

## The (Self-) Righteous Cause

John Scales

It is common in Civil War circles to hear about the so-called “Lost Cause”, variously termed a myth or a narrative. Are those two terms synonymous? Let’s look. Dictionary.com defines myth as:

“a traditional story, especially one concerning the early history of a people or explaining some natural or social phenomenon, and typically involving supernatural beings or events.”

On the other hand, using Oxford Languages, a narrative is defined as:

“a spoken or written account of connected events; a story.”

The difference between the two is the connotation of “myth” as false, while “narrative” lacks such a connotation even though it may skip many pieces of the story or emphasize (or deemphasize) certain aspects of that story – thus it may be misleading in some respects. So, given that many of the tenets of the “Lost Cause” are true or mostly true, while the less desirable aspects of the Confederacy (principally involving slavery) were downplayed or not mentioned at all, it fits solidly in the realm of narrative rather than myth. The unfortunate aspect of the use of the word “myth” (other than it is inappropriate as it implies complete falsity) is the term is often used as an attempt to shut down critical thinking or analysis as if saying “Lost Cause Myth” about a point of history immediately destroys the side trying to make the point – no matter whether the point is objectively true or not.

So, the Lost Cause narrative is often presented as at best misleading, while today’s “standard” interpretation, often taught in history classes even at universities, is enshrined as the “TRVTH”, whose plinth before which all must bow down. (apologies to B.C.) But does the “standard” interpretation bear objective scrutiny, or is it just another narrative, with a lot of facts but a lot of factors skipped or downplayed? Let’s look at some of the things that are often taught; call them tenets of the “Pious” or the “Self-Righteous” Cause narrative.



### 1. Secession was illegal and treasonous.

There could be three sources of illegality for secession: the courts, the laws passed by Congress, and the Constitution. Before 1869 (that is, before the end of the war), there was no federal court case bearing on secession, so that’s ruled out.<sup>1</sup> Congress had passed no law addressing secession either. That leaves the Constitution. You may search the entire Constitution and will find no mention of secession anywhere. Specifically, the Constitution delegates no power to the federal government to set conditions as to if and how a state may decide to leave the Union. Nor does it deny the power of secession to any state. This

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<sup>1</sup> Some will interrupt here and point out Article VI of the Constitution, which establishes federal supremacy in certain areas. That issue is addressed later.

means that, under Amendment X, the states retained the power to secede unilaterally.<sup>2</sup> In fact, the principal constitutional texts of the time (one by Joseph Story and the other by William Rawle) either did not mention it (Story) or, in the latter case, stated it was constitutional under certain conditions. Rawle's words were:

“The secession of a state from the Union depends on the will of the people of such state. The people alone as we have already seen, hold the power to alter their constitution. ... A matter so momentous, ought not to be entrusted to those who would have it in their power to exercise it lightly and precipitately upon sudden dissatisfaction, or causeless jealousy, perhaps against the interests and the wishes of a majority of their constituents.

But in any manner by which a secession is to take place, nothing is more certain than that the act should be deliberate, clear, and unequivocal. The perspicuity and solemnity of the original obligation require correspondent qualities in its dissolution.”<sup>3</sup>

The course taken by the various states which seceded was to essentially unwind their original ratification of the Constitution by means of its Article VII. That is, each state (except Tennessee, which held a popular vote on the issue directly) had popular elections for a convention, separate from the legislature, that would consider the matter in a deliberate, clear, and unequivocal manner. These conventions adopted rules, debated various texts, and eventually came to resolutions that removed reference to the United States from their constitutions and declared their independence. In at least three states (Texas, Virginia, and Tennessee) these resolutions were subjected afterwards to popular vote – and they passed by large majorities.<sup>4</sup> The issue was contentious in many states (e.g., Alabama 61-39 for secession, Virginia 88-55 for secession) but it carried in eleven states, which then formed the Confederacy.

Given all of this, how did the Supreme Court, in the case *Texas v. White* (1869), find that secession had not legally occurred? There are two reasons that should be considered:

- a. The Court members had all supported the Union during the war and were reluctant to allow secession to be considered legal because that would have implied the federal government fought a war of aggression and conquest. Five of the justices, including Chief Justice Samuel Chase, had been appointed to the court by President Lincoln. Chase wrote the opinion himself.
- b. Chase's finding is in paragraph 6 of the decision, as follows:

“The union between Texas and the other States was as complete, as perpetual, and as indissoluble as the union between the original States. There was no place for

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<sup>2</sup> In its entirety, Amendment X reads: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The word “respectively” is defined as “separately or individually” – Oxford Languages on line, 31 October 2023.

<sup>3</sup> William Rawle, *A View of the Constitution of the United States of America*, Chapter XXII, Philadelphia (1902 version, originally 1825), 302. As of 2023 Rawle and Henderson, LLC, is the oldest law firm in the US still operating.

<sup>4</sup> Texas 46,153 for, 14,747 against. Virginia 125,950 for, 20,373 against. Tennessee 108,274 for, 47,247 against. Women, children, and blacks could not vote just as they could not in the Northern states at the time, but there were no property or literacy requirements to vote in those states then. There was no secret ballot in any state, so all voters (North and South) were somewhat subject to public pressure or even intimidation.

reconsideration or revocation, except through revolution or through consent of the States.”<sup>5</sup>

His reasoning is in paragraph 4:

“The Union of the States never was a purely artificial and arbitrary relation. It began among the Colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, and geographical relations. It was confirmed and strengthened by the necessities of war, and received definite form, and character, and sanction, from the Articles of Confederation. By these the Union was solemnly declared to “be perpetual.” And, when these Articles were found to be inadequate to the exigencies of the country, the Constitution was ordained ‘to form a more perfect Union.’”<sup>6</sup>

Initially, this seems a cogent argument, as the Articles make quite a point of the words “Perpetual Union”. The word **perpetual** is used six times in the document itself (counting the title), but the most relevant part is in Article XIII:

“ARTICLE XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and **the union shall be perpetual**; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterward confirmed by the legislatures of every state.” [my emphasis]

The citation of one of the Constitution Preamble’s phrases, “a more perfect Union”, at first seems superfluous, but in fact what Chase seems to have intended is to imply that somehow the Constitution makes the Union even more perpetual – a contradiction in terms. The Framers of the Constitution had the Articles before them as they debated, and certainly they could have inserted “perpetual” into the Constitution in any number of places, but they chose against that option. This choice can only be deliberate and not an oversight as every word of the document was gone over many times. One is forced to assume the omission is a feature – that is, intended – and not a bug.

Now, as to the applicability of the Articles in 1860-61, it is hard to argue they were in any way applicable for several reasons.

- a. It appears in no legal context except as a superseded historical document, uncited in any court cases, laws subsequent to the adoption of the Constitution, or the Constitution itself (which one would expect if the latter was intended to be an amendment to the Articles) – until Mr. Lincoln chose to cite it in his first inaugural address as part of his logic for declaring secession illegal.
- b. The states that joined after the original 13 were not represented in or by the Articles and never acceded to them.

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<sup>5</sup> [Texas v. White, 74 U.S. \(7 Wall.\) 700 \(1869\)](#). (accessed 18 October 2023)

<sup>6</sup> Ibid.

- c. The Constitution itself violated the Articles, in that its ratification did not follow Article XIII at all, there being no agreement by Congress except that it be submitted to the states, and no approval by legislatures. Rather the procedure for ratification of the Constitution given in Article VII was followed: popularly elected conventions.

So, the Court ruling in *Texas v. White*, currently case law in the United States, not only did not exist in 1860-61, it could be easily challenged in court today by a willing state (California, anyone?) and potentially overturned by a modern Supreme Court on the basis of the arguments above.

There are other, less serious arguments against secession based on the text of the Constitution. The first is by citing Article VI, the “Supremacy Clause”. Unfortunately for those who bring it up, if secession is legal under Amendment X, as it appears to be, once a state has seceded the Constitution no longer applies. Nor, for that matter, do any of the arguments based in Article I, Section 10 apply, by the same reasoning.

It is certain, though, that secession was *not* understood to be illegal in 1860-61, as many states, particularly in the Northeast, had bruted about the idea as early as 1803 (in opposition to the Louisiana Purchase)<sup>7</sup> and had seriously discussed it in 1814 (in opposition to the War of 1812)<sup>8</sup> – and no one at the time had argued they couldn’t secede. Radical abolitionists advocated secession (Garrison’s *The Liberator* used the slogan “No Union with Slaveholders” on its masthead until the war).<sup>9</sup>

So, why is the legality of secession important? It goes to the issue of treason. Many call Southerners “traitors”, citing Article III, Section 3 of the Constitution: “Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.” This seems clearcut, as the Confederacy did levy war against some of “them” – the Northern states as represented by their elected federal government. Of course, that government levied war against the Confederate states first (by sending naval flotillas to ports in what was another country, uninvited). Before Fort Sumter, the Confederacy had sent a peace commission to Washington to settle any and all matters, hoping to prevent war.<sup>10</sup> If secession was in fact not legal (Mr. Lincoln’s theory), then by their acts the Northern states could be considered treasonous in attacking Southern states (note the Important word is not “it” but rather “them”). But the argument is on the other side; secession appears by all logic legal and certainly the seceding states had no reason to doubt it when they did so.

However, if the strict words of the Constitution were applicable, the US would have prosecuted all prisoners in all wars as they clearly levied war against the US. That did not happen because the law that

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<sup>7</sup> Timothy Pickering, who had been Washington’s second Secretary of State and was a senator in 1803, proposed the creation of a Northern Confederacy that would separate from the South. He was not alone (Rufus King, another prominent Northerner was a part of the discussion) <https://www.mountvernon.org/library/digitalhistory/digital-encyclopedia/article/timothy-pickering/> (accessed 18 October 2023)

<sup>8</sup> <https://www.visitthecapitol.gov/artifact/proceedings-convention-delegates-hartford-state-connecticut-december-15-1814-hartford#:~:text=The%20Hartford%20Convention,-New%20England's%20Federalist&text=Meeting%20in%20Hartford%2C%20Connecticut%2C%20in,controls%20over%20commerce%20and%20militias.> (accessed 18 October 2023)

<sup>9</sup> <https://www.masshist.org/features/boston-abolitionists/no-union-with-slaveholders#:~:text=William%20Lloyd%20Garrison%20and%20his,the%20masthead%20of%20The%20Liberator.> (accessed 18 October 2023)

<sup>10</sup> [https://en.wikipedia.org/wiki/Confederate\\_States\\_peace\\_commission](https://en.wikipedia.org/wiki/Confederate_States_peace_commission) accessed 31 October 2023.

puts the constitutional provision in action, currently 18 US Code 2381, caveats the provision as follows: “Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or imprisoned and fined, and incapable of holding any U.S. office.”<sup>11</sup> [my emphasis] Thus, if the states legally seceded, then their citizens no longer owed allegiance to the United States and could not be guilty of treason. This was the argument Jefferson Davis planned to make should he be tried for treason and, in fact, no Confederate was ever so tried, at least partially because it was feared that this would be the finding of any fair jury.

So, it would seem that this tenet of the Self-Righteous Cause, that secession was illegal and the Southerners traitors, would be characterized, even by Snopes, as “false”.

## **2. Secession was carried out by a small number of very rich people and the common people of the South did not support it.**

This is a tenet that has some truth and some misinformation, but it also was the belief of President Lincoln – the basis of his initial belief that the Confederacy would collapse with a show of force or at most one battle. It is true that many of the prominent people who served in legislatures and other elected offices were well off, but the same could be said of the North.<sup>12</sup> However, the conventions were chosen by popular vote and the delegates ran on their views towards secession. As mentioned in the previous section, wealth or lack of it and land ownership or none were not disqualifying. So, the conventions could be expected to reflect majority views – and they did.

	<b>For Secession</b>	<b>Against Secession</b>	<b>Percentage For</b>
Alabama <sup>13</sup>	61	39	61%
Arkansas <sup>14</sup>	65	5	93%
Florida <sup>15</sup>	62	7	90%
Georgia <sup>16</sup>	208	89	70%
Louisiana <sup>17</sup>	113	17	87%
Mississippi <sup>18</sup>	83	15	91%
North Carolina <sup>19</sup>	112	0	100%
South Carolina <sup>20</sup>	169	0	100%

<sup>11</sup> <https://www.thefederalcriminalattorneys.com/federal-treason#:~:text=18%20U.S.C.,of%20holding%20any%20U.S.%20office.%E2%80%9D> (accessed 18 October 2023)

<sup>12</sup> [https://www.nber.org/system/files/working\\_papers/w17634/w17634.pdf](https://www.nber.org/system/files/working_papers/w17634/w17634.pdf) p. 44, accessed 24 October 2023. table 2A shows for the 1850s that the average wealth of Democrats seeking election to Congress was \$13,458 (median of \$4,500), Whigs, almost all of whom gravitated to the Republicans in the latter half of the decade \$19,599 (median of \$7,250), and Republicans \$7,307 (median of \$3,000). In the 1860s the medians of Republicans and Democrats were identical. The average total wealth across the US in 1860 was \$3,289 and the median \$1,153.

<sup>13</sup> <https://encyclopediaofalabama.org/article/alabama-constitution-of-1861/>

<sup>14</sup> <https://encyclopediaofarkansas.net/entries/secession-convention-6304/#:~:text=On%20May%206%2C%201861%2C%20a,military%20defeat%20of%20the%20Confederacy.>

<sup>15</sup> <https://www.floridamemory.com/learn/classroom/learning-units/civil-war/documents/secession/>

<sup>16</sup> <https://www.georgiaencyclopedia.org/articles/government-politics/georgia-secession-convention-of-1861/>

<sup>17</sup> <https://64parishes.org/entry/louisianas-secession-from-the-union-adaptation>

<sup>18</sup> <https://docsouth.unc.edu/imls/missconv/missconv.html>

<sup>19</sup> <https://northcarolinahistory.org/encyclopedia/secession/>

Tennessee	Referendum only		70%
Texas <sup>21</sup>	166	8	95%
Virginia <sup>22</sup>	88	55	62%

Further, in those states which held referenda, the votes were (as listed in the last section):

	For Secession	Against Secession	Percentage For
Tennessee <sup>23</sup>	108,274	47,247	70%
Texas <sup>24</sup>	46,153	14,747	76%
Virginia <sup>25</sup>	125,950	20,373	86%

Less than 32% of the 1,027,267 *households* in the eleven states owned slaves, so most voters were not rich enough to own slaves or did not care to.<sup>26</sup>

Another gauge of the popularity of secession is the number of men who volunteered for and were accepted by the Confederate Army before any conscription was passed, 326,768 by December 1861.<sup>27</sup> This amounts to 6% of the entire free population of the South, black or white, man, woman, and child, or about 1 in 3 of every free, military aged (20 – 50) men.<sup>28</sup> Given the numbers of infirm and vital workers in such jobs as weapons and equipment manufacturing, railroading, salt works, clothing and shoes, mining, government officials, etc., plus those Virginians who became West Virginians, this is a formidable percentage to join the army over a period of about eight months. It certainly indicates broad approval for protecting the Confederacy against invasion.

### 3. The North fought to free the slaves.

This is one of those tenets that was absolutely not true in the first year of the war except for a small percentage of people who were active abolitionists, estimated at around 2%.<sup>29</sup> It later became somewhat true during the war as Northern soldiers became aware of how much slaves contributed to

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<sup>20</sup> <https://courses.lumenlearning.com/suny-ushistory1ay/chapter/the-election-of-1860-and-secession/#:~:text=South%20Carolina%20acted%20almost%20immediately,Union%20with%20the%20United%20States>.

<sup>21</sup> <https://www.history.com/this-day-in-history/texas-secedes>

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[https://en.wikipedia.org/wiki/Virginia\\_Secession\\_Convention\\_of\\_1861#:~:text=Most%20of%20the%20Convention%20Conditional,after%20the%20Henry%20Wise%20remonstrance](https://en.wikipedia.org/wiki/Virginia_Secession_Convention_of_1861#:~:text=Most%20of%20the%20Convention%20Conditional,after%20the%20Henry%20Wise%20remonstrance).

<sup>23</sup> <https://votearchive.com/tn-sec-ref-1861/>

<sup>24</sup> <https://www.tshaonline.org/texas-day-by-day/entry/588>

<sup>25</sup> <https://archive.wvculture.org/history/statehood/statehood06.html>

<sup>26</sup> <http://www.civilwardata.com/dbstatus.html>

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[https://en.wikipedia.org/wiki/Confederate\\_States\\_Army#:~:text=The%20War%20Department%20asked%20for,for%20one%20or%20three%20years](https://en.wikipedia.org/wiki/Confederate_States_Army#:~:text=The%20War%20Department%20asked%20for,for%20one%20or%20three%20years). Referenced on 22 October 2023. Conscription was not passed until four months later.

<sup>28</sup> Eighteen year-olds could serve, but in general those over 45 were not accepted at the time unless they had relevant military experience. It is assumed the lack of the teenagers is balanced by the inclusion of 40-50 year-olds.

<sup>29</sup> [https://www.norton.com/college/history/america7\\_brief/content/multimedia/ch15/research\\_01.htm](https://www.norton.com/college/history/america7_brief/content/multimedia/ch15/research_01.htm)

the South's ability to fight. But initially, there was no widespread movement towards abolition – in fact four states that did not secede were slave states while, during the war, West Virginia was carved out of Virginia (in defiance of the Constitution, Article IV, Section 3) as another slave state.

A couple of quotes:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.... I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination.... The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government and to collect the duties and imposts; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere."<sup>30</sup>

Not only did President Lincoln in his first inaugural address on 4 March 1861 deny abolition, he gave his reasons for entering into war: preserve the Union (without regard to the wishes of many of its constituent states as expressed by their voters), keep possession of federal properties in those states, and to collect "duties and imposts" (tariffs). There are quotations from the period that seem to highlight loss of tariff revenue and the potential relocation of trade to the South because of lower tariffs as a, or even the, major concern in the months leading up to war.

"It [my policy] sought only to hold the public places and property not already wrested from the Government and to collect the revenue."<sup>31</sup>

A group of New York prominent merchants met with President Lincoln in March 1861 and afterwards talked to reporters, expressing their concern that the lower tariffs mandated by the Confederacy, contrasted with the high rates in the US, would result in the diversion of trade away from them and to Southern ports. Sample quotes:

"Can New York afford not only to lose its trade with the South, now amounting to more than 200 million a year, but hazard the loss of the trade of eight millions of inhabitants of the Northwestern states?"<sup>32</sup> [due to diversion of trade to New Orleans and the Mississippi]

"It is now a question of national existence and commercial prosperity and the choice cannot be doubtful."<sup>33</sup>

"In one single blow our foreign commerce must be reduced to less than one-half what it now is. Our coastwise trade would pass into other hands. One-half of our shipping would lie idle at our wharves. . . Our manufactories would be in utter ruins. . . millions of our people would be compelled to go out of employment."<sup>34</sup>

It is also worth remembering that cotton alone constituted half of all US exports. The proceeds from the sale of these exports were used to buy goods to be brought back in the same ships, but upon arriving

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<sup>30</sup> [https://avalon.law.yale.edu/19th\\_century/lincoln1.asp](https://avalon.law.yale.edu/19th_century/lincoln1.asp)

<sup>31</sup> <https://millercenter.org/the-presidency/presidential-speeches/july-4-1861-july-4th-message-congress>

<sup>32</sup> William J. Cooper, *We Have the War Upon Us*, Random house, New York: 2012, p. 248.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Daily-Chicago Times*, December 10, 1860

those goods were subject to tariffs. Southerners opposed protective (high) tariffs for two reasons: they allowed domestic manufacturers (mostly based in the Northeast) to charge higher prices, and the necessity of paying the tariff before goods entered meant a portion of the profits of the Southerners' exports had to be set aside to cover the tariff, and that portion was not in all probability going to be made up later by the shipper.

To reinforce Lincoln's actions in the interval between his inauguration and July but to distance themselves from any thought of abolition, Congress passed what was essentially a declaration of war against the Confederacy on 25 July 1861. It stated:

"Resolved by the House of Representatives of the Congress of the United States, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional government, and in arms around the capital."

"That in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."<sup>35</sup>

Thus, Congress reiterated Lincoln's war aims, explicitly not including abolition. Even today, if one surveys the many monuments to Union soldiers erected on courthouses lawns in the North, one sees only one reason to fight: to "Save the Union" or "Preserve the Union." So, the bottom line is Northerners indeed fought for Union, often for altruistic purposes on the part of ordinary soldiers, but also for the purposes of commercial gain and government revenue from tariffs (which in 1860 comprised 94.9% of the total) on the part of some.<sup>36</sup>

#### **4. The South fought to preserve slavery.**

The other side of the coin is to discover why Southerners fought. The usual tenet says they fought to preserve slavery. This is true only by transference. That is, the Southern states (at least, the first seven of them) seceded in great part to preserve slavery from potential actions of the federal government, now controlled by a party that not only contained virtually every abolitionist, but also persons who had made up the supporters of John Brown.<sup>37</sup> The latter had tried to cause a slave insurrection that would have resulted in great slaughter and potentially genocide. The Southern states seceded, then formed the Confederacy, but they fought only as a response to invasion – initially against naval flotillas off two major

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[https://en.wikipedia.org/wiki/Crittenden%E2%80%93Johnson\\_Resolution#:~:text=The%20first%20branch%20read%3A%20%22Resolved,around%20the%20capital.%22%20This%20branch](https://en.wikipedia.org/wiki/Crittenden%E2%80%93Johnson_Resolution#:~:text=The%20first%20branch%20read%3A%20%22Resolved,around%20the%20capital.%22%20This%20branch) Note the House passed these two sentences separately, but the Senate combined them into one document. The resolution was rescinded in December 1861.

<sup>36</sup> [https://en.wikipedia.org/wiki/Tariff\\_in\\_United\\_States\\_history](https://en.wikipedia.org/wiki/Tariff_in_United_States_history) (accessed 10 November 2023)

<sup>37</sup> The last four states to secede did not do so until after President Lincoln called upon them for troops to be used against the seven. This was viewed as unconstitutional and a prelude to further unconstitutional acts or even the establishment of a dictatorship.

ports that were to resupply and reinforce forts controlling the harbors - useful for collecting tariffs from what was now a different nation. Soon, however, land incursions occurred by federal forces, first into Virginia and then into Kentucky, which had declared neutrality and tried to stay out of it.<sup>38</sup>

As further proof, Pulitzer Prize-winning author James McPherson in his *For Cause and Comrades*, containing his analysis of thousands of letters and diaries of soldiers of both sides, stated that only 20% of Southern soldiers expressed pro-slavery views at any time – even though his sample was disproportionately weighed towards slaveowners. He attributes this, probably correctly, to the fact that the existence of slavery was not really in question in the South at the time, but if it was actually what they were fighting for one would expect some affirmation. Instead, Southern soldiers cited the American Revolution (a fight against tyranny) and independence as their cause.<sup>39</sup> Of course, as the war progressed, some despaired while many reacted to reports from areas occupied by the Union army and vowed to exert every effort to protect their families and communities from those they viewed as vandals or worse. Independence and the protection of their families, homes, and communities certainly explain why most Southerners fought without reference to any other reason.

##### **5. Slavery in the US was the most vicious that ever existed anywhere in history.**

Slavery was a terrible condition for people to impose upon others, and an even more terrible condition to have imposed upon one. Chattel slavery, defined as “the enslaving and owning of human beings and their offspring as property, able to be bought, sold, and forced to work without wages, as distinguished from other systems of forced, unpaid, or low-wage labor also considered to be slavery”, is an extreme form of slavery – but not the most extreme.<sup>40</sup>

Addressing only the slavery of the 18<sup>th</sup> and 19<sup>th</sup> Centuries and of slavery only as it pertains to the Western Hemisphere (ancient times and the Eastern Hemisphere could be much worse), there are at least two areas where it was worse than in the US: slave ships and slavery in the West Indies and Brazil.

Slave ships were terrible places. The “Middle Passage” lasted an average of 80 days (later shortened to 45 or so as sailing technology advanced), during which male slaves were kept in chains and females kept separately, all crowded so closely that they could barely move.<sup>41</sup> Note that almost all slave ships that called British America and America home actually called New England and New York home.<sup>42</sup> The West Indies was also terrible; they had to import slaves constantly to merely maintain their labor force

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<sup>38</sup> It is common to cite Confederate General Polk’s seizure of Columbus, KY, on 3 September 1861 as the first violation of Kentucky neutrality. However, Camp Dick Robinson was established by Union officers for training members of the Union army well before that. See [https://en.wikipedia.org/wiki/Camp\\_Dick\\_Robinson](https://en.wikipedia.org/wiki/Camp_Dick_Robinson) Note also by way of contrast, the Kentucky Confederate units formed up and trained at Camp Boone in Tennessee so as to respect Kentucky’s neutrality.

<sup>39</sup> <https://www.amazon.com/Cause-Comrades-Why-Fought-Civil/dp/0195124995> (Kindle version, pages 109-110)

<sup>40</sup> [https://www.dictionary.com/browse/chattel-slavery#google\\_vignette](https://www.dictionary.com/browse/chattel-slavery#google_vignette) (accessed 31 October 2023)

<sup>41</sup> <https://www.nps.gov/articles/the-middle-passage.htm#:~:text=The%20Middle%20Passage%20itself%20lasted,15%25%20grew%20sick%20and%20died.>

<sup>42</sup> Anne Farrow *et. al.* *Complicity*, Ballantine Books: New York (2005) pp. 95, 132.

because the death rate was so high, while in what became the US the number of slaves grew due to natural increase.<sup>43</sup>

**Mortality.** Death rates on slave ships were very high, estimated to be 17.7% to North America – implying the equivalent to an annual mortality rate of 60% while aboard.<sup>44</sup> White immigrants from Europe also died at a high rate on their voyage but in lesser amounts, around 10%. Once in North America and after a period of “seasoning” which saw some additional deaths, the rate of natural increase of the US slave population hovered between 1.5 and 2%. It was lower than that of the white population until 1825, then slightly higher afterwards, while in Jamaica, Brazil, and the French West Indies there was a significant actual annual *decrease* rather than increase in the slave population up to that date (no good data afterwards), implying a higher death rate than birth rate. Slave life expectancies in the US were impacted by high infant (24%) and child death rates (12%), both somewhat higher than that for white families, but a slave reaching age 14 in the US could look forward to living almost as long as a white person (two years or so less).<sup>45</sup> This was not true elsewhere in the Western Hemisphere, where slaves’ lives were shorter.

**Rape.** Slave ships were notorious for exploiting female slaves. An article concerning French slave ships yields the following paragraph:

“Most seamen chose to believe the old European myth that African women were sexually permissive with insatiable sexual appetites. This common portrayal of black female slaves as licentious beings justified mistreatment of black women and the black race. Advocates of slavery maintained that black women simply could not be raped because they were so promiscuous. And ships’ officers and crew took full advantage of their beliefs. One young French officer reported that seamen usually selected favourites from among the women, giving them additional rations in exchange for sexual availability. These slaves, so the thinking went, also “adjusted better” to the journey because they bonded with the sailors. Another eyewitness, the captain of the *Jeannette*, a Nantes slave ship, allowed his sailors access to the slaves, “given the custom among them that each one should have a woman.”<sup>46</sup>

Of course, the sexual exploitation of slave women or unmarried underclass women was not uncommon in the US, North and South, but it was certainly not universal. Analysis of the 1860 Census revealed that approximately 10% of slave children were mulatto.<sup>47</sup> Although some of them were, of course, the result of mulatto slaves (perhaps even mulattos who had been sired on a slave ship!) having sex with other slaves, a significant proportion must be attributed to white owners or their sons, particularly on smaller plantations or in cities. However, this did not rise to the level on slave ships.

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<sup>43</sup> Robert William Fogel, *Without Consent or Contract*, W. W. Norton: New York (1989), 123-25. This book is a very intensive, wide-ranging view of the economics of slavery, and it won the Nobel Prize in economics for Fogel. The paragraph on mortality is based on this data.

<sup>44</sup> <https://www.statista.com/statistics/1070565/middle-passage-death-rate-by-destination-1501-1866/>

<sup>45</sup> Fogel, pp. 114-132.

<sup>46</sup> <https://journals.lib.unb.ca/index.php/acadiensis/article/view/22043/25579> Although this article is specifically about French ships, it is not hard to find accounts of British ships doing the same. Interestingly, it is more difficult to find such accounts of American ships. Perhaps this is because almost all such ships were home ported in the Northeast, where the Puritan *ethos* repressed talking or writing about sexual matters, although it’s highly doubtful that the *ethos* extended so far as to prevent them!

<sup>47</sup> Fogel, p. 182.

**Diet.** Perhaps some of the most surprising data lies in the dietary area. The average US slave consumed 179 pounds of meat (pork, beef, mutton) in 1860, as contrasted to the average white's 186 pounds. The slave on average had 119 pounds of dairy, 247 pounds of potatoes, 35 pounds of peas and beans, and 673 pounds of grain; a total over three pounds a day.<sup>48</sup> As a further indicator of an adequate diet, US slaves (ages 25-45) had an average height of 67.2", white Northerners 68.2", British town artisans 66.3", Cuban slaves 63.6", and Guyana slaves 64.1".<sup>49</sup> That is, they apparently ate better than middle-class Englishmen, not to mention those in the Caribbean.

**Households.** An interesting table concerning the living arrangements of slaves is in Fogel, p. 150, and is reproduced below with an additional column:

	Trinidad	Jamaica	Bahamas	US	US <sup>50</sup>
Year	1813	1825	1822	1850	2023
Nuclear Families	24	37	71	64	47
Single-parent families	26	40	13	21	17
Non-family Households	50	13	15	15	36

The dates are reflective of when the data was gathered, in each case (except the last) 10 – 15 years before the slaves were freed. This rather refutes the allegation by many that slaves in the US were not allowed to have a family life. The data says otherwise and in fact, it compares favorably with the present-day US averages, although comparable, separate data on current families identifying as black was not located.

**Work.** Slaves worked many more hours than people do today, when 1,892 hours of work a year is the average.<sup>51</sup> In contrast, the average slave worked about 2,860 hours per year; that is, about 51% longer.<sup>52</sup> However, in the US in 1880 (for example), the average work week was around 61 hours, implying over 3,000 hours per year – more than a slave worked in the 1850s!<sup>53</sup>

There were many terrible aspects of slavery as practiced in the US, among them the possibility of corporal punishment (which was also applied to whites, especially in the military, but by law rather than an owner's whim), lack of freedom, rape, and the possibility of involuntary family separation. However, it should be clear that it was not as bad as slavery in some other places and circumstances in comparable times in the Western Hemisphere, and in a few respects (diet and workload) it was little different from that experienced by white families.

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<sup>48</sup> Fogel, p. 135.

<sup>49</sup> Fogel, p. 141.

<sup>50</sup> <https://www.census.gov/data/tables/2022/demo/families/cps-2022.html> Table H1.

<sup>51</sup> [https://clockify.me/working-](https://clockify.me/working-hours#:~:text=A%20full%20time%20employee%20in%20the%20United%20States%20works%201%2C892,more%20than%20other%20OECD%20countries.)

<sup>52</sup> Fogel, p. 162.

<sup>53</sup> <https://eh.net/encyclopedia/hours-of-work-in-u-s-history/>

## 6. John Brown was a hero.

John Brown was born on May 9<sup>th</sup>, 1800, in Connecticut. Raised in an abolitionist family in the Western Reserve area of Ohio, he wished to become a minister first, but his eyes became inflamed, so he turned to tannery. In 1825 he moved to Pennsylvania and bought property and built a house, outbuildings, and a tannery, all of which he used to cover his status as an important station on the Underground Railroad. In 1836 he moved back to Ohio and continue his work while prospering for a while but eventually fell into bankruptcy. In 1846 he moved to Springfield, Massachusetts and became more deeply involved in the abolitionist movement, founding a group that opposed the Fugitive Slave Act by force. After two years there he moved to New York state. Had he stayed in New York or returned to Ohio or Massachusetts and refrained from violence, he would have been a minor but praiseworthy figure in American history.

Instead, he moved to Kansas in 1855, joining several of his sons. Kansas was already embroiled in struggle between pro-slavery and anti-slavery factions due to the 1854 Kansas-Nebraska Act which proposed to allow the settlers to decide on the legality of slavery. There had been eight murders attributed to the struggle in the preceding 14 months, but Brown decided to get revenge for the last two and on May 25<sup>th</sup>, 1856, he and his sons killed five men (who were pro-slavery but who did not own any) at night in cold blood.<sup>54</sup> After more fighting, Brown fled, pursued by federal warrants for his arrest.

It turned out that he had planned to incite a slave insurrection for many years, and, leaving Kansas, he returned to friends he had made in Connecticut, Massachusetts, and New York to gather funds and followers. He returned to Iowa to meet his other followers and discussed his ideas before going east. He obtained more donations and weapons, refining his plans (which included a new constitution) to seize the Harpers Ferry Armory in Virginia. He traveled extensively for a number of months and participated in a raid into Missouri. On October 16<sup>th</sup>, 1859, he led 20 others from their mission support site in Maryland to the armory and seized control. During the raid and the ensuing counterattack, four townspeople and one Marine were killed. Most of Brown's men were killed or later executed; five escaped.<sup>55</sup> During the trial, his plans to arm the slaves and lead an expedition through the South, freeing slaves and killing anyone opposed, all came out as evidence. His plan was not well founded in most respects (perhaps reflecting his mental deterioration), but he calmly contemplated the deaths of a great many, black and white, potentially numbering into the millions. Although his raid was unsuccessful, it was perhaps the single act most responsible for the death and destruction of the Civil War.

John Brown, whatever his mental state and thoughts at the time, was in 1855 a hero in the fight to oppose slavery. However, at some time, then or before, he crossed the line between opposition and fanaticism, between life-affirming care and death-dealing terrorism. As such, he resembles most a version of a later, more successful terrorist, Osama bin Laden. Both were very religious, both worked to support the oppressed, then crossed over into hatred and the worship of death and destruction. On balance, John Brown was brave but no hero despite his earlier works.

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<sup>54</sup> [https://www.kshs.org/publicat/history/1995summer\\_watts.pdf](https://www.kshs.org/publicat/history/1995summer_watts.pdf), p. 126.

<sup>55</sup> <https://www.charlestownwv.us/about/john-browns-raid/> (accessed 1 November 2023)

## 7. Union soldiers were courageous in battle and respected the rights of civilians.

Both Union and Confederate soldiers at times exhibited the highest levels of courage. One cannot contemplate Fredericksburg, Gettysburg, Cold Harbor, or Franklin without marveling at the bravery of the men that carried out these almost suicidal attacks. It is true that soldiers on both sides sometimes failed to meet these standards, but overall, most American soldiers on both sides scaled the heights of valor.

However, there occurred a very large number of issues with respect to protecting the civilian populace from the ravages of war. Guerrillas on either side conducted raids against supporters of their opponents; theft, robbery, rape, and murder were common. Unfortunately, at times members of the armies did likewise. Due perhaps to the fact that most of the war took place in the South, the majority of such crimes were perpetrated by Northern soldiers, sometimes as a matter of policy.

Perhaps the most egregious examples of official military policy leading to what today would be war crimes took place in Missouri. On August 25<sup>th</sup>, 1863, Brigadier General Thomas Ewing, brother-in-law to General Sherman, issued General Order 11:

“All residents in Jackson, Cass, Bates and northern Vernon counties were required to leave their homes within 15 days. ... All grain and hay found in the fields or under shelters before Sept. 9 would be confiscated and taken to military stations. Grain and hay found after Sept. 9 would be destroyed.”<sup>56</sup>

As military-aged men were almost all in one army or the other, this order primarily fell on women and children. “After confiscating whatever supplies and livestock they needed, the Union troops burned nearly every farmstead and field in the 3½-county area. Scorched ground could be seen for miles.”<sup>57</sup>

Another instance is Major General Sheridan’s destruction of the lower Shenandoah Valley. According to the National Park Service:

Sheridan commenced a dramatic war on the countryside on September 26, 1864 that would last for thirteen days. The destruction would begin in Staunton and head down the Valley, northward to Strasburg, covering a length of 70 miles and a width of 30 miles. This destruction infamously became known for generations simply as ‘The Burning.’ Sheridan ordered his men to move fast, destroy everything that could be useful to the enemy, then move on quickly to new targets.<sup>58</sup>

The depredations of Sherman’s forces, particularly in South Carolina, are too well known to be detailed, but perhaps of even more impact was the constant low-level crimes and horrors visited upon farms and towns throughout areas occupied or marched through by the Union army. Such crimes ranged from theft of all the food at a farm to rape of a slave girl up to burning of a small town (example, Ripley, Mississippi).

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<sup>56</sup> <https://www.cjonline.com/story/news/local/2015/07/14/stub-1118/16621464007/> (accessed 1 November 2023)

<sup>57</sup> Ibid.

<sup>58</sup> <https://www.nps.gov/articles/000/the-burning-shenandoah-valley-in-flames.htm#:~:text=Thirteen%20Days%20of%20Destruction,a%20width%20of%2030%20miles>. (accessed 1 November 2023)

In some contrast, there are only two significant charges of crimes against civilians leveled against Confederate field armies: the roundup of blacks by Jenkins' Cavalry Brigade in Pennsylvania in 1863,<sup>59</sup> and McCausland's destruction of Chambersburg in 1864.<sup>60</sup> The latter was announced as a reprisal for previous Union destruction.<sup>61</sup>

So, this tenet would have to be "partially true" – Union soldiers were often brave and certainly some respected civilian property – but a great many did not.

### **Summary**

Much of the received and taught "history" accepts these tenets uncritically and the current generation seems to believe them, even though there is a lot of misinformation and falsehood contained therein. Why did such things become part of the narrative? Just as the "Lost Cause" narrative was put together to make Southerners feel better about their losses, the "Self-Righteous Cause" narrative was manufactured incrementally so as to downplay a large number of inconvenient facts that belied the Manichean view adopted by many Northerners. It is easier to demonize others rather than face the fact that one waged a war of aggression and committed many war crimes (albeit before such things were formally articulated in international conventions). It was also put in place to counter the "Lost Cause" advocates as they were thought to have too much credibility,<sup>62</sup> undermining those Northerners who desired to feel righteous – hence the name.

Both narratives have a mixture of truth and falsity. The unfortunate fact of the matter is that the people of the United States, more than 150 years after the war, still mostly refuse to face the actual facts and data.

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<sup>59</sup> <https://emergingcivilwar.com/2020/05/06/the-confederate-slave-hunt-and-the-gettysburg-campaign/> (accessed 1 November 2023)

<sup>60</sup> <http://www.phmc.state.pa.us/portal/communities/documents/1776-1865/chambersburg-war-damages.html#:~:text=On%20July%2030%2C%201864%2C%20Confederate,troops%20to%20burn%20the%20town> (accessed 1 November 2023)

<sup>61</sup> Reprisals are legal under international law in certain circumstances, even today. However, reprisals against civilians are now thought of as illegal. See <https://guide-humanitarian-law.org/content/article/3/reprisals/#~:text=In%20times%20of%20conflict%2C%20reprisals,at%20combatants%20and%20military%20objectives>. Accessed 9 November 2023.

<sup>62</sup> See, for instance <https://smithsonianassociates.org/ticketing/tickets/myth-of-lost-cause> or <https://www.quora.com/How-would-you-counter-The-Lost-Cause-myth-of-the-Civil-War>