

HERITAGE AND HATE

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The defense offered by those who would have the Confederate Battle Flag remain on the grounds of the South Carolina State House is centered on a distinction that is captured in the slogan “Heritage, Not Hate.” Essentially, the idea is that the Battle Flag does not represent the history of Africans and African Americans through the institution of slavery. Rather, it represents the history of South Carolina, and of the southeastern states generally, a history that embodies many features other than slavery. Foremost among those other features, according to this view, is a vigorous defense of states’ rights, a position that is in fact in favor in current political debate.

On this view, there are two bonds at work. First, there is the bond between heritage and states’ rights. Among those features of southern heritage that are to be honored and preserved, the struggle against the tyranny of a dominant national government is surely one. And, so the story goes, it is the south above all that has resisted the oppression of the national government by asserting the rights of those states that compose it.

The second bond is between hate and slavery. This bond, it is argued, while certainly part of southern history, is not central to its heritage, and in particular it is not central to its heritage as embodied in the Confederacy. It is the first bond, not the second one, which characterizes the tradition of the Confederacy; therefore, the Confederate Battle Flag is an appropriate symbol of southern, and specifically South Carolinian, history.

What the supporters of this position recognize is that in order for the case for the display of the Confederate Battle Flag to be compelling, a separation must be made between the institution of slavery and the argument about states’ rights. If the Battle Flag represents *nothing but* slavery, there is no more reason to accept it as a symbol of southern heritage than there would be to fly the Nazi flag in provincial houses in Bavaria as a

symbol of German history. However, the fact that the Battle Flag represents more than slavery is not enough. If the Confederacy is about states' rights *and* slavery, this also presents a grave difficulty for those who would like to fly the Battle Flag on the grounds of a state institution. The problem is that, while on the one hand there may be more than slavery in the Confederate past, on the other hand anything that functions as a symbol of slavery, whatever else it may represent, is alienating to African American citizens of South Carolina. Is it proper to display a symbol that, whatever its other merits, also stands for and is inextricably interwoven with the institution of treating people of color as chattel? The answer seems clearly to be no.

Therefore, in order for there to be grounds for displaying the Confederate Battle Flag on the grounds of the South Carolina State House, it is necessary that the Confederacy be a symbol of states' rights *rather than* slavery. Heritage, Not Hate.

Unfortunately, the Confederate Battle Flag does not represent states' rights rather than slavery, especially in South Carolina. At best, it represents states' rights in the service of slavery. Heritage, we might say, in the service of hate. In order to see this, one need look no further than the South Carolina Articles of Secession.

The Articles do affirm states' rights, including centrally the right of an individual state to dissolve its contractual bond to the union should other states fail to hold to their contractual obligations. And, indeed, those other states have failed to hold to their contractual obligations. Which obligations are these? The issue is one primarily of the obligation to return escaped slaves to their rightful owners. In the Articles, fourteen states are accused of harboring escaped slaves, failing to return them, and even going so far as to offer them freedom. "Those States," the Articles claim, "have assume [sic] the right of deciding upon the propriety of our domestic institutions; and have denied the rights of property established in fifteen of the States and recognized by the Constitution; they have denounced as sinful the institution of slavery; they have permitted open establishment among them of societies, whose avowed project is to disturb the peace and to eloin the property of the citizens of other States. They have encouraged and assisted thousands of our slaves to leave their homes; and those who remain, have been incited by emissaries, books and pictures to servile insurrection."¹

Thus, conclude the Articles, it is right and proper that South Carolina, having had its Constitutional rights violated, dissolve its contractual bond to the union.

The articles present no complaint about the union other than those that concern slavery. The rights of states to establish their own laws, to compel respect for those laws by other states, and to secede if those first two conditions are not met have *no other object* in the Articles—the founding document of South Carolina’s secession—than to protect slavery.

What may we conclude from this? Two things. First, the presupposition of the Heritage, Not Hate campaign is exactly right: in order for the display of the Confederate Battle Flag on the grounds of the state house to be defensible, there must be a sharp distinction between slavery on the one hand and the rest of southern tradition on the other. Second, the historical facts show that this presupposition does not obtain. There is no historical distinction to be drawn between slavery on the one hand and states’ rights on the other. The point of invoking states’ rights is simply to preserve the institution of slavery. As a result, there is no justification for flying the Confederate Battle Flag anywhere on state property. It should be removed and treated as the symbol of racism, slavery, and oppression that it is.

NOTES

¹ See: www.yale.edu/lawweb/avalon/csa/scarsec.htm

