46] Ibid., June 22, 1832.

[47] Ibid., Jan. 24, 1832.

[48] Ibid., Mar. 13, 1832.

[49] Ibid., June 26, 1832.

[50] Ibid., Mar. 15, 1832.

Tyler also took a stand against federal appropriations for improvements within individual states, such as the removal of obstructions in the James River which many in Richmond supported. Tyler believed such appropriations were discriminatory, and therefore "odious, because it is contrary to the Constitution of our country."[51] Another Richmonder, quoting a small Virginia paper, reminded those in support of "the construction of roads and canals" by the Federal Government that it was "indispensably necessary, that a previous amendment of the Constitution, delegating the necessary power, and defining and restricting its exercise with reference to the sovereignty of the States, should be made."[52]

Some citizens lodged occasional protest against the increasing volume of northern abolitionist pamphlets. Debate in the Virginia House of Delegates in January emphasized the constitutional guidelines on slavery; one speaker expressed disbelief that any debate existed on this point, reminding his listeners of the slaves owned by the Framers themselves. The Constitution clearly provided for slavery in the United States, and Southerners claimed that the Constitution would have never been ratified by southern states without explicit provision for the institution. Many in Virginia believed that the federal government should call on the northern state governments to restrain abolitionist "fanatics" who incited "sedition and rebellion" in slave-holding states since under the Constitution states were to be equal and loyal to one another.[53]

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[51] Ibid., June 26, 1832.

[52] *Maysville Message*, quoted in ibid., July 10, 1832.

[53] Ibid., Jan. 21, 1832.

Thus, central to all the controversial issues of the day was Richmond's desire to preserve the Union as well as state interests, encourage loyal adherence to the Constitution, and to discover remedies for federal usurpation of power through constitutional means. This, then, explains its stance on nullification. Most Richmonders sympathized with South Carolina's resistance to an infringement on its rights as a sovereign state, but believed its method unconstitutional. This sentiment is expressed in concise fashion by the toasts offered for the Independence Day celebrations in and around Richmond:

> The Protective System: Unjust and unequal in its operations—may Virginia, with her sister States of the South, proclaim aloud resistance under such oppression.
> Virginia, our mother State: Not unlike South Carolina and Georgia, may she prove true to her own interest.
> Nullification—That dark and boding raven, should it perch on one of the branches of the "tree of liberty," will be a sad omen of our departed prospects for peace, power and greatness.
> State Rights, as contended for by Thomas Jefferson. The strong citadel of our political freedom: if we suffer it to be stormed, the days of our liberty are numbered.
> James Madison, the able expounder of the Federal Constitution, and firm defender of State Rights.
> The Union—We have counted the cost of its preservation, and find that in knocking off the Nullifiers and ultra Tariffites, as hopeless debt, we have a fund of patriotism sufficient to discharge it.[54]

Another publication in the *Enquirer* offered a lengthier summary of Virginia's position, beginning, "Virginia abhors as much as [the nullifiers] do the odious system, which they are denouncing. We believe it to be contrary to the spirit of the Constitution." The writer predicted that if the tariff was not abolished, the Union was at risk. He recalled the role Virginia played in 1788 and again in 1798 to reconcile the Constitution

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[54] Ibid., July 10, 30, 1832.

and save the Union. "It may become her duty" to act once again as mediator. Yet, "we are much deceived, if, while she denounces the Tariff, she will not equally oppose Nullification." Richmond disclaimed all separate state action without conference with other states in an effort to resolve the situation.

One of the foremost explicators of Virginia's position on nullification was read throughout the country. "Agricola" submitted eight articles published in the *Enquirer* during August and September entitled, "The Virginia Doctrines Not Nullification." In his first, he began by affirming that "the Government of the United States . . . was confined to those [limited powers] which were specifically granted by the terms of the Constitution." He referred to Madison's Report of 1800 as the "soundest expositions of the Constitution." Yet, he asserted, in Virginia, "though we are determined to defend the rights of the States, we have no disposition to subvert the Government of the Union, or to render it worse than useless. . . . If the nullification doctrine were correct, . . . would it not bring the authorities of the Union into contempt, and render them impotent, either to preserve peace at home or safety from aggression abroad?" He then concluded by declaring that nullification "is neither a constitutional, nor a peaceful remedy; that if carried into effect, it is an act of revolution."[55]

In a meeting about the upcoming election, prominent Richmonder and lieutenant governor of the state Peter V. Daniel revealed his perspective on nullification. He believed nullification to be impractical, an attempt to be in the Union and out of it simultaneously. "I maintain the right of revolution or secession in any State, whensoever

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[55] Ibid., Aug. 17, 1832.

it should be oppressed by the infliction of ills more intolerable than those likely to result from disunion: this was implied, necessarily, in the right of self-preservation; but this was wholly different from Nullification." Daniel thus expressed a majority of Virginians' stance on constitutional remedies—if the tariff was not reduced by the upcoming session of the federal legislature, then a convention of states should be held to seek amendment to the Constitution containing more explicit restrictions on commercial tariffs. If that should fail, "the States have a right to secede." But nullification was not a constitutional option.[56]

In July 1832, Congress addressed the issue of the tariff. While the tariff was reduced from its 1828 level, the reduction did not satisfy South Carolina's demands. Yet, Jackson proclaimed this adjustment as the "final" reform of the import duties. In response, South Carolina called for a convention of special delegates to meet at Columbia in November to consider appropriate state reaction. This convention approved and submitted an ordinance of nullification on November 24, 1832. It declared the tariffs of 1828 and 1832 null and void in the state of South Carolina and defended this remedy as peaceful and constitutional. The ordinance warned that any attempt to coerce the state into submission would be interpreted as a violation of the constitutional compact, and that South Carolina would then proceed "to organize a separate Government."[57]

President Jackson reacted vigorously—making it very clear in his Proclamation of December 10, 1832, that he intended to resist the nullification efforts of South Carolina,

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[56] Ibid., Mar. 13, 1832.

[57] "The Ordinance of Nullification, November 24, 1832" in William W. Freehling, ed., *The Nullification Era: A Documentary Record* (New York: Harper & Row, 1967), 150-52.

by force if necessary. Jackson denied a state's complete sovereignty, declaring that when forming the compact of the Constitution with other states, it gave up a portion of its sovereignty, such as the right to make treaties or declare war. The general government, observed Jackson, operates on all the people individually, not upon the states. Therefore, while states did retain some sovereignty, they did not retain the right to disrupt the unity of the people as a nation through an act of secession. The compact was binding, and a breach of that compact, while perhaps morally justified "by the extremity of oppression," was nevertheless not a constitutional right and would be seen as revolution against the compact. Jackson proclaimed his duty to "take care that the laws be faithfully executed," and his intention to do so in South Carolina. He regretted but could not prevent whatever penalty resulted under the law for South Carolina's actions.[58]

At this point, Richmonders walking the fine line of constitutional definition between nullification and secession erupted in protest against Jackson's constitutional theory. Jackson's proclamation had denied a state's right to secede, which most Richmonders espoused, and had threatened coercion against South Carolina, which many felt was unnecessary and unconstitutional. Reaction was strong.

Tyler wrote to Virginia Governor John Floyd, who was thought to be amenable even to nullification, after "tossing about" in a "restless bed" the night of December 13, 1832. Tyler deemed the proclamation inflammatory, unnecessary, and constitutionally in error. He exclaimed,

> I tremble for the Union—and equally as much for our institutions. That silly proclamation— . . . . –no *federal* but a *national* government. The

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[58] "Andrew Jackson's Nullification Proclamation, December 10, 1832" in ibid., 153-63.

> states no parties to the compact—one people—myself no representative of Virginia but of the Union. . . . Suppose . . . that things come to the worse that war is waged against S.C.—that she is subdued by brute force—What is our situation and that of the other Southern States? Nay of the Union itself—If this government through the President can declare war against one rebellious state, so can he against another. . . . Not only the Union is in danger, but all the rights—nay the very existence of the states is greatly threatened by the false doctrines of the proclamation.[59]

Tyler believed that with the President's proclamation before them, South Carolina's only choice was to secede. Still in Washington, Senator Tyler questioned Floyd on reaction to the Proclamation in Virginia. Eastern Virginians, at least, were incensed.[60]

Richmonder James Powell Cocke agreed with Tyler's sentiments. His papers contain resolutions he authored, presumably to submit to a meeting of citizens for their approval.

> Resolved—That altho' we were among the earliest and most steadfast supporters of General Jackson in his election to the Presidency—yet we cannot refrain now to declare our decided disapprobation of many of the doctrines contained in his Proclamation (touching the sovereignty of the States). We consider them near a kin to the doctrines which were prevalent during the worst days of . . . Adams. Resolved—That we consider Nullification an absurd and impracticable remedy—but nevertheless, we concur with our brethren of South Carolina in denouncing the protective systems as unjust, iniquitous and unconstitutional. . . . Resolved—That we consider secession the legitimate remedy against all unconstitutional acts of the General Government—but never to be resorted to, except in the last extremity.[61]

John Young Mason of Richmond, serving as a United States congressman in 1833, received a letter from Virginian George Blow on the nullification issue early in the year reflecting a similar perspective. In it, Blow expressed views which he claimed

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[59] John Tyler to John Floyd, Dec. 13, 1832, Tyler Family Papers, Virginia Historical Society.

[60] Ellis, *Union at Risk*, 129-34.

[61] Notes of James Powell Cocke, 1833, James Powell Cocke Papers, Virginia Historical Society.

"correspond exactly with . . . your views on this subject, as presented in your letter." Blow and Mason believed that if the Jackson administration would let South Carolina alone, the Union movement in the state would overturn the ordinance of nullification. They feared, however, that if the general government coerced South Carolina,

> all the Powers on Earth will never bring her back . . . –and Virginia . . . will, *and must*, go with her! for her principles are theirs; her interests, theirs; her cause—theirs. . . . Is it to be believed that [in the event of war] those States will join the "Black Cockade Federalists," of the elder Adams stamp, in a war in favour of protective Duties, and a Consolidated National Government; —against a southern State contending for her Sovereignty, Equal Taxation, and a Federal Government?[62]

As a letter from a convention in Charlottesville declared to the "people of Virginia," the preservation of liberty was seen as dependent upon written constitutions "by which the powers of Government may be defined and restrained within just limits." To Virginians, the principle of "constitutional restriction" was sacred. The citizens of Charlottesville realized that "in the present agitated and melancholy condition of our country," a disregard for the Constitution, which they believed characterized the recent acts of the Federal Government, would be the downfall of "that great moral experiment . . . our glorious republic."[63]

What, then, would rescue the Union from the tragedy of disunion that threatened its members in 1833? Richmonders painted a dreary picture of the stalemate existing between the Jackson administration supported by northern manufacturing interests and South Carolina supported by a significant portion of the staunchly states' rights, agrarian South. Was there a way to avert secession or war? Richmonders demonstrated on

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[62] George Blow to John Y. Mason, 1833, Mason Family Papers, Virginia Historical Society.

[63] *Richmond Enquirer*, July 10, 1832.

numerous occasions that they placed their hopes for rightful resolution and restored unity under the Constitution in the same place James Madison had after the Alien and Sedition acts of 1798: in the virtue of the leaders of the republic.

The Constitution itself had not clearly provided a method for rightful interposition or specifically designated who should settle the expected differences between the members of the compact and the general government which the compact created. Without amendment to their governing document, then, American citizens had to rely upon the "righteous" motives of their leaders to remain loyal to the Constitution's original intent and purpose. They believed the downfall of their republic would be only at the hands of the "restless and corrupt ambition of man."[64] At the height of the tariff controversy, a letter from an unidentified Virginian in Washington warned, "The Union itself is in imminent danger from the conflicting interests of different sections of the country, and from the designs of artful and unprincipled politicians."[65] If the leaders of the nation truly wanted to preserve the Union, they would need to recall and restore the original spirit of "the peculiar organization of the Governments under which we live" and resist the temptation to serve their own personal interests or the interests of the state or region they represented.[66]

The Charlottesville meeting appealed to "the intelligence, the virtue, the patriotism of our countrymen to avert . . . these impending evils."[67] One writer in the

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[64] Ibid., July 10, Aug. 24, 1832.

[65] Ibid., June 1, 1832.

[66] Ibid., Jan. 21, 1832.

[67] Ibid., July 10, 1832.

Enquirer believed that "harmony between different sections of the Union and their Representatives" was the goal of the Constitution and should be achieved by any means necessary.[68] A member of the Virginia House of Delegates, while addressing the dissension caused by radical northern abolitionists, accused those "fanatical miscreants" of violating Virginia's statutory laws, but more grievously, "weakening and breaking asunder, those kind and amicable relations, which should ever subsist between sister States of the same confederacy." He proclaimed his respect for northern state governments and his confidence that once they realized the damage abolitionist rhetoric was causing in the southern states they would put a stop to the incendiary publications.[69] A Richmonder writing as "Buckingham" reminded the "statesmen of this country" that "Confederacies, composed of independent and Sovereign States, remain united so long, and no longer, than the union is productive of reciprocal advantage, happiness and security. Hence the necessity of exercising power with caution, forbearance and moderation."[70] And the celebrated Agricola recalled the report adopted by the Virginia legislature in 1800 which "had their decided approbation, not only because of the . . . irresistible force of the argument which it contain[ed], but because a disposition to promote mutual respect, confidence and affection among the members of the Union, is uniformly preserved." He concluded by expressing his hope that the "same wise course

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[68] Ibid.

[69] Ibid., Jan. 21, 1832.

[70] Ibid., Jan. 26, 1832.

of forbearance and temperate counsels" would restore unity and peace in the current crisis.[71]

The editors of the *Enquirer* called for "enlightened cooperation" on the part of the Jackson administration motivated by the President's love for the Union. They noted that "a fair participation of benefits and burdens is necessary to produce harmony—and that without harmony the Union cannot continue." They queried, "Will he not then venture something of his high character to restore harmony . . . and to preserve the noble fabric of our Union?" Later in the article, they asserted that sectional legislation, such as the tariff and internal improvement appropriations, was "at war with the spirit of the age—with the genius of a free people—especially with the character of a federal constitution." Measures like the tariff were "unjust" and therefore, adherence to justice and equality would bring federal leaders around to repeal such divisive legislation.[72]

Supporters of Barbour believed that his election was necessary to return the Jackson administration to the constitutional principles it had claimed to stand for prior to 1828. Barbour was acclaimed for his zealous support of state's rights principles, his "unblemished moral reputation," and his "great private worth." Van Buren did not possess these qualifications, in their opinion. Richmonders valued those who stood firm on correct principles no matter what personal benefit they might derive from capitulating.[73] Van Buren's principles were questionable, and he seemed primarily motivated by personal gain.

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[71] Ibid., Aug. 28, 1832.

[72] Ibid., Mar. 13, 1832.

Thus, Richmond and Virginia called for compromise between Jackson and the nullifiers. Many Virginians believed their state should lead the way, "summon[ing] up all her coolness, firmness and wisdom to save the Union, and to restore the Constitution."[74] Unless Virginia's representatives continued to call for moderation and the consideration of the interests of the entire country, "every compromise on liberal principle will be hopeless."[75] Richmond earnestly hoped, as one toast on the fourth of July stated, that "a spirit of concession, caution, compromise and mutual forbearance" would enable Congress to settle the tariff question and supersede any cooperative southern movement for nullification or disunion.[76]

The immediate crisis of 1832-33 fizzled out as a reduction in the tariff during the 1833 Congressional legislative session quieted the fears of most. Further, South Carolina's doctrine of nullification stood on shaky ground; while fellow southern states sympathized with a stand against an excessive protective tariff, they were derisive toward the nullification theory. These factors, in addition to the call from Calhoun and Clay for compromise, compelled South Carolina's convention to rescind its nullification ordinance in March 1833. Key questions remained unanswered, however.

Madison's rebuttal of the nullifiers' stance on the Resolutions of 1798 was a blow to staunch states' rights theorists. If nullification was not an acceptable peaceful and constitutional remedy to perceived usurpation of power by the federal government, what

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[73] Ibid., June 26, July 10, 1832.

[74] Ibid., Aug. 31, 1832.

[75] Ibid., June 1, 1832.

[76] Ibid., May 25, July 10, 1832.

was the proper recourse? Could the right of revolution acknowledged by most be exercised in a peaceful manner? Was secession legal? Madison had been clear in his report of 1800, as well as in his letter to Everett, that any state considering a claim to its right of revolution in the face of a perceived injustice must have carefully exhausted all other means of redress and resolution under the Constitution. The abuse of power must threaten the very heart of what the Constitution was designed to protect—namely personal liberties or the nature of the confederated Union itself, values held so dear that their denial or distortion was a greater calamity than any consequences that revolution might bring. What qualified as evils so repugnant that secession was justified—infringement on first amendment freedoms as in 1798? Or a justifiable piece of legislation viewed as discriminatory against a section of the country, endured for years, and fought peacefully—to no avail?[77]

Americans who valued Union breathed a sigh of relief when the threat of nullification was averted, but the wise among them simply went back to holding their breath. Many in Virginia's capital were among those, for they realized that a more passionately-held tenet than the abolition of a protective tariff lay just below the surface, ripe for conflict. The tension between slave-holding states and northern abolitionist critics remained unresolved. Richmonders saw perhaps more clearly than other Virginians the dichotomy that existed because of slavery in the state. Richmond sought to flourish commercially, to rival northern cities, such as Baltimore, for trading profits. Yet it was bound by slavery, tied by necessity to the fertile countryside that surrounded

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[77] Freehling, *The Nullification Era*, xv-xvii.

the city, and to the source of labor that furnished many of the factories inside city limits as well. Richmonders' existence depended upon slavery, but their observation of the commercial success in the north taught them that free labor was more advantageous long-term. No one had a practical solution to this dilemma, nor any answer for how the widening breach between the southern and northern way of life would be resolved. For now, just as Madison had back in 1800, they simply hung onto the lifeline of compromise and goodwill among brethren and prayed it would hold them now and in the future.

CHAPTER 3

GOVERNED BY PRINCIPLE

Two decades after the nullification crisis, those hoping that goodwill and the common heritage of Americans would keep tensions between the North and South on the back burner had reason to worry. The great compromisers of the early years of the century were gone, and those entrusted with the governance of the nation seemed increasingly motivated by sectional interests and less devoted to Union at any cost. Legislators had begun to enter the fray which had intensified between southern defenders of slavery and northern ardent abolitionists. Americans hoping for continued moderation and an avoidance of a constitutional debate that threatened the Union recognized the danger that the institution of slavery posed to nationwide unity. Virginia, though a border state long known for its efforts to preserve a harmonious Union and facilitate compromise, was not exempt from the passionate arguments that flowed between the North and South throughout the 1850s.

Virginia's legislature in 1830-31 had openly debated emancipation of slaves; but since then Virginia had, of necessity, supported the controversial source of its labor force, essential in the tobacco fields and in city industries, and an additional source of income on the trading blocks. Only tobacco grossed more money than slave trading in the 1850s in Virginia.[1] In 1850, the state legislature had officially endorsed Calhoun's constitutional defense of slavery and states' rights during the debates over California's

[1] Marie Tyler-McGraw, *At the Falls: Richmond, Virginia, and Its People* (Chapel Hill: University of North Carolina Press, 1994), 123.

statehood.[2] Also, as a border state, Virginia was particularly supportive of the strengthened Fugitive Slave Law and was understandably more frustrated than states farther south when the law was not enforced. Having played a mediating, conservative role in attempting to resolve the nullification crisis in South Carolina in 1832-33, Virginia found the "nullification" of the Fugitive Slave Law by several northern states especially frustrating, inconsistent, and unacceptable.[3]

Richmond experienced significant prosperity throughout the decade of the 1850s as its industrial capabilities increased and its economic relationship with northern cities grew stronger. Therefore, more established Richmond businessmen preferred simply to bide their time during such sectional tensions in hopes that all would blow over and no serious storm would threaten their economic stability or force them to choose sides.[4] Younger Richmond citizens, however, were less motivated to remain out of the fray. Richmond's newspapers, such as the nationally-read Democratic organ, the *Enquirer*, certainly encouraged a vigorous stand on the rights being threatened by the northern position on slavery and territorial sovereignty. Perhaps the most organized and prominent source of protest in the city came from the "very large number of citizens assembled in Bosher's Hall on Saturday evening" in December, 1850.[5]

The purpose of this public meeting was "to devise some tangible and efficient

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[2] Henry T. Shanks, *The Secession Movement in Virginia, 1847-1861* (New York: Da Capo Press, 1970), 22-23.

[3] Records of the Central Southern Rights Association (1850-59), pp. 1-17, Virginia Historical Society, Richmond.

[4] Tyler-McGraw, *At the Falls*, 128-9, 134.

[5] Records of the Central Southern Rights Association, p. 1.

action for resisting Northern aggression." These Richmonders believed the South suffered insult at the hands of "reckless and degraded fanatics" and a president who failed to execute "a solemn enactment by the constitutional authority," namely the Fugitive Slave Law. The gathering declared its unwillingness to "acquiesce in anything which shall impair the sovereignty of the States—nor to be silent observers of outrages upon those who own slaves." The constitution and resolutions adopted by the meeting—officially naming itself the Central Southern Rights Association of Virginia—called for a return to "strict and honest observance of the constitutional compact by which the Union was formed" in hopes of preserving the Union. This voluntary observance was proposed as the only possible route to a viable solution to the sectional tensions. By implication as well as in explicit statements, the writings of the Association placed the burden of enforcing "strict" interpretation of the Constitution upon the northern states, which they believed had gone astray. [6]

In an effort to force the hand of the North, as well as provide an outlet for a principled southern stand, the Association called for an economic boycott of northern products, trade routes, and trading privileges throughout the 1850s. These Richmonders believed that the North was dependent enough upon southern raw materials and the trading business it fostered to value strong economic ties with the South and thereby not wish to jeopardize them. Association members hoped that the anticipated impact on northern financiers would induce them to pressure state legislatures to abide by the

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[6] Ibid., pp. 1-6.

Fugitive Slave Law. Daniel H. London, a young businessman, led the concentrated effort in Richmond. [7]

London contended that, almost from the commencement of government under the Constitution, federal laws had provided benefit to the North at the expense of the South. [8] Under his leadership throughout the 1850s, the citizens of Richmond who participated in the Central Southern Rights Association made a concerted effort to end their dependency on northern manufacturing and shipping.[9] Indeed, manufacturing grew significantly in the city during the decade; by 1860, Richmond, as the twenty-fifth largest city in the country, ranked thirteenth in manufactures. Still, Richmond was unable to extricate itself completely from ties to the North, either economically or politically.[10] By the end of the decade, London's tone had grown more strident; he along with others in Richmond, often expressing themselves in the *Southern Literary Messenger*, the *Southern Planter*, the *Enquirer*, or the *Examiner*, began to believe that the protection of liberty might mean separation from the north. The city of Richmond, normally moderate and inclined to peace and compromise throughout its political history, demonstrated that even some commercially-inclined, border-state citizens, many of whom did not own slaves, believed their rights were being denied. [11]

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[7] Ibid.

[8] Central Southern Rights Association to H.R. Garnett, Nov. 1851, D.H. London Papers, Virginia Historical Society.

[9] See Records of the Central Southern Rights Association, *passim*.

[10] Tyler-McGraw, *At the Falls*, 136.

[11] Records of the Central Southern Rights Association, pp. 120-24, 151-59; Tyler-McGraw, *At the Falls*, 117-19, 128-29, 133.

By the end of the decade, tension in Richmond had escalated as the residents of the city observed the repeated stand-offs between abolitionists and supporters of slavery. Events in Kansas, the Dred Scott ruling, some northern states' harboring of runaway slaves and their support of strident abolitionist rhetoric—in such an atmosphere, discussion of the relationship between the North and South was a more often-heard theme. Many Richmonders hoped to maintain the economic benefits that both slavery and the city's ties with the North made possible. The capital's most astute residents, however, recognized the collision course such priorities were on. What peaceful, profitable solution was there?[12]

Discussion of viable options increased in Richmond as voters in 1859 considered the upcoming presidential election. The tension and anticipation of "disunion" which had swirled around the "fearful contest" of 1856 had been appeased with the election of Buchanan, long-time politician and Democrat who, as a representative of the only remaining "national" political party, actually favored concessions to the South.[13] The *Richmond South*, begun as the voice of southern rights, declared that Buchanan's administration had satisfied the South that "its rights would not be sacrificed by the usurpations or the criminal delinquency of the Federal Government. . . . So long as the Federal Government is true to its obligations, the South will not talk of disunion."[14] The 1860 election would go to a candidate who could appeal to a national majority of Americans, a task becoming rather impossible as voters demanded that politicians take a

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[12] Tyler-McGraw, *At the Falls*, 119-27, 133.

[13] *Richmond South*, Aug. 4, 1858.

[14] Ibid.

stand on the difficult sectional questions of the day. And it seemed that to take a stand meant alienating at least half of the country, one way or the other.

The southern Democrats began to define their political stance early in the presidential contest, outlining what they saw as "cardinal principles" which their candidate must clearly endorse. Two such foundational principles were emphasized in the July 1, 1859, *Richmond Enquirer* and rested firmly on a strict interpretation of the Constitution, stating that "the Constitution . . . is a compact between sovereign and co-equal states," and secondly, that "the territories of the Union are common property . . . to which the citizens of every State may rightfully migrate with any property recognized as such . . . in the Constitution of the United States."[15] A week later, the Democratic party organ declared that the "true glory" of the party rested upon its "fidelity to the Constitution . . . and unflinching maintenance of the Rights of the States and the people." Their preferred presidential candidate would be faithful to these principles.[16]

Those loyal to the old Whig principles struggled in the new political landscape, no longer having a Whig party to support or through which to make their voice heard. These Southerners could not tolerate the abolitionist platform of the Republican party, but were reluctant to join their long-time enemy, the Democrats. Richmond, having traditionally been a strongly Whig city in a Democratic state, held off on any commitment to an election over a year away. Most in the city would vote for whichever candidate presented himself as most likely to preserve the status quo. While they would admit to a loyalty to southern principles, most voters were as yet unprepared to make any major sacrifice for

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[15] *Richmond Enquirer*, July 1, 1859.

[16] Ibid., July 8, 1859.

the sake of them. Businessmen of the Central Southern Rights Association, vocal newspaper editors, and leading politicians of the city remained a minority in the fall of 1859.[17]

But this suddenly changed. On October 16, 1859, John Brown, a militant abolitionist of Kansas fame, led an armed band in seizing the federal arsenal located at Harper's Ferry near Charlestown in northwestern Virginia. His goal was to distribute the weapons to slaves on plantations throughout the countryside; they would in turn kill their masters and join his mission of freedom which would inspire slaves throughout the South. Marines led by Robert E. Lee captured Brown and his men at the arsenal, but not without a skirmish which killed fourteen men in all—ten of Brown's men, one marine, and three civilians. Five of the raiding party escaped, but Brown and six of his accomplices were taken into custody. Virginia erupted in shock, panic, and indignant protest.[18]

Newspapers across the state, no matter their party affiliation, condemned the Harper's Ferry raid in the strongest language. When it became known that Brown had received support from several wealthy Northerners and was being hailed as a hero in prominent northern newspapers, Virginians were infuriated.[19] Brown was clearly a thief and a murderer, and yet he was upheld as a valiant warrior for the abolitionist cause in most northern newspapers, his crimes aside. The *Richmond Enquirer* reported on a

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[17] Tyler-McGraw, *At the Falls*, 127-29.

[18] Shanks, *Secession Movement*, 85-86; David M. Potter, *The Impending Crisis: 1848-1861* (New York: Harper & Row, 1976), 369-72.

[19] Shanks, *Secession Movement*, 88-90; see also numerous newspaper articles in the *Richmond Enquirer*, *Richmond Dispatch*, *Richmond Examiner*, and others throughout November 1859.

meeting held in New York during which Wendell Phillips, rumored to be one of the intellectual and financial backers of John Brown, was applauded.[20] The *Enquirer* observed,

> A few more such public meetings . . . will satisfy the South that the Union has served its purpose, that we are two different people. . . . If there are parties at the North who desire dissolution, they have seized the best means by which to accomplish their wishes. [21]

Benefits such as security from invasion, foreign or domestic, that were to be the virtue of a Union were being denied; the *Enquirer* asked, "If these things [murder, a slight to state sovereignty] take place *in the Union, can worse happen out of it*?"[22]

Virginians and other southerners who had avoided any extreme position in the sectional crises of the decade joined the protest against this violation of their rights, demanding northern acknowledgment of the constitutional grievances.[23] The November 21 *Richmond Dispatch*, reporting over a month after the Harper's Ferry incident, described the determination of the "multitudes" gathered in Richmond one Saturday evening. The reaction of the North to the raid—the absence of sympathy with Virginians, the "outpouring of sympathy" for Brown, and the "fanatical tirades" from the pulpits and presses—had succeeded in wearing out the "patience of the Southern mind." The *Dispatch* called on the North to "consider how much the Union is worth," noting that even the conservatives in Virginia were questioning the value of the Union in the face of

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[20] Shanks, *Secession Movement*, 87.

[21] *Richmond Enquirer*, Nov. 5, 1859.

[22] Ibid.

[23] Shanks, *Secession Movement*, 100-01.

the recent outrage. Most believed that regular northern citizens concurred with southern feelings, but were simply quiet in the face of strident abolitionists. The *Dispatch*, however, called these northern "conservatives" to "show their hands." The newspaper warned that if they wished to preserve the Union in its true constitutional form, it was time for them to "prove it."[24]

No matter the response from the North, southern newspapers began to endorse the action that the Central Southern Rights Association had commenced a decade earlier—creating a self-sufficient trade economy in the South that would forego any dependence upon northern shipping or manufactures.[25] Accordingly, the minutes from the Association's November 25, 1859, meeting noted that the hall was "densely crowded" prior to the meeting itself with "merchants, mechanics, manufacturers, and professional men—all apparently anxious to participate in such action as would insure Southern independence and protect the rights and honor of Virginia."[26] The Association encouraged the increased interest in establishing economic independence from the North. The *Dispatch* called for Virginia's counties to hold meetings and form associations to provide for their economic needs from within the state or from Europe, but to "use no more articles of Northern manufacture."[27]

The one good result that both the Association and the *Dispatch* hoped would come from the aftermath of John Brown's raid was increased unity among the states of

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[24] *Richmond Dispatch*, Nov. 21, 1859; Shanks, *Secession Movement*, 130-31.

[25] *Richmond Dispatch*, Nov. 21, 1859.

[26] Records of the Central Southern Rights Association, p. 132.

[27] *Richmond Dispatch*, Dec. 2, 1859.

the South. Both called for the states to meet and band together to determine the best course for defending their rights. Far more important than party or section, declared the *Dispatch*, was the "question which involves the property, the purity, the life itself, of the South, and all that makes life worth having."[28] While this statement is dramatic, the panic that the Harper's Ferry raid stirred made such a declaration quite close to the true feelings of many Virginians, if not the entire South.

Southern newspapers began to call for a convention of southern states. Meetings of new county offshoots of the Central Southern Rights Association debated whether the South was ready to work together, and how far any action of such a convention should go. South Carolina already spoke of secession; and while Virginia papers did not explicitly endorse such drastic action, they did question whether continued union with the North was advisable.[29] A correspondent with the *Richmond Dispatch*, writing from Charlestown, noted,

> The Union . . . seems no longer to have any friends in this part of the country . . . in the feelings of all classes of people. . . . All deplore the necessity, but all seem agreed that we cannot live under the same government with people who are so hostile to us.[30]

The writer compared the sentiments to those expressed in the Declaration of Independence toward the people of Great Britain who failed to come to the defense of oppressed colonists; they were regarded from then on as "enemies in war—in peace,

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[28] Ibid., Nov. 24, 1859.

[29] Ibid., Dec. 2, 7, 19, 31, 1859.

[30] Ibid., Dec. 3, 1859.

friends."[31]

War was not far from the thoughts of some who looked grimly at the future. Henry Wise was concluding his term as governor of Virginia in December 1859, and in his last message to the Virginia state legislature, he warned of possibilities and advised preparation. He noted that a "new law" was in effect whereby the federal government took on powers it was not granted and yet refused to act on duties called for under the Constitution. While the southern states united might fend off further abuses of power through a plurality in Congress, it was only a matter of time with territorial expansion before such uncertain safeguards would disappear. Wise called for northern conservatives to pressure their state governments to "come back to the Constitution and abide its covenants." He called on the federal government to fulfill its duty to protect the states in the Union from "invasions" such as the Harper's Ferry raid. He was doubtful, however, that the "passive" conservatives of the North would successfully overcome the "active fanatics." Wise believed that Virginia must "acknowledge and act" on the reality that a proper, harmonious relationship among the states was not possible in light of current attitudes toward slavery. Slavery would either be abolished or the South would be "compell[ed] to defend it by force of arms."[32]

Therefore, he recommended that, thrown on its own "self-dependence" for protection, Virginia should "organize and arm." He also advised that Virginia "demand of each state in the Union what position she means to maintain for the future in respect to slavery and the provisions of the Constitution." Wise challenged, "Let us have action and

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[31] Ibid.

[32] Ibid., Dec. 6, 1859.

not resolves—definitive settlement, and no more temporizing the Constitution, and no more compromise." As several northern states continued to harbor those who had escaped from Harper's Ferry, the Commonwealth of Virginia began to listen to and believe the sentiments of its governor.[33]

The new year brought continued reaction to the increased tension between the North and South. The newly-elected lieutenant governor, R.L. Montague, opened the January session of the legislature by stating his belief that "the year they were entering on, in his opinion, ought to chronicle Southern independence and Southern equality in our Federal Union, or Southern independence outside of that Union."[34] He went on to summon Virginia to take its traditional place of leadership among southern states, recalling the state's role in the "Revolution of '76" and its regrettable position as the first to be "assailed by the ruthless hand of violence." Virginia's stand should be made in defense of the "right of the State and her sovereignty," at whatever cost. While its intention was peaceful, Virginia intended to enjoy justice and independence even if such intentions took the state to the "bloody field of strife."[35]

At the beginning of February, Richmond received Christopher G. Memminger, a commissioner from South Carolina, sent to propose a convention of southern states to consider appropriate united action in the face of northern oppressions. Memminger's message recalled resolutions passed by South Carolina's legislature in 1852 affirming a state's right to secede. Persons of different political orientations in Richmond debated a

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[33] Ibid., Dec. 6, 7, 1859; Shanks, *Secession Movement*, 90.

[34] *Richmond Dispatch*, Jan. 4, 1860.

[35] Ibid.

southern conference such as Memminger proposed. A "mass meeting" held in mid-February called on Virginia to accept South Carolina's invitation.[36] A meeting of Democrats in Henrico County, of which Richmond was the county seat, believed a southern conference to be of benefit to Virginia and cautioned the state legislature not to snub South Carolina by refusing. One young Richmond native wrote his mother heatedly, "I believe South Carolina is the only state occupying the *true* position. . . . Old Virginia is disgraced, . . . a coward" if the state does not join in a southern conference.[37]

But the legislature remained true to its usual conservative course, declining to submit to any binding conference with "her Southern sister States" just yet. The resolutions that the legislature adopted in its response assured South Carolina of Virginia's intention to "preserve her honor and the liberties of her people . . . by herself or by concert with her Southern sister States" through "the most decisive measures," though Virginia did not feel a conference was necessary or justified at the time. For the moment, the state remained intensely loyal to the Union and optimistic of its longevity; it did not want to appear disunionist by participating in a conference which, led by South Carolina, might propose extreme measures.[38] Peter B. Starke, a commissioner sent from Mississippi, proposed a southern conference to be held in Atlanta in June; but he also returned to his state bearing a polite refusal in the form of resolutions passed by the

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[36] Ibid., Feb. 20, 1860.

[37] George T. Scott to his mother, Mar. 5, 1860, Lewis-Scott-Daniel-Greenhow Papers, Library of Virginia, Richmond.

[38] *Richmond Dispatch*, Mar. 4, 1860.

Virginia legislature in early March.[39] Virginia would find that its unwillingness to cooperate with South Carolina and Mississippi in early 1860 would cause those states to be deaf to Virginia's pleas for patience and forbearance in early 1861.

At this point, attention again turned to the upcoming election. Richmond had voted for Whig candidates since that party's inception; but with the demise of the party in 1854, Richmond had no Whig candidate to support, and most Richmonders found themselves in the position of political orphans. But Democrats of Virginia had a political crisis on their hands as well; any sectional candidate or platform was unacceptable, but northern Democrats held the reins of the national party. Virginia's Democrats worried that their loyalty to southern ideals would force them to abandon their party. Whigs and Democrats in Virginia, in a similar state of political uncertainty, also found commonality in the one thing they were certain of—the election of a "Black Republican" was to be avoided in any way possible.[40] Richmonders of any political affiliation feared, as Joseph Mayo, mayor of Richmond, declared in a letter to a New York colleague, "The success of Black Republicanism is disunion." Mayo's letter proceeded to provide evidence of Virginia's devotion to the Union and to assert Virginians' hope of a peaceable resolution to the tension through the presidential election. But, as the *Richmond Dispatch* noted in its commentary on Mayo's letter, if the conservatives of the North should stand by and allow an abolitionist to be elected to the White House, the southern people would "regard

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[39] Ibid., Mar. 4, 5, 1860; Shanks, *Secession Movement*, 97-100; Potter, *Impending Crisis*, 486-87.

[40] *Richmond Enquirer*, July 3, 1860; *Richmond Dispatch*, July 26, Aug. 20, 1860; Shanks, *Secession Movement*, 113.

his election as an overt act [of aggression] from the people who elect him."[41] In such a situation, most believed that the political heritage of any Virginian would be insufficient to keep the Union together.

The Democratic Convention was to meet in Charleston, South Carolina in April. The platform that had been adopted earlier at Cincinnati posed problems for southern Democrats. The platform was ambiguous on sovereignty in the territories and did not explicitly call for constitutional enforcement of the fugitive slave law by the federal government.[42] The *Richmond Enquirer* warned that without an "open" avowal of the "doctrine of constitutional protection in the Territories, [and thereby] the equal rights of the sovereign States," the Democrats of the South could not unite in support of the platform.[43] Delegates to the convention from southern states held out hopes that northern delegates would recognize the necessity of compromise for the Union's sake and would modify the platform to appease the South.[44]

The meeting in Charleston was a disaster in terms of good will and national unity. Charleston in 1860 was not a location conducive to moderation, patience, or compromise in the first place. Northern and southern factions were unable to reach any consensus on what a platform acceptable to both would say. Finally, the Gulf states, plus Arkansas and Delaware, walked out of the convention. Some of the Virginia delegation believed their

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[41] *Richmond Dispatch*, Feb. 22, 1860.

[42] *Richmond Enquirer*, Mar. 6, May 8, 1860; Shanks, *Secession Movement*, 106-7; Potter, *Impending Crisis*, 406-12; Avery O. Craven, *The Growth of Southern Nationalism, 1848-1861* (Baton Rouge: Louisiana State University Press, 1953), 323-34.

[43] *Richmond Enquirer*, May 8, 1860.

[44] Ibid., Mar. 6, May 8, 1860.

state should follow suit. The "seceders" planned a separate convention in Richmond where they would adopt a platform that would represent a clear state's rights doctrine. The remaining delegates in Charleston adjourned and scheduled a second attempt at Baltimore in June.[45]

The "seceders" convention adopted strongly-worded resolutions that endorsed the southern view on slavery in the territories and sent these provisions on to Baltimore for consideration by the official Democratic convention. Most states represented in Richmond, except South Carolina, still hoped to preserve a single, national Democratic platform and candidate. Even Richmond newspapers that had long trumpeted state's rights were subdued in their coverage of the Richmond convention, wary of appearing to defend a position of disunion. Still, Virginia's legislature called on the state's delegates to Baltimore to support reconciliation within the party, but not at the price of an ambiguous platform.[46]

Controversy at Baltimore began long before any discussion on the platform. When the convention's officers refused to seat some of the delegates that had "seceded" at Charleston and attempted to seat moderate delegates in their place, the Virginia delegation protested and ultimately withdrew. Meeting with other states that had

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[45] *Richmond Dispatch*, June 23, 1860; Shanks, *Secession Movement*, 106-09; Potter, *Impending Crisis*, 407-13; Craven, *Growth of Southern Nationalism*, 323-34.

[46] *Richmond Dispatch*, June 23, 25, 1860; Shanks, *Secession Movement*, 107-09; Craven, *Growth of Southern Nationalism*, 332-33.

followed Virginia's example, delegates defiantly adopted a pro-slavery platform and electoral ticket.[47]

Ultimately, the Democratic convention in Baltimore nominated Stephen A. Douglas on a squatter-sovereignty platform, while the Democratic "seceders" nominated John Breckinridge of Kentucky to represent their viewpoints in the upcoming contest. In general, Democrats split sectionally in their support of a presidential candidate. And in Virginia, argument commenced over which Democrat to support—the Northerner who vacillated on dearly-held southern rights, or the Southerner who, though true to principle, represented the sectional threat of disunion. The state Democratic convention was as unsuccessful at arriving at a consensus as the national convention had been. Douglas supporters met in Staunton to endorse their candidate and nominate electors, while Breckinridge supporters performed similar duties in Charlottesville. While some Democrats were heard to call for unity for the sake of the election's outcome, leaders on each side refused to budge from principle.[48]

Richmond hosted numerous meetings for supporters of both candidates. Henrico County's Democratic party met in early July and passed resolutions in support of Breckinridge, pledging true adherence to the Constitution. The "National Democracy" of Richmond met in August to endorse Douglas unanimously, maintaining its loyalty to the provisions under the Constitution for redress of sectional grievances within the democratic system—within the Union. The majority of Richmonders, however, pinned their hopes on neither Democrat. True to its attachment to economic stability and

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[47] *Richmond Dispatch*, June 23, 1860; Shanks, *Secession Movement*, 109; Potter, *Impending Crisis*, 412-13; Craven, *Growth of Southern Nationalism*, 333-34.

[48] *Richmond Dispatch*, June 23, 25, Aug. 18, 20, 1860; Shanks, *Secession Movement*, 110-11.

political moderation, Richmond's majority overwhelmingly supported a candidate running on "The Union, the Constitution, and the Enforcement of the Laws."[49]

In desperation, former Whigs had gathered in Baltimore in early summer to nominate someone who might hold the country together. John Bell of Tennessee was proclaimed to be the only candidate who could preserve the Union.[50] Everyone predicted that the election of the Republican candidate, Abraham Lincoln, would send South Carolina and other Gulf states from the Union immediately.[51] Moderate Richmonders did not agree that Lincoln's election itself was sufficient justification for secession, but there was little chance that Virginia's influence would sway South Carolina this time as it had in 1833. Thus, support for Bell in Richmond was significant—in the tenuous hope that he could be elected as a national candidate and deter any drastic action from the Gulf states. Choosing to run on virtually no platform apart from "The Union, the Constitution, and Enforcement of the Laws," Bell presented the one option that, while not necessarily unifying sectional Americans, did not alienate them.[52]

The August 21 *Dispatch* reported on a meeting of Bell supporters held the previous night. The meeting place was reported to have been "crowded" by friends of

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[49] *Richmond Enquirer*, July 3, 1860; *Richmond Whig*, Aug. 3, 10, 1860; *Richmond Dispatch*, June 27, July 3, Sept. 1, 1860.

[50] *Richmond Whig*, Aug. 10, 1860; Craven, *Growth of Southern Nationalism*, 335-38; Potter, *Impending Crisis*, 417; Shanks, *Secession Movement*, 109-10.

[51] *Richmond Enquirer*, July 3, 1860; *Richmond Dispatch*, July 26, Oct. 31, 1860; *Richmond Whig*, Oct. 18, 1860.

[52] *Richmond Dispatch*, Aug. 21, Sept. 1, 6, 7, 1860; *Richmond Whig*, Aug. 10, Oct. 18, 1860; Shanks, *Secession Movement*, 109-10; Tyler-McGraw, *At the Falls*, 133.

Bell gathered to form a political club and determine strategy for the upcoming election. Bells tinkled throughout the hall as several leading citizens spoke; officers for the Bell and Everett Club of Richmond were chosen; and committees were appointed to draft a constitution and by-laws, to represent the three wards of the city at thirty representatives per ward, and to collect subscriptions to build a Bell and Everett Club House.[53] By the first week of September, the club was prepared to dedicate its new meeting house, an event which drew an enthusiastic crowd nearing three thousand Richmonders. The Club House was prepared to seat "2,500 persons comfortably," around 7 percent of Richmond's total population and 58 percent of those who would eventually vote in the upcoming election.[54] A parade moved from downtown toward the Club House, described as a "spectacle . . . in the highest degree exhilarating." The *Dispatch* reporter observed,

> The shouts of the multitude, the jingling of innumerable bells, the martial music, the constant glare of rockets, red lights and transparencies, made up a demonstration which has seldom, if ever, been surpassed in Richmond. . . . The sidewalks where the procession passed were densely thronged with spectators.[55]

Bell rhetoric appealed to many Richmonders, Virginians, and Southerners who wished to see the Union preserved and who hoped simply to avoid the divisive issues plaguing the nation. The other parties freely recognized the right of secession, and their party organs had declared the conditions each believed would justify withdrawal from the Union. Democrats called for united and immediate resistance on the part of the complete South, if Lincoln were to be elected. The *Whig* asserted its belief that most Virginians

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[53] *Richmond Dispatch*, Aug. 21, 1860.

[54] Ibid., Sept. 7, 1860; Tyler-McGraw, *At the Falls*, 136.

[55] *Richmond Dispatch*, Sept. 7, 1860.

would honor the "Constitutional election of any President of any party," but contended that an "overt act" by Lincoln or the North would be impetus enough to drive Virginia from the Union.[56] Bell supporters in Richmond declared themselves opposed to secession in practice; while most believed it to be a constitutional right, they hoped it would never be necessary to utilize it.[57] Thus, Richmond's support of Bell, its notable Breckinridge following, and its commitment to the southern view of secession and state sovereignty demonstrated the city's perilous balancing act—while it preferred Union for pragmatic and sentimental reasons, a principled point of separation did exist just beneath the surface.

As election day, November 6, drew near, speeches, propaganda, and informal poll-taking increased to a frenzy. The *Dispatch*, which endorsed no candidate in particular, noted that by the end of October, "people [spoke] politics, read politics, dream[ed] politics, and breathe[d] a political atmosphere." The paper declared that "on no previous occasion have commercial men seen so great a necessity for mingling in political affairs. The relations between the North and the South absorb every other consideration." Richmond in the days just prior to the election was described as oddly quiet in comparison to past elections; the paper compared the atmosphere to "that ominous stillness which precedes a fearful storm."[58] All understood the gravity which surrounded this presidential election.

On election day, approximately thirty-six percent of those eligible to vote within

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[56] *Richmond Whig*, Oct. 18, 1860.

[57] Shanks, *Secession Movement*, 112-13.

[58] *Richmond Dispatch*, Nov. 5, 1860.

Richmond's city limits went to the polls. Six-hundred-and-fifty more voters participated in the presidential election than did in the gubernatorial election of 1859.[59] One prominent Richmonder, who in June had recorded his doubt that anything could prevent Lincoln's election and the subsequent dissolution of the Union, wrote forlornly of the fated day of decision.

> [I went] this morning to cast my vote—my *last vote*, I am sure, for a President of the United States—. . . full of sad reflections. . . . A clear, lively day . . . nature rich with the varied hues of autumn . . . so serene and smiling. One is almost disappointed at thus finding in nature no sympathy with great political convulsions—that it has not caught even a shadow from the dark clouds which, on this day, gather to a head.[60]

He concluded his diary entry with a quote from Shakespeare, writing about nature's warning—the comets and strange skies seen in Rome—on the eve of "the mightiest Julius' fall."[61]

Indeed, once national returns were reported, it was clear that Lincoln had been elected president. Richmond had voted for Bell by a margin of two to one, while the state chose Bell in a tight race between the Constitutional Union candidate and the southern Democrat Breckinridge. In Richmond, Bell received 2,359 votes to Breckinridge's 1,169; Douglas received 753. Statewide, vote totals were 74,681 for Bell, 74,323 for Breckinridge, and 16,290 for Douglas.[62] Lincoln received his electoral votes from free states only. One hundred and sixty-nine electoral votes were cast for Lincoln;

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[59] Tyler-McGraw, *At the Falls*, 136; *Richmond Dispatch*, July 30, Nov. 7, 1860.

[60] Diary of Thomas Rutherfoord, Nov. 6, 1860, Rutherfoord Family Papers, Virginia Historical Society.

[61] Ibid.

[62] *Richmond Dispatch*, Nov. 9, 1860; Shanks, *Secession Movement*, 117.

one hundred and fifty-two votes constituted a majority of the Electoral College. As the *Dispatch* pointed out in its November 9 issue, Lincoln was the first president in history to be elected on a purely sectional basis.[63]

Immediately, the legislature of South Carolina initiated steps toward secession; Richmond newspapers predicted that state's departure from the Union by the end of the year.[64] Just as quickly, debate intensified in Virginia newspapers and letters concerning the constitutionality of secession and what exactly justified such retraction of the power granted the federal government in Virginia's ratification of the Constitution in 1788.[65] Nathaniel Tyler, newspaperman for the *Richmond Enquirer*, wrote to a northern friend in a letter dated November 20, 1860:

> Southern statesmen, living and dead, consider this government to have been formed by separate sovereign states, . . . to have conferred upon a common agent the federal government, certain well-defined powers. . . . That only such powers were conferred as are distinctly laid down in the Constitution, and that all other powers belong of right to the states or the people. . . . We hold that the powers that made the government can unmake it. Those that formed it can destroy it.[66]

Tyler went on to note what the non-partisan, conservative *Richmond Dispatch* declared in its December 5 issue, that unless the northern states which had nullified the fugitive slave law repealed their nullification ordinances and enforced the law, "the Constitution is violated, and the South 'would be justified

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[63] *Richmond Dispatch*, Nov. 9, 1860.

[64] Ibid., Oct. 31, Nov. 8, 1860.

[65] Nathaniel Tyler to "Myers," Nov. 20, 1860, Marshall Family Papers, Virginia Historical Society; W.H. Janson to Edmund Ruffin, Nov. 28, 1860, Ruffin Family Papers, Virginia Historical Society; S.T. Scott to John, Jan. 5, 1861, Scott Papers; Rutherfoord Diary, Nov. 19, 1860; *Richmond Enquirer*, Nov. 13, 1860; *Richmond Dispatch*, Nov. 8, 9, 30, Dec. 1, 3, 5, 1860.

[66] Nathaniel Tyler to Myers, Nov. 20, 1860, Marshall Papers.

in revolutionary resistance to the Government.'"[67] The *Dispatch* published a letter written by Governor Letcher to a friend in Philadelphia upon Pennsylvania's nullification of the fugitive slave law. Letcher called on non-slaveholding states that wished to save the Union from "dissolution" to "show their faith by their works."[68] A long list of Richmond citizens sent a request to one of their city's most nationally prominent southern radicals, John Tyler, Jr., son of the former president, asking him to address them as he visited Richmond from Washington. The "appeal" was made "in no spirit of party,"—Tyler was a staunch states' rights Democrat returning to his moderate, Whig hometown—but in the belief that the "dangers of the country" demanded that all join together to seek some resolution. Tyler had spent the past eight years as a congressman, wrangling often with the issues at the heart of the current crisis.[69]

Another congressman from Richmond, R.M.T. Hunter, normally the moderate Democratic leader of the state, served as a mediator between South Carolina and Buchanan in early December. Hunter strongly believed in the right of secession, but hoped for a solution that would save the Union.[70] After participating in the negotiations, however, he left frustrated and with little hope for resolution. He advised South Carolina that it had the right to shoot at any federal ships entering Charleston harbor; and when the merchant ship, *Star of the*

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[67] *Richmond Dispatch*, Dec. 5, 1860.

[68] Ibid., Nov. 30, 1860.

[69] Ibid., Dec. 3, 1860.

[70] Ibid.

West, attempted to replenish supplies at Fort Sumter, Rebels fired on it. Hunter viewed the ship's mission as an unnecessary provocation by Buchanan that jeopardized any hope of reconciliation.[71] At this point, six additional southern states joined South Carolina in seceding from the Union.

The question for Virginia was what action justified secession. Some believed that Lincoln's election alone posed "such a great danger to Southern rights that withdrawal was justified."[72] Others contended that Lincoln's election under the Constitution required acknowledgement of its legitimacy and submission to the result.[73] Many of those who endorsed the election itself did draw the line at any proposed coercion of South Carolina by the federal government.[74] Richmond, acknowledging the right of a state to secede, thus believed that the federal government had no recourse apart from appeal and compromise to coax the state back into the Union. From Richmond's viewpoint on the nature of the federal contract, coercion was not a legal option.[75]

By the beginning of January when the state legislature convened, sentiment which had been strongly pro-Union on election day had vacillated dramatically in the eastern portion of the state. On January 4, declared National Fast Day, ministers in Richmond insisted that, "unless adjustments were made,

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[71] Shanks, *Secession Movement*, 132-37.

[72] Ibid., 124.

[73] *Richmond Whig*, Oct. 18, 1860.

[74] *Richmond Enquirer*, Nov. 13, 1860; *Richmond Dispatch*, Dec. 1, 1860.

[75] Beverley B. Munford, *Virginia's Attitude Toward Slavery and Secession* (New York: Longmans, Green, and Co., 1909), 259-68, 290-94.

secession would be the only remedy." One minister stated, "Horrible as war is, there is one alternative which is worse, a surrender of inalienable rights and principles."[76] A Petersburg newspaper correspondent noted that, "the people of the state capital, while loving the Union as 'established by our fathers' expressed a 'very firm purpose not to keep up at the expense of principle, and through the forfeiture of freedom.'" Even the Douglas organs and the non-partisan *Dispatch* declared themselves in favor of "resistance to Black Republican rule."[77] The *Dispatch* believed that Virginians still desired that "every honorable and consistent effort at reconciliation and adjustment shall be resorted to, and a full, fair, and explicit demand of our rights be made, before the final step of disruption" was taken.[78] When elections occurred in early February for delegates to a special state convention, the impressions of the *Dispatch* appeared accurate as Virginia elected a very moderate convention to consider the state's position in relation to the Union.

Richmond sent three delegates to represent the city at the convention—two who were against secession, and one, the grandson of Thomas Jefferson, in support of leaving the Union. The majority of the convention delegates continued to favor some sort of compromise between Lincoln and the seceded states. Many long-time Richmond businessmen concurred with this position, but other Virginians were frustrated with the

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[76] *Richmond Dispatch*, Jan. 7, 1861, as quoted in Shanks, *Secession Movement*, 252.

[77] Shanks, *Secession Movement*, 138-40.

[78] *Richmond Dispatch*, Jan. 19, 1861, as quoted in Shanks, *Secession Movement*, 140.

state's moderate stance.[79] Newspapers clearly distrusted Lincoln and called for Virginia to take a strong stand, and many of the convention delegates had been elected on their claims to be "disunion men," a position that seemed less advisable when those delegates arrived in Richmond to take their official positions.[80] It seemed that the majority of Virginia's populace was more willing to take a radical stand against the North than were its representatives. Perhaps the magnitude of the decision and responsibility for it weighed more heavily on the members of the state's convention, thereby fostering caution. From its call to order on February 4 throughout the month of March, the convention debated the position Virginia should take, but failed to take a vote on the issue.[81] Meanwhile, just as it had in 1788, the nation watched anxiously as Virginia considered the future status of its relationship to the Union. Most realized that the probable success or failure of a venture in nationhood for a southern confederacy rested on the decision of this pivotal state.

Sentiment in support of secession continued to grow in Richmond and surrounding counties as 1861 wore on. The legislature requested a report on the condition and strength of the state's arsenal and militia. The legislature's Joint Committee on State and Federal Relations appointed five commissioners to go to Washington in hopes that the other southern states would answer Virginia's call for a conference on possible resolution. The instructions given to Virginia's appointed

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[79] Shanks, *Secession* Movement, 158-60; Tyler-McGraw, *At the Falls*, 134-35; Charles Meriwether Fry to Conway Robinson, Dec. 8, 1860, Conway Robinson Papers, Virginia Historical Society.

[80] Sally Scott to John, Mar. 8, 1861, Lewis-Scott-Daniel-Greenhow Papers.

[81] For a more detailed discussion of the debate and delay which took place in the secession convention throughout its two-and-a-half month session, see Shanks, *Secession Movement*, 158-207.

commissioners dubbed this attempt as the "final effort to restore the Union and the Constitution, in the spirit in which they were established by the fathers of the Republic." The Commissioners should seek an "adjustment" which would involve "amendments of the Federal Constitution, for the further security of the rights of the people of the slaveholding States."[82] Thus, the legislature signified its distrust of any guarantee of equal rights under Lincoln's administration of the Constitution in its present form.

The Peace Commission to Washington received criticism in the city's more radical newspapers, such as John M. Daniel's *Examiner*. He called heatedly for secession and defended it as a constitutional right. The Commissioners were labeled "traitors." In any case, the Peace Commission met with failure, since seceded states did not send delegates. Richmond's peace commissioners returned more convinced than ever about the determination of Republicans to stand their ground and resist concession to the seceded states.[83]

Back in Richmond, the state convention reacted to Lincoln's inaugural address with resolutions and debate which "indicated a change of sentiment to some extent, and the Secession members seem[ed] more hopeful." Some Virginians had taken Lincoln's words in his March 4 speech—he restated his resolve to hold federal property located in the Confederacy, including Fort Sumter—as a "declaration of war." Delegates to the state convention, still hesitant to make a rash choice, were under increasing pressure to act, rather than wait. Even after the convention had been meeting for over a month, the

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[82] *Richmond Dispatch*, Jan. 15, 1861.

[83] Rutherfoord Diary, Apr. 15, 1861; Tyler-McGraw, *At the Falls*, 134-35; *Richmond Dispatch*, Mar. 6, 1861.

Dispatch reported that "the attendance of spectators, particularly of the ladies, was very large."[84]

By April, convention delegates opposed to secession were unpopular inside city limits. Former Governor Henry A. Wise led an unofficial gathering of Richmond citizens who sought Virginia's immediate secession. This group, calling itself the "People's Convention" or the "Spontaneous Convention," threatened to claim rightful representation of the true wishes of the state's populous and declare Virginia a seceded state if the convention did not act. On April 4, the convention finally took a vote on secession, but rejected it.[85]

Within the next few days, tensions mounted further as the standoff at Fort Sumter between federal and South Carolina troops made national headlines. Lincoln's administration had refused to receive emissaries from the newly-formed Confederate States of America, signaling the President's rejection of the states' right to secede. So far, however, the President had not taken any resolute stand against seceded states' efforts to remove federal troops from forts throughout their territory. But federal troops had refused to relinquish the fort in Charleston harbor after repeated requests, and rumors abounded that Lincoln planned to attempt a re-supply of federal forces at the fort, despite warnings against it from South Carolina.[86] Once shots were fired on April 12, Richmonders erupted in protest.

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[84] *Richmond Dispatch*, Mar. 6, 1861.

[85] Tyler-McGraw, *At the Falls*, 132-33; Shanks, *Secession Movement*, 190.

[86] Tyler-McGraw, *At the Falls*, 132-33; Shanks, *Secession Movement*, 191-209; Potter, *Impending Crisis*, 577-83.

A group of armed men raised the Confederate flag over the city's largest iron foundry. A local artillery group sounded a one-hundred-gun salute in honor of the southern symbol. A large, restless crowd then forced its way onto the Capitol grounds to replace the American colors with that of the Confederacy. And by evening, the city was lit up with fireworks and filled with sounds of parades as Richmonders proclaimed their loyalty to the South and their demand for secession. The atmosphere was a mixture of a call to arms, a celebration of southern independence, release of long-held breath, and the exhilaration and delirious hope of the uncertain future. The *Dispatch* reported, "We never saw more of that determination which means do or die than was expressed in the faces of the . . . hundreds assembled in the rotunda yesterday."[87] And still the convention delayed a declaration by Virginia.

The "People's Convention" drew a "line in the sand," calling for official secession by April 17th. The newspapers reported of locations all over the city that were taking down their "Stars and Stripes" and raising the banner of the Southern Confederacy. Even the *Richmond Whig* took down its U.S. flag and raised the flag of Virginia. Several young cadets native to Richmond left West Point to join the Confederate army. A "Southern Rights" ball was held and well-attended in the capital.[88] Then, on the 15th, Lincoln took a fateful step, declaring his intention to utilize coercion to return the seceded states to the Union. He called for states still in the Union to amass troops to put down the seceding states' rebellion.

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[87] *Richmond Dispatch*, Apr. 16, 1861; Tyler-McGraw, *At the Falls*, 133-35; Shanks, *Secession Movement*, 198-99.

[88] Tyler-McGraw, *At the Falls*, 135; *Richmond Dispatch*, Apr. 16, 17, 18, 1860.

Coercion was the line of demarcation for moderate delegates to the convention. Prior to Lincoln's call to arms, they were still able to argue that Lincoln's election had been constitutional and that there had been no overt, unconstitutional act on the part of the Republican administration. But Lincoln's "War Proclamation," as the *Dispatch* called it, changed the question; it was "no longer one of Union. . . . [but] of the peace, safety and purity of every fireside in Virginia." Spectators thronged the Capitol, and excitement pervaded the city. The *Dispatch* urged the convention to "scatter party to the winds and unfurl the proud flag of Virginia."[89] Even the moderate convention could no longer justify delay nor withstand the tide of the citizens' demand for action. On Wednesday, April 17, it went into secret session, voted for secession, and raised the flag of the Confederacy above the southern end of the Capitol building.[90]

As one Virginia historian reports, "Over ten thousand Richmonders poured into the streets . . . for a massive torchlight procession, with bands playing, crowds singing, southern flags flying, and Roman candles and rockets blazing in the night sky."[91] The city, which had observed so meticulous an effort at peace and compromise, exploded in support for war if necessary to preserve the rights and honor of Virginia and other southern states. A regiment of the Virginia militia took possession of the Customs House, formerly used by the U.S. government. Armed men assembled in their companies to drill, over one thousand in number according to Richmond newspapers.[92]

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[89] *Richmond Dispatch*, Apr. 16, 1861.

[90] Ibid., Apr. 19, 1861.

[91] Tyler-McGraw, *At the Falls*, 135.

[92] *Richmond Dispatch*, Apr. 18, 19, 21, 1861.

The action of the convention was declared to be the "echo of the People's Will," a "noble act of patriotic duty."[93] The journey of Union, which had begun with careful deliberation accompanied by cheers of joy, ended in much the same way. Virginia harkened back to its ratification ordinance of 1788 upon withdrawing from the Union.

> The powers granted under the Constitution being derived from the People of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression. . : . No right of any denomination can be cancelled, abridged, restrained, or modified by . . . any officer of the United States.[94]

The majority of Richmond's citizens truly loved the Union, while at the same time believing that their rights were being violated within it. In their minds, this violation constitutionally justified the state's withdrawal.

This action was consistent with the principles the state had stood upon since its participation in the American Revolution against Britain. Virginia's secession convention could have quoted directly from 1786 resolutions that the state had sent to Congress in requesting the strong Union formed under the Constitution. The resolutions had emphasized the equal rights of every part of the Union and had declared the sacrifice of "the rights of any one part to the supposed or real interests of another part" to be a "flagrant violation" of the justice the federal government should guarantee.[95] When selecting delegates to the Philadelphia convention, Richmond newspapers had reminded their readers that the "only object of all government is to secure our rights against

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[93] Ibid., Apr. 19, 1861.

[94] Hugh Blair Grigsby, *The History of the Virginia Federal Convention of 1788* (New York: Da Capo Press, 1969), 347-48.

[95] *Virginia Independent Chronicle*, Dec. 6, 1786.

invasion from enemies abroad, or neighbors at home." The *Chronicle* declared that "no obedience is . . . due, where [this] is delayed or refused."[96]

Virginia's decision to secede was one steeped in tradition and long-held principles and beliefs. It was not an action taken without full consideration of the implications, but rather one seriously considered from every angle, and determined to be necessary to prevent a reestablishment of tyranny—the very evil the state's fathers had fought to overcome in the Revolution.[97] Virginia's participation and leadership in the Union lasted almost seventy-three years exactly. But that which the state's finest leaders had birthed and so strongly supported had gone awry, and in a steadfast loyalty to the principles those founders had espoused, Virginia finally withdrew its support from what the Union had become and embarked upon an effort to try once again.

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[96] Ibid., Mar. 21, 1787.

[97] Munford, *Virginia's Attitude*, 290-93, 299-304.

CONCLUSION

THE POINT OF SEPARATION

When Lincoln called for volunteers to aid in his endeavor to keep the Union together, he justified such action by viewing the seceded portion of the country as the collaboration of several rebellious factions. He believed that secession had been initiated and its movement sustained by a few radical politicians and slaveholders in the South, and that the majority of southerners remained loyal to the Union. He cited the Constitution's charge to the executive to "take care that the laws be faithfully executed" and to "preserve" and "defend" the Constitution.[1] Lincoln did not acknowledge the Confederate governments as representative of the people of their respective states and thus believed it was his duty to put down the rebellion and restore unity under the Constitution for the sake of all Americans.

Words such as "rebellion" and "revolution" involve change, however—"sudden," "radical," and "fundamental" change. Lincoln perhaps would not describe the rebellion of the South as sudden; but he certainly believed that, with the rise of certain outspoken men to power, a radical change in the fundamental beliefs espoused by southern state governments had taken place. While casual observers might note only the economic differences which had become obvious between the sections or the institution of slavery still harbored in one while derided in the other, those involved in the rhetoric and debate of 1860 and 1861 knew that the issues were even more fundamental. The point of separation found its origins in the creation of the Union itself.

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[1] *United States Constitution*, Art. II, Sec. 1, 3.

David M. Potter has said that the United States is perhaps the "only nation in history" to exist for seven decades as a nation "before decisively answering the question of whether it was a nation at all."[2] Within this wry statement lies the problem with labeling the South's secession as "rebellion" or a "revolution." For many in the South, secession represented a loyalty to constitutional principles, a conservative stand for the ideas of the founding fathers, in no way a "sudden" or "radical change." To those citizens, the fundamental tenets of limited, republican government were exactly the issues at hand, no matter the surface distractions of agriculture versus industry, slave labor versus free. The microcosm of Richmond, Virginia serves as an illustration of this assertion.

Richmond, of perhaps all other southern locales, sought most to emulate the North. The city pursued manufacturing, shipping, trade, agriculture, ethnic and economic diversity, and culture. It seriously considered the emancipation of slaves. Radical ideas gained no foothold there; it provided the home to a state government known for its conservatism, patriotism, and leadership. It was the capital that eminent statesmen and founding fathers such as Madison, Jefferson, and Washington called their own. It supported the political careers of staunch Federalists like John Adams and John Marshall as well as those who stood firmly against Federalist tendencies like Patrick Henry and John Tyler. Richmond by no means fostered drastic deviance from fundamental principles.

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[2] David M. Potter, *The Impending Crisis: 1848-1861* (New York: Harper & Row, 1976), 479.

And yet, in April 1861, the capital's citizens finally insisted upon joining the "rebellion" of the seceded states. Representatives from around the state struggled to hold back the tide of those who demanded secession. Richmonders were certainly not forced into secession by the machinations of radical leaders; rather, a large number of the city's literate citizens were well aware of the deeper issues and came to the conclusion that secession was the only honorable option. Men who had long denounced the nullifiers and fire-eaters farther to the South and had stood for Union and compromise in the face of tremendous pressure from southern neighbors now embraced the future of the Confederacy. How can this be explained?

From the inception of government under the Constitution, Richmonders valued personal liberties and state rights as highly as they did the benefits associated with the Union. The chaos of the 1780s convinced them, although reluctantly, to accede to a new government under the Constitution. Their approval carried conditions, however, which would make the governing document more clearly supportive of their priorities and values. In their official declaration of ratification, they expressed the doubts raised in the intense ratification debates and reflected in the narrow margin of victory in the final vote to ratify. The Constitution, like the Articles had been before it, was an experiment—one better created after the lessons of the Articles—but an experiment no less, with no guarantees of success. As one Virginian commented in a November 1787 issue of the *Chronicle*, Richmonders chose to "give it a trial," believing without question that if and when "experience has taught its mistakes, the people . . . can reform and amend them."[3]

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[3] *Virginia Gazette and Independent Chronicle*, Nov. 21, 1787.

The people, grouped as they were into state entities, remained sovereign. No creation of a republican government would place ultimate sovereignty anywhere else. Government by the people and for the people was the sacred cornerstone of America.

Over the years that followed ratification, Richmond demonstrated its loyalty to the rights of Virginians—rights whose origin predated the Constitution. The city also exhibited a determined effort to keep the Union together. It clearly understood and preferred the benefits derived from a cohesive relationship with fellow states. When basic freedoms were threatened, as in 1798, it chastised those responsible in the government and called for reform, but did not give up on union. When economic balance was seemingly disturbed by a discriminating protective tariff, Richmond registered protest and called for change. Yet it also discouraged the nullifiers of South Carolina who threatened continued union and actively sought compromise between Jackson and fellow southerners. True to its word, Richmond remained committed to the Union under the Constitution while the wrinkles were ironed out, never, however, losing sight of the fundamental bases for that commitment. When the principle of popular sovereignty—as represented in individual or state liberties—was threatened by actions of the federal government, Richmond registered its protest and reminded America that all the benefits of union were void without the foundation and preservation of liberty.

Even its path to secession demonstrated Richmond's allegiance to both liberty and constitutional unity. Voting overwhelmingly for a political platform of simply "the Union, the Constitution, and enforcement of the laws," Richmond discouraged the sectionalism of the 1860 presidential election. Once Lincoln was elected, the city's primary newspaper called its readers to honor the constitutional election of the

controversial Republican candidate. When South Carolina and the Gulf states seceded, Richmond urged compromise and entreated both sides to reconsider for the sake of the Union. In the face of immense pressure from family and countrymen to the south, Richmond rejected secession and organized a Peace Commission instead. Virginia's capital continued in its unpopular quest for a compromise between freedom for southern peoples and unity under a northern-controlled federal government.

True to its long-held and oft-stated principles and values, however, Richmond loved liberty first and government under the Constitution next. The city had watched compromise preserve liberty under the Constitution many times throughout the previous seventy years and had always found continued unity possible due to the character and good will of all the parties to the compact. Unity had not been preserved at the price of liberty, however, nor should it have been. From the beginning, Richmond had reserved its right to withdraw its participation in the constitutional government created in 1787 should the experiment falter and the powers granted to the federal government be "perverted to [the] injury or oppression" of the people of Virginia.[4] Lincoln's intended coercion of states that, in Richmond's view, had legally seceded dismantled any support the city could continue to offer the president. His call for troops represented a threat to the liberties of the people of the seceded states, and, further, requested Richmond's endorsement of this menacing position. This was the overt act that could, in the mind of Richmonders, be clearly labeled as a violation of their agreement under the Constitution.

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[4] Hugh Blair Grigsby, *The History of the Virginia Federal Convention of 1788* (New York: Da Capo Press, 1969), 347-48.

The compact had been broken by the other party to it—the federal government—and therefore Richmond's decision to secede from the compact was justified.

Moreover, Richmond's secession demonstrated once again its consistent, conservative nature. This was no sudden, radical, or fundamental change. Rather, secession was the logical, prescribed step for Richmond in light of its basic values—values which predated the Constitution. Richmonders believed the decision to secede preserved the intentions of the Founding Fathers themselves. In 1787, James Madison had identified the goals of the Philadelphia Convention as they sought to create a new government. These goals specifically included the intention to "to provide for the different interests of different parts of the Union" and to "draw a line of demarcation" between the powers delegated to the "General Government" and those retained by the states.[5] James Monroe had later warned that this line had not been drawn clearly enough. The "precise point" had not been marked, and thus the "ground of variance or even interference" had provided the opportunity for conflict, proving "fatal"—as Monroe had predicted—"to both."[6] When Richard Henry Lee had called for amendments explicitly protecting individual rights and state sovereignty, he declared that without such specific clarifications, "either a tyranny will result . . . or . . . a Civil war."[7] Richmond's resistance to Lincoln—which many saw as resistance to tyranny—contributed to the fulfillment of Lee's prophecy.

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[5] James Madison to Thomas Jefferson, Oct. 24, Nov. 1, 1787, in Merrill Jensen, et al., eds., *The Documentary History of the Ratification of the Constitution* (18 vols. to date, Madison: The State Historical Society of Wisconsin, 1975-), 8:22-24.

[6] "James Monroe: Some Observations on the Constitution," c. May 25, 1788, in ibid., 9:858.

[7] Richard Henry Lee to George Mason, Oct. 1, 1787, in ibid., 8:29.

In 1798 and again in 1830, Madison had expressed his concern with the federal government's increasing use of power not explicitly granted to it. He believed that the Alien and Sedition acts, as well as the offensive tariff, constituted misuses of federal power, threatening the liberties of the people that the federal government had been designed to protect. He had endorsed compromise in both instances, and fallen back on the common high character of Americans to ensure continued preservation of Union without sacrificing liberty. But compromise and high character failed America in 1861, and Richmond was forced to choose between Union and liberty. True to Virginia's foundational principles, Richmond chose liberty, and, perhaps, Madison would have approved.

BIBLIOGRAPHY

PRIMARY MATERIALS

Manuscripts

Cocke Family Papers. Virginia Historical Society. Richmond.

James Powell Cocke Papers. Virginia Historical Society. Richmond.

Lewis-Scott-Daniel-Greenhow Family Papers. Library of Virginia. Richmond.

D.H. London Papers. Virginia Historical Society. Richmond.

Marshall Family Papers. Virginia Historical Society. Richmond.

John Y. Mason Papers. Virginia Historical Society. Richmond.

Records of the Central Southern Rights Association, 1850-59. Virginia Historical Society. Richmond.

Conway Robinson Papers. Virginia Historical Society. Richmond.

Ruffin Family Papers. Virginia Historical Society. Richmond.

Thomas Rutherfoord Papers. Virginia Historical Society. Richmond

Tyler Family Papers. Virginia Historical Society. Richmond.

Published Works

Freehling, William W., ed. *The Nullification Era: A Documentary Record.* New York: Harper & Row, 1967.

Hutchinson, William T. and William M.E. Rachal, et al., eds. *The Papers of James Madison.* 17 vols. to date. Chicago: University of Chicago Press; Charlottesville: University Press of Virginia, 1962- .

Jensen, Merrill, et al., eds. *The Documentary History of the Ratification of the Constitution.* 18 vols. to date. Madison: The State Historical Society of Wisconsin, 1975- .

Johnson, Herbert A., ed. *The Papers of John Marshall.* 10 vols. to date. Chapel Hill: University of North Carolina Press, 1974- .

Little, John P. *History of Richmond* in *The Southern Literary Messenger*, 1851-52; reprint, Richmond: The Dietz Printing Company, 1933.

Meriwether, Robert L., et al., eds. *The Papers of John C. Calhoun*. 25 vols. to date. Columbia: University of South Carolina Press, 1959- .

Rakove, Jack N., ed. *James Madison: Writings*. New York: The Library of America, 1999.

Rutland, Robert A., ed. *The Papers of George Mason: 1725-1792*. 3 vols. Chapel Hill: University of North Carolina Press, 1970.

Solberg, Winton U., ed. *The Constitutional Convention and the Formation of the Union*. 2d ed. Urbana: University of Illinois Press, 1990.

Storing, Herbert J., ed. *The Anti-Federalist*. Chicago: University of Chicago Press, 1985.

United States v. Callender, 25 F. Cas. 239 (D. Virg. 1800).

Veit, Helen E., Kenneth R. Bowling, Charlene Bangs Bickford, eds. *Creating the Bill of Rights: The Documentary Record from the First Federal Congress*. Baltimore: Johns Hopkins University Press, 1991.

Newspapers

National Intelligencer (Washington) [1833]

Richmond Dispatch [1859-61]

Richmond Enquirer [1832-33, 1859-61]

Richmond Examiner [1859-61]

Richmond South [1858-59]

Richmond Whig [1859-61]

Virginia Argus (Richmond) [1798]

Virginia Gazette and General Advertiser (Richmond) [1787-88, 1798]

Virginia Gazette and Independent Chronicle (Richmond) [1787-88]

Virginia Herald (Richmond) [1798]

Virginia Herald and Fredericksburg Advertiser [1788]

Virginia Independent Chronicle (Richmond) [1786-88]

SECONDARY MATERIALS

Ambler, Charles Henry. *Sectionalism in Virginia from 1776-1861.* Reprint, New York: Russell & Russell, 1964.

Beeman, Richard R. *The Old Dominion and the New Nation, 1788-1801.* Lexington: University Press of Kentucky, 1972.

Burgess, John W. *The Civil War and the Constitution, 1859-1865.* New York: Charles Scribner's Sons, 1901.

Carpenter, Jesse T. *The South as a Conscious Minority, 1789-1861.* New York: New York University Press, 1930; reprint, Gloucester: Peter Smith, 1963.

Cornell, Saul. *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788-1828.* Chapel Hill: University of North Carolina Press, 1999.

Craven, Avery O. *The Growth of Southern Nationalism, 1848-1861.* Baton Rouge: Louisiana State University Press, 1953.

Dabney, Virginius. *Richmond: The Story of a City.* Rev. and exp. ed. Charlottesville: University Press of Virginia, 1990.

Ellis, Richard E. *The Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis.* New York: Oxford University Press, 1987.

Freehling, William W. *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836.* New York: Harper & Row, 1965.

Grigsby, Hugh Blair. *The History of the Virginia Federal Convention of 1788.* New York: Da Capo Press, 1969.

Hyman, Harold M. *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution.* New York: Alfred A. Knopf, 1973.

Mason, Alpheus Thomas, ed. *The States Rights Debate: Antifederalism and the Constitution*. 2d ed. New York: Oxford University Press, 1972.

McCoy, Drew R. *The Last of the Fathers: James Madison and the Republican Legacy*. Cambridge: Cambridge University Press, 1989.

Munford, Beverley B. *Virginia's Attitude Toward Slavery and Secession*. New York: Longmans, Green, and Co., 1909.

Potter, David M. *The Impending Crisis, 1848-1861*. New York: Harper & Row, 1976.

Powell, Edward Payson. *Nullification and Secession in the United States: A History of the Six Attempts During the First Century of the Republic*. New York: G.P. Putnam's Sons, 1897.

Shade, William G. *Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861*. Charlottesville: University Press of Virginia, 1996.

Shanks, Henry T. *The Secession Movement in Virginia, 1847-1861*. New York: Da Capo Press, 1970.

Tyler-McGraw, Marie. *At the Falls: Richmond, Virginia, and Its People*. Chapel Hill: University of North Carolina Press, 1994.

Van Deusen, Glyndon G. *The Jacksonian Era, 1828-1848*. New York: Harper & Brothers, 1959.

VITA

Melody Riddle Durham was born in Knoxville, Tennessee in November 1974. After moving to Texas at age six, she completed elementary and middle school in Dallas and high school just outside of Houston. Upon her graduation in 1992 as valedictorian of her class, she returned to Tennessee to attend Bryan College in Dayton on the Presidential Scholarship. She earned her B.A. in History Education in 1996, graduating *summa cum laude* and achieving the Outstanding Senior in History award. In the summer of 1996, she took a job in Knoxville teaching seventh grade World Geography and Tennessee History.

In the spring of 1997, Melody applied for and received the James Madison Memorial Fellowship, offered by a foundation bearing the same name located in Washington, D.C. This fellowship is awarded to one history teacher per state each calendar year. It allows teachers to earn their M.A. in history with a focus on the American Constitution while continuing to teach. The fellowship enabled Melody to spend a month in Washington studying at Georgetown University with history teachers from around the country.

Currently, Melody is working as a private tutor in Knoxville while completing her M.A. at the University of Tennessee. Teaching is her first love, and she looks forward to applying in the classroom the enriched understanding of U.S. History gained through her graduate work.