INTRODUCTION
The Confederate States of America lasted from February 1861, when delegates from seven seceding states met to form a provisional government, until May 1865, when Jefferson Davis and the remnants of the Confederate national government were captured by Federal troops. During its brief existence, the Confederacy raised a number of interesting legal issues of lasting significance. On one hand, these issues touched on, among other things, the international law of belligerency, the laws of war applicable in civil war, and the status of domestic institutions in time of insurrection and sectional conflict. On the other hand, the Confederacy represented a constitutional experiment, setting forth interesting variations on the constitutional order prevailing in the United States.

INTERNATIONAL LAW
The United States government regarded the Confederacy not even as a de facto government, but merely as an organized rebellion with no status in international law. The Confederacy was conceded "some belligerent rights... in the interests of humanity" so that the laws of war would apply to the conflict; but this concession did nothing to sanction the existence of the Confederacy as a sovereign state (Williams v. Bruffy, 96 U.S. 176, 184-187 (1877)). These principles are officially stated in J. Moore, A Digest of International Law, 8 vols. (1906) (JX237/D541) (check the index volume under "Confederate States"). For a modern discussion of the role the Civil War played in developing the international law of civil conflict, see Wright, The American Civil War, 1861-65 in R. Falk, ed., The International Law of Civil War 30-110 (1971) (JX4541/In8f).

CONSTITUTIONAL LAW
The United States Constitution begins "We the People of the United States"; the Confederate Constitution begins "We the people of the Confederate States, each state acting in its sovereign and independent character.” The difference in the preambles of the two documents is enough to suggest that, at the least, the Confederate experiment in constitution-making presents an interesting comparison with the main line of American constitutional development. For a history of the drafting and the text of the Confederate constitution, see:

For a discussion of the climate of opinion that gave rise to the Confederate document, see:

- W. Swindler, *Sources and Documents of U.S. Constitutions* (1975-) (KF4530/Sw63)

**PRESIDENT AND CONGRESS**

J. Richardson, ed., *A Compilation of the Messages and Papers of the Confederacy* (1906) (microfilm), collects miscellaneous presidential and legislative materials dealing with the Confederate government. Jefferson Davis's *Papers* (E467.1/D2596/1991) give the views of the Confederacy’s president; statutes adopted by the Confederate Congress are found at KFZ8625.2, and in *Documenting the American South* (under the heading “Civil law–Confederate States of America”). *The Avalon Project* provides the text of the Confederate constitution and miscellaneous messages and papers of the Confederate government.


**JUDICIARY**

W. Robinson, *Justice in Gray* (1941) (KFZ9108/R63/1991), is the standard history of the confederate judicial system. The Confederacy, like the United States, had both federal and state courts. On the federal level, the Supreme Court sanctioned by the constitution was never created because of sectional and political conflict. The only national law officer was the Attorney General, whose opinions therefore took on accentuated importance. For these opinions, see R. Patrick, ed., *The Opinions of the Confederate Attorneys General, 1861-1865* (1950) (JK9760/A6), and for a biography of the leading Confederate attorney general, see E. Evans, Judah P. Benjamin, the Jewish Confederate (1988) (E467.1/B4/E9/1988). Some federal district courts were created, however, and sat in the individual states of the Confederacy. Their opinions were never formally reported. On the state level, the court systems of the individual states continued without interruption, the only difference in proceedings being that a new country, the Confederate States, was recognized as sovereign. The opinions of the state
courts can be found, insofar as they are reported, in the official reports of the states for the years of the Civil War. Volumes 38 and 39 of the Alabama Reports, for instance, provide unbroken coverage of the proceedings of the Alabama Supreme Court during the war years, mingling mundane civil actions with suits by the Confederate authorities to enforce conscription and federal taxation.

In the eyes of the United States, Confederate courts, as creatures of insurrection, had no existence—"they were as if they were not." Nevertheless, insofar as courts in the Confederacy continued ordinary civil law business, apart from insurrection or war, their acts were accorded recognition as the ordinary acts of civil government. "No one... seriously questions the validity of judicial or legislative acts in the insurrectionary States... where they were not hostile in their purpose or mode of enforcement to the authority of the National government." (Horn v. Lockhart, 84 U.S. (17 Wall.) 570, 580 (1873)). In other words, the Confederate courts were not, but what they did often was.