

NEWSLETTER

President's Message

Summertime is finally here !

As evidenced by the photos herein, everyone enjoyed the outdoor Concert by the Springs.

Hal Whiteman amazed us all with his singing abilities and vast knowledge of song lyrics.

Our next social event will be a Braves game on Sunday, June 27th at 1:00 PM. Please let an officer know if you are interested in attending. We have a few tickets still available. We had a blast last year. Most of you remember the 1991 Braves and the following years. Those were exciting times. Let's go support the Braves and Bobby Cox in his last year as manager.

Hope to see you there.



JUNE MONTHLY MEETING

Special Guest:



**Wendell Willard
R- Sandy Springs
GA Legislative
District 49**

DATE

June 10th, 2010

LOCATION

[Click For Map](#)

Five Seasons at the Prado
11:45 to 1:00 - \$15.00

Thank You!!

We appreciate Sam Olens talking to us at our May 13th meeting. We wish him well in his race for Attorney General.

MEMBERSHIP DUES/INQUIRIES

DUES SHOULD BE SENT TO:

Mr. Joe Nagel

6100 Lake Forest Drive
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Member Announcement



One window office for rent in Sandy Springs suite next to 400 at Northridge. The space belongs to an immigration attorney. Included are use of reception area and receptionist to greet clients, shared conference room, and kitchen. Phone, internet, and copier also available. Furniture available if needed. Rent is \$750 per month. For more information, contact Rachel 404-593-2710 or rachel@effronimmigration.com

Member Announcement

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DID THE SOUTHERN STATES HAVE A LEGAL RIGHT
TO LEAVE THE UNION?

By Lee M. Weinstein

In today's world of protests by the "Tea Partiers," the criticism by many people of Big Government's alleged interference in matters rightfully belonging to the states or the citizens, such as health care reform, and in other issues and disputes between the states, its citizens and the Federal Government, perhaps it would be interesting to review a similar controversy happening 149 years ago.

This article will not directly address whether the issue of slavery or Abraham Lincoln's election caused eleven states to withdraw from the United States of America. That is a subject that has been argued about for many years in our country's history. This article will not address which of the combatants caused the War Between the States, or Civil War, whatever your choice of terminology may be. However, for background purposes to understand the alleged legal basis for southern states leaving the union, the U.S. Constitution had, prior to 1861, the year of the War's beginning, a pro-slavery clause relating to fugitive slaves. Article I, Section 9, prior to 1808, provided that there would be no interference with the slave trade. Article I, Section 9 also provided a limit on taxes imposed on the slave trade. Article I, Section 2 additionally contained a three-fifths clause in counting population for apportionment purposes, counting slaves as three-fifths of a non-slave. Article IV provided for extradition of escaped slaves.

Many legal scholars contend that the U.S. Constitution was a "compact," or contract, between the states. As a contract, could it be rescinded (nullified) by some

states if other states breached the contract by violating the prior mentioned constitutional guarantees? Those taking that position say yes, that secession was legal in the nature of equitable relief where there was no adequate remedy at law. These proponents further argue that ratification of the U.S. Constitution by the states was conditioned upon the right to rescind. Was there a breach of the compact by the free states which justified rescission by the slave states, and was the issue of breach up to the slave states to decide? The seceding states argued that life, liberty and property of their citizens was threatened, and they had a duty to regain powers delegated to the Federal Government and to interpose their sovereignty for the protection of their citizens. They, in effect, made Lincoln's election equivalent to an anticipatory breach of contract. If the colonies, prior to the Revolutionary War, had a legal right to break away from Great Britain, didn't the southern states have the same right to leave the Union? If one argues against secession, then does one argue against the Revolutionary War? The proponents of this line of thought assert the right of revolution existed to the states. They further assert that a state has the right and duty to resist tyranny and to protect the sovereignty of the people from subservience to the Federal Government, especially if there is an attack on the peace, happiness and safety of the people.

Marriage is a contract entered into by the parties with an expectation of permanency, but law allows it to be broken by one party, if that party perceives the other party to be breaching the contract by his or her behavior or perceived behavior. However, with the advent of "no-fault" divorce, one of the parties can unilaterally now break the contract at will. How is this different from a southern state seceding from the Union based upon a perceived constitutional breach by the Union, or is fault really

necessary in a “no-fault” secession? Abraham Lincoln, after his election, made it clear that the south could continue its “peculiar institutions” unmolested by the Federal Government. A proposed 13th Amendment said that in effect. Was not slavery permitted by the U.S. Constitution until after the War began and the enactment of the current 13th Amendment?

West Virginia seceded from Virginia, and was admitted to the Union as a state in 1863. What does that do to the anti-secession legal argument?

Other legal scholars argue that the U.S. Constitution was intended for perpetual union, and it was not a compact but the establishment of a government. They further argue that there was no wrong or threat actually committed against the southern states by the free states, and the proper election of a President was no basis for secession. The legal argument is that dissolving the Constitution by unilateral action is not permissible, and if a minority has the right to break up their Government at their will because the minority loses power, then that would be an end to all government. The heart of this argument is that the founders of our country never intended to allow destruction of the country by secession. The national government existed in perpetuity, and no state on its own could leave the Union.

Essentially, the act of secession was whether under state sovereignty the people had a right to change their government. Secession was the conflict between federation and centralism. The argument is that sovereignty does not belong to the Federal Government but to the people who consent to be governed. By enactment of the U.S. Constitution, the people consented to be governed by the Federal Government, but by the act of secession, the people could transfer their consent to be governed elsewhere. On the

contrary, does not the result of a legitimate Presidential election determine the people's consent to be governed? Unless the elected President commits unconstitutional acts, does a national right to revolt or rebel still exist? Is the exercise of sovereignty an exercise of the natural right of the people's consent to be governed?

Almost concluding, the right to secede was really a conflict between the people of the states as absolute sovereigns vis a vis the Federal Government as absolute sovereign.

Take your pick, as it is a moot point now.

In conclusion, what did secession accomplish? It unified the country again by virtue of the south's defeat. Robert E. Lee gambled it all on July 3, 1863 at Gettysburg and he lost, but that is another topic for another day.

Articles Consulted

"Apostles of Secession," Charles B. Dew

Vol. 4, No. 4, North and South, pp. 24-38.

"What Caused the Civil War," James M. McPherson

Vol. 4, No. 1, North and South, pp. 12-22.

"Rebellion Thus Sugar-coated," John Y. Simon

Vol. 3, No. 7, North and South, pp. 10-16.

"Secession, A Constitutional Remedy for the Breach of the Organic Law," Kent Masterson Brown

Vol. 3, No. 6, North and South, pp. 12-21.

"Why Did Lincoln Choose War," Jeff Rogers Hummel

Vol. 4, No. 7, North and South, pp. 38-40.

"John Brown, the Election of Lincoln and the Civil War," David S. Reynolds

Vol. 9, No. 1, North and South, pp. 78-88.

"Virginia's Reluctant Secession," William W. Freehling

Vol. 5, No. 4, North and South, pp. 80-89.

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