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INDUSTRIAL TERMINAL

MONTGOMERY, ALABAMA

IN MEMORY OF

MILO BARRETT HOWARD, JR.

Director

**Alabama State Department
of Archives and History**

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MILO BARRETT HOWARD, JR.

It was my happy privilege to have been a member of the Board of Trustees of the Alabama Department of Archives and History when in 1967 Milo Barrett Howard, Jr. was elevated to the position of Director of that important arm of State Government. He first began working at the Alabama Archives in 1952 while Mrs. Marie Bankhead Owen was directing its activities. Subsequently in 1958 he became a staff member during the time Mr. Peter A. Brannon was the Alabama Archives Director.

Milo Howard graduated from Auburn University with a B.A. degree and later earned an M.A. degree from the same Institution. Livingston University conferred an honorary Doctor of Humane Letters degree upon him in recognition of his contribution to the education and happiness of the people of his native state.

Howard was born in Montgomery, October 21, 1933, where he attended public schools and was graduated from Sidney Lanier High School. He loved the people of the city in which he first saw the light of day. Indeed it was difficult to pose a historical question relating to Montgomery and Alabama that he could not answer. His inquisitive mind collected and maintained a remarkable range of facts and fancy.

His tall, svelte figure attired in well tailored clothes with a gold headed walking cane in hand attracted immediate attention. His bland, cultured voice was heard and appreciated in almost every nook and corner of the commonwealth about which he was so knowledgeable.

Milo Howard was ever aware of the contributions his associates at the Alabama Archives made for the preservation, display and protection of valuable items placed in their, and his, custody. He delighted in telling of his fellow workers' capabilities and their loyalties. He considered the group a team.

On November 3, 1981, following an illness of ten weeks, he passed on to his reward. During all the years I knew Milo Howard he was an outstanding and an upstanding Southern

gentleman. It is in his memory that this issue of the *Alabama Historical Quarterly* is dedicated.

Statement of C. J. Coley
Chairman of the Board of Trustees,
Alabama Department of Archives and History

September 13, 1982

MEMORIAL TO A TIMELESS MAN

by Emily S. Adams

Milo Barrett Howard, Jr., director of the Alabama State Department of Archives and History from 1967 to 1981, once declared that "In this department, we don't consider that all history has led up to our time. We recognize that history is a present and future phenomena as well.¹ I'm like a mother with her children. She's most interested at the time in the one who needs the most attention. That's the way I am with the department, and the contents are my children."²

His principal concerns were in the area of state and local history guiding researchers in the use of the raw materials of Alabama history, stimulating interest in studying local history, and relating local and state history to national and international history. He was one of the prime figures in preserving historic sites and structures in Alabama, and he was also an important supporter of cultural endeavors in Montgomery and Alabama.³

He has been called a bookworm, appearing to have been born to be director of the State Archives. He was frequently and regularly called upon by researchers in urgent need of illumination on some historical point and with patience and good cheer he would ferret out the facts if they were anywhere possible to be found. Alabama's Department of Archives and History is regarded by scholars of history to be one of the most valuable sources of history in or about the South.⁴

Born in Montgomery on October 21, 1933, he was the son of Milo Barrett Howard and Mary Josepha Key.⁵ Mr. Howard's great great grandfather, Neill Blue, came to Montgomery in 1819 and in 1825 lived on the same land that is presently oc-

¹"Visitors to Archives Building Seldom See Real 'Inner Sanctum'," *Alabama Journal*, April 16, 1967.

²"This is Their South," *Southern Living*, May 1972.

³Notes in the Milo Howard file in the Library clipping files in the Alabama Department of Archives and History.

⁴"The Archives are in Good Hands," *Alabama Journal*, January 23, 1967.

⁵"Memoranda for Biographical Sketch," in the Milo Howard file in the Library clipping files in the Archives.

cupied by the Archives building, giving Mr. Howard unique ties to the land.⁶ Earlier ancestors had lived in Baltimore, Maryland; Augusta, Georgia; and Macon County, Alabama.⁷ Milo Barrett, his grandfather, was the owner of the *Montgomery Advertiser* in 1864 and 1865.⁸

Mr. Howard attended Montgomery schools through high school: Decatur Street Grammar School, Baldwin Junior High School, and Sidney Lanier High School. In 1951 he entered the Alabama Polytechnic Institute at Auburn and in 1955 received a Bachelor of Arts degree with majors in history, English, and foreign language.⁹ The J. A. Kirkly Award in English was presented to him in 1954 by Alabama Polytechnic Institute.¹⁰ On March 15, 1960 he earned his masters of arts in history and became the first person to graduate with a regular diploma from Auburn University¹¹ which had been newly created by the Legislature in recognition of its broadened academic program out of Alabama Polytechnic Institute.¹² He attended Jones Law School in Montgomery from 1963-1964.¹³ In 1978 he received an honorary doctor of humane letters from Livingston University in honor of his contributions to the teaching, writing and preservation of Alabama history.¹⁴

While a student in college Mr. Howard worked at the Archives during summer vacations beginning in 1952 and except for his tour of duty in the United States Army Reserve continued at the Archives until his death.¹⁵ From 1955 to 1957 he served in the United States Army Reserve as a lieutenant in Military Intelligence. In 1958 he returned to the Archives as an Archivist and in 1964 was promoted to Assistant Director.¹⁶

⁶"Milo Howard, Jr. Heads State Archives: Named Successor to Late Dr. Peter Brannon," *Alabama Journal*, January 20, 1967.

⁷Letter from Milo B. Howard to William Crawford of June 22, 1967 held in the Milo Howard file in the Library clipping files at the Archives.

⁸"Milo B. Howard: Journal Closeup," *Alabama Journal*, October 23, 1967.

⁹"Memoranda for Biographical Sketch."

¹⁰"Auburn University. Record of Applicant," Milo Howard file in the Library clipping files at the Archives.

¹¹"University's First Graduate," *Auburn Alumnus*, March 1960.

¹²Coleman B. Ransone, Jr., *Alabama Government Manual*, (University, Alabama: Bureau of Public Administration, University of Alabama, 1977) 129.

¹³"Auburn University, Record of Applicant," Milo Howard file in the Library clipping files at the Archives.

¹⁴"Howard Receives Degree," *Montgomery Advertiser*, June 6, 1978.

¹⁵*Alabama Journal*, January 20, 1967.

¹⁶"Memoranda for Biographical Sketch."

On November 17, 1966, he became acting director due to the illness of Peter A. Brannon¹⁷ and on January 21, 1967 was appointed director.¹⁸ Some of his legal responsibilities were: to administer state archives, military records, noncurrent county records, and a historical library; to collect historical portraits and museums; to distribute state official reports; to prepare the *Alabama Official and Statistical Register*; to edit the *Alabama Historical Quarterly* and other historical publications, and to select and delineate historic sites for monumental purposes.¹⁹

One of his major achievements was the building of the east wing of the Archives Building. Thomas M. Owen, the first director, began the Archives and History operations in the cloak room of the Senate in the State Capitol. When the south wing of the Capitol was built, half of the basement and half of the top floor were given over for the Archives' location and were quickly overflowing with documents. From there the Archives collection moved to an old brick church and four residences on the block now occupied by the current building. These five buildings were soon bulging with historical documents,²⁰ and in the 1930's Marie Bankhead Owen secured federal funds to supplement state funds for a new building. According to legend, which may or may not be accurate, Mrs. Owen telephoned Harry Hopkins, head of the WPA, and bluntly demanded a new building. He said: "Madam, we can't just go around building buildings. We've got to have a reason." "Well," shot back Mrs. Owen, "My brothers are John Bankhead and Will Bankhead." To which Mr. Hopkins replied, "Those are two of the best reasons I ever heard."²¹ The new Alabama World War Memorial Building opened on National Flag Day, June 14, 1940. The original plans for the building included two wings which could be added when needed and when funds became available.²²

In addition to its museums and historical collections the

¹⁷*Alabama Journal*, January 20, 1967.

¹⁸*Alabama Journal*, October 23, 1967.

¹⁹1975 *Code of Alabama* § 41-6-8.

²⁰"Permanent Home for Department of Archives and History," *Alabama Historical Quarterly*, 2 (1940) 9.

²¹*Alabama Journal*, January 23, 1967.

²²"Permanent Home for Department of Archives and History," p. 10.

Archives also houses vast state files. The original building gave out of room and for many years the attic had to be used to store valuable unique materials simply because there was no space elsewhere. Estimates on the cost of the wing were \$2 million, however the Legislature appropriated only \$1 million. With no guarantee of another appropriation, Mr. Howard proceeded with the construction of the wing as far as possible with the budget available reasoning that the cost of construction would increase. When the funds were depleted the wing was a shell with no electricity, no heating, and no air conditioning. With the shell of the wing standing bleak and useless in sight of the Capitol, he requested the \$1 million necessary to complete the building, believing that completion of the wing could not be refused.²³ In 1973 Governor George C. Wallace intervened and the money was provided by revenue sharing funds. Finally completed, the wing alleviated the space problem but again as the state of Alabama grows older and history accumulates the perennial problem of where to file or store everything has resurfaced.

Under Mr. Howard's administration the Archives also enjoyed a period of substantial growth in its services. In the 1966-67 fiscal year there were 19 employees²⁴ and by the 1980-81 fiscal year the staff had grown to 47. He also began keeping the research rooms open on Saturdays to accommodate students and working people who could not use the resources of the Archives during regular working hours.²⁵

From 1964 through 1968 Mr. Howard was an instructor at the University of Alabama in Montgomery and beginning in 1968 was a research lecturer at Auburn University in Montgomery in addition to his other duties.²⁶

He was a member of Saint John's Episcopal Church and served as Vestryman 1963-1965, 1967-1969 and 1972-1974; clerk of the vestry 1963-1965, 1967-1969 and 1972-1974; Junior Warden 1968; Senior Warden 1969, and treasurer 1971. He

²³"'Shell' of New State Archives Wing is Nearly Completed," *Montgomery Advertiser*, January 20, 1972,

²⁴State of Alabama. *Budget General Fund and Trust Funds for the Fiscal Years Ending September 30, 1966 and September 30, 1967*, p. 65.

²⁵State of Alabama. *Executive Budget Fiscal Year 1980-1981*, p. 98-99.

²⁶Notes in the Milo Howard file in the Library clipping files in the Archives.

was Historiographer, Diocese of Alabama 1969-1975, an occasional Sunday school teacher in the Episcopal and Methodist churches, served in the Student Vestry at Saint Dunstan's Chapel in Auburn, and of the Advisory Committee of the Eighth Street Chapel (Episcopal) at Fort Meade, Maryland.²⁷

In 1967 he rang the bells at Saint John's in observance of All Saints Day, which was also the 82nd anniversary of the church bells which were dedicated and rung for the first time on All Saints Day in 1885.²⁸ In 1972 he gave a five minute concert on the bells which was part of a spiritual program open to the public.²⁹

In 1967 he received the Distinguished Service Award from the Montgomery Junior Chamber of Commerce³⁰ and in August of that year was voted one of the Four Outstanding Young Men of Alabama by the Alabama Jaycees and Liberty National Life Insurance Company.³¹ In 1968 he received the Distinguished Service Award from the Montgomery Junior Chamber of Commerce.³² In 1975 he was elected to the Alabama Academy of Honor. He has been listed in *Who's Who in America* since 1970 and has been listed in *Who's Who in Alabama* since 1969.

His charitable works included serving on the Board of Directors of the Woman's Home, a home for elderly women located within a block of the Archives building.³³

He was a member of numerous commissions, organizations, and associations: Alabama Academy of Science, Alabama American Revolution Bicentennial Commission 1975-1977, Alabama Archaeological Society board of directors, Alabama Art Commission, Alabama Committee for the Humanities and Public Policy 1973-1978, Alabama Division of the United Daughters of

²⁷From information in the Milo Howard file in the Library clipping files at the Archives.

²⁸"Bell Ringer," *Montgomery Advertiser*, November 2, 1967.

²⁹"Church Bells Concert Slated Here Friday," *Montgomery Advertiser*, February 3, 1972.

³⁰Information in the Milo Howard file in the clipping files at the Archives.

³¹"Three Montgomery Citizens Among Award Contestants," *Montgomery Advertiser*, August 19, 1967

³²"Montgomery Jaycees Honor Two," *Montgomery Advertiser*, January 17, 1968.

³³"Southern Gentleman Was Born to Head State's Archives," *Birmingham News*, November 4, 1981.

the Confederacy Honorary Associate Member, Alabama Historical Association treasurer 1959-1964 and 1966-1981, vice president 1964-1965 and president 1965-1966, Alabama Historical Commission chairman 1967-1979, Alabama Library Association, Alabama Military Hall of Honor, Alabama Sesquicentennial Commission 1969, Alabama State Employees Association member of the board, Alabama Women's Hall of Fame, Auburn University Humanities Advisory Board chairman 1973-1976, English Speaking Union member of the board of the Montgomery Chapter, The Forum Club, Friends of the Montgomery Public Library, John L. Sanders Memorial Trust secretary-treasurer, Junior League of Montgomery advisor to the board of controls, Junior League of Montgomery honorary advisor to the Symphony Committee, Landmarks Foundation of Montgomery secretary, Montgomery Bachelor's Club, Montgomery Historic Development Commission, Montgomery Junior Chamber of Commerce secretary-treasurer 1960-1963, Montgomery Museum Association, Newcomen Society, Old South Historical Society, Rotary Club director, Society of American Archivists, Southern Historical Association, State Capitol Preservation Commission chairman, State Employees Consolidated Charity Drive Committee, State Historic Preservation Officer, Stonewall Jackson Memorial Board secretary, Theta Chi Fraternity secretary and vice president, The Thirteen, Tumbling Waters Museum of Flags steering committee, United Appeal Special Gifts Committee.³⁴

Landmarks Foundation of Montgomery was founded because of his concern over the destruction of the older part of Montgomery, specifically Maude Shaw's property which has three antebellum buildings. A city attorney suggested that he and James Loeb form a private foundation to supplement the work of the Alabama Historical Commission and the Ordeman-Shaw complex was preserved.³⁵

He was a prolific author having numerous articles published. His published books are: *A Brief History of St. John's Church*; he co-authored *The Memoire Justificatif of the Chevalier Montault de Monberaut*; *The Minutes, Journals and Acts of the General Assembly of British and West Florida*.

³⁴Information in the Milo Howard file in the Library clipping files at the Archives.

³⁵"Others Touched Their Lives," *Advertiser Journal*, December 27, 1981.

He was a popular speaker and spoke often to all types of organizations and groups from all over Alabama and the southeast.

An editorial in the *Montgomery Advertiser* of November 5, 1981 said: "By the time Milo Howard died of lung cancer Tuesday at the relatively young age of 48, he was for years recognized even by people who did not know him personally as an invaluable and perhaps irreplaceable institution in this city. He walked and talked with a fragile yet commanding gentility that cast a shadow of refinement and respectability over Capitol corridors long since shorn of whatever antebellum virtue there was among men that spawned the myth of universal chivalry."

Former Governor John Patterson reflected that Mr. Howard had the appearance, knowledge, commitment and personality to have been cast by Hollywood in the role of a typical archivist. "Howard, tall, slim, neat and stately, was a familiar figure as he glided around the Capitol in his dark suits, immaculate white shirts and highly polished shoes."³⁶

Dr. Robert R. Rea, a professor of history at Auburn University and a friend of many years remarked:

"I first met Milo when he was an undergraduate student at Auburn, and I am quite sure that he introduced himself on that occasion as a Montgomerian. . . . Of its history, few could have been so knowledgeable. He could walk the streets of Montgomery and recreate their state, the buildings and businesses that lined them, at every stage of the city's development. And I often felt that he could populate them with the proper people at any period of their history . . .

"His appreciation of public education, his appreciation of what it should be, was reflected in his readiness to welcome other students as visitors to the State Archives. He might, indeed, groan a bit over the inevitable noise and nonsense, but he also smiled over their exposure to a broader culture, for he knew that some part of it would

³⁶*Birmingham News*, November 4, 1981.

rub off and benefit those future generations. I need not tell you that Milo worked hard and constantly to maintain, restore, and improve this city without any interest save that its beauty and its history should be known and cherished for the future . . .

“He was not a man to make a great noise about himself, his ambitions or his successes. He lived and worked quietly. . . . He was a man of proportion. Much of his life was spent in public service in which he provided leadership of the finest sort to organizations too numerous to be mentioned . . .

“Because he was a man who lived up to his own standards, he will be remembered as one who embodied precision, exactitude, a restrained formality — integrity in the fullest sense of the word.”³⁷

He became ill in August, the upper left lobe of his lung was removed and even though he never recovered enough to return to his office he directed department business from his home. Robert Pinkston, a close friend, said that Mr. Howard had conducted department and personal business in the morning and that afternoon, while talking with a family member passed away quietly.³⁸

A park located in the Cloverdale section of Montgomery about one block from the house where he lived was dedicated to him in the spring of 1982. The triangular park contains a fountain, a flower garden and the memorial marker.³⁹

A magnolia tree and a memorial marker were placed in his honor on the southeast corner of the grounds of the Archives building.

Founded in 1901 this fully state supported archival department is the oldest in the nation. Milo B. Howard, Jr. was the fourth director in its history and had the privilege of serving under the second director, Marie Bankhead Owen, and the third

³⁷Remarks by Dr. Robert R. Rea at the Dedication of Howard Park, April 18, 1982.

³⁸*Birmingham News*, November 4, 1981.

³⁹“Memorial Park,” *Montgomery Advertiser*, April 19, 1982.

director, Peter A. Brannon. With his ancestral ties to the land and his lengthy career with the Archives from 1952 as a college student to 1981 as director, he was almost born into the service of history and historical researchers.

THE CONFEDERATE CONSTITUTION: A LEGAL AND HISTORICAL EXAMINATION

By Roger D. Hardaway

The Constitution of the Confederate States, as the instrument of government, is the most certain and decisive expression of the views and principles of those who formed it, and is entitled to credence and acceptance as the most trustworthy and authoritative exposition of the principles and purposes of those who established the Confederate Government.

— Jabez Lamar Monroe Curry¹

On February 4, 1861, forty-three delegates from six Southern states — South Carolina, Mississippi, Florida, Georgia, Alabama, and Louisiana — met in convention at Montgomery, Alabama.² The delegates represented the states that had seceded from the United States, and their purpose was to form a new federal government for their nation. In the span of five weeks, the delegates chose a name for their country, wrote and adopted a provisional constitution,³ elected themselves Congressmen, selected and inaugurated a president and vice president, and wrote a permanent constitution⁴ which was

¹J.L.M. Curry, *The Southern States of the American Union Considered in their Relations to the Constitution of the United States and to the Resulting Union* (New York: G.P. Putnam's Sons, 1894), p. 191.

²The work of the Montgomery convention is most thoroughly treated by Charles Robert Lee, Jr., in *The Confederate Constitutions* (Chapel Hill: University of North Carolina Press, 1963), pp. 51-122. Lee profiles the delegates on pp. 21-50 and 153-58.

³The Provisional Confederate Constitution is reproduced in Lee, *The Confederate Constitutions*, pp. 159-70; Jefferson Davis, *The Rise and Fall of the Confederate Government*, I (New York: Thomas Yoseloff, [1881], pp. 640-48; and Alexander H. Stephens, *A Constitutional View of the Late War Between the States; its Causes, Character, Conduct and Results*, II (Philadelphia: National Publishing Co., 1870), pp. 714-22.

⁴The Permanent Confederate Constitution is reproduced in Emory M. Thomas, *The Confederate Nation, 1861-1865* (New York: Harper and Row, 1979), pp. 307-22, and Stephens, *A Constitutional View of the Late War Between the States*, II, pp. 722-35. In addition, the Permanent Confederate Constitution is printed beside the United States Constitution in parallel columns, with the differences between the two documents printed in italics, in Lee, *The Confederate Constitutions*, pp. 171-200; Davis, *The Rise and Fall of the Confederate Government*, I, pp. 648-75; and J.L.M. Curry, *Civil History of the Government of the Confederate States with Some Personal Reminiscences* (Richmond, Virginia: B.F. Johnson Publishing Co., 1901), pp. 274-309.

to take effect within one year of the inauguration of the president.⁵

Time was of the essence in the creation of the Confederate States of America. Stability had to be given to the Confederate government, as J.L.M. Curry, an Alabama delegate to the Montgomery convention, later said, "to prevent disorder and anarchy and secure [the] co-operation" of the governed.⁶ The leaders of the seceded states realized that they had to unite quickly as a new country so that together they could resist the effort of the United States government to coerce them into re-joining the Union.⁷ The adoption of a hastily written provisional constitution on February 8 created the new country and gave its government the measure of stability and unity necessary for continued existence.⁸

The provisional constitution stipulated that the delegates to the Montgomery convention would automatically become Congressmen of the new nation during the provisional period.⁹ The Congress thus created was a unicameral body with each state having one vote regardless of population.¹⁰ Furthermore, Congress would exercise the executive functions of the government, as well as the legislative, until a president could be elected and inaugurated.¹¹ On the morning of February 9, the delegates took the oath of office as Congressmen, and immediately elected by unanimous votes Jefferson Davis of Mississippi and Alexander H. Stephens of Georgia as provisional president and vice-president of the Confederate States of America.¹² They were to serve for one year or less, during which time a popular election would be held to choose their successors.¹³

⁵Provisional Confederate Constitution, Preamble.

⁶Curry, *The Southern States*, p. 191.

⁷E. Merton Coulter, *The Confederate States of America, 1861-1865* (Baton Rouge: Louisiana State University Press, 1950), p. 23.

⁸Lee, *The Confederate Constitutions*, p. 72.

⁹Provisional Confederate Constitution, Article I, Section 1.

¹⁰*Ibid.*, Article I, Section 3, Clause 1; Lee, *The Confederate Constitutions*, p. 68; and William M. Robinson, Jr., "A New Deal in Constitutions," *Journal of Southern History*, Vol. IV, No. 4 (November 1938), p. 453.

¹¹Provisional Confederate Constitution, Article I, Section 5, Clause 3; and Article I, Section 6, Clause 19.

¹²Lee, *The Confederate Constitutions*, p. 78.

¹³Provisional Confederate Constitution, Article II, Section 1, Clause 1.

At the time of his election as provisional president, Davis was at Brierfield, his plantation near Vicksburg, Mississippi. Upon being informed of his election, he began a journey by train to Alabama.¹⁴ Because of the fact that no railroad tracks connected Mississippi to Montgomery, Davis was forced to take a circuitous route that took him through Memphis, Chattanooga, and Atlanta. Consequently, he did not arrive in Montgomery until Saturday, February 16.¹⁵ On Monday morning February 18, the president-elect rode in a parade through the streets of Montgomery to the site of his inauguration on the steps of Alabama's capital building. An estimated ten thousand Southerners witnessed the installation of their new president.¹⁶ Stephens, who was a delegate to the Montgomery convention, had celebrated his forty-ninth birthday by taking the oath of office as vice-president on February 11.¹⁷

Meanwhile, the delegates, acting in their capacity as Congressmen, appointed twelve of their colleagues to write a permanent constitution. Two people from each state served on the committee which was chaired by Robert Barnwell Rhett of South Carolina. The committee draft of the constitution was ready for debate on February 28.¹⁸ For two weeks, the members of the convention performed their Congressional duties in the mornings and reconvened as constitutional convention delegates in the afternoons to debate the provisions of the proposed constitution.¹⁹ Delegates from Texas, the seventh state to secede, arrived at Montgomery on February 27, and were allowed to participate in the debate on the permanent constitution although Texas was not admitted to the Confederacy until March 2.²⁰ The permanent constitution was unanimously approved by the delegates on March 11, 1861, and submitted to the states for their approval.²¹ Five states were required to ratify the constitution in order for it to be adopted.²²

¹⁴Davis, *The Rise and Fall of the Confederate Government*, I, pp. 230-31, and Thomas, *The Confederate Nation*, p. 60.

¹⁵*Ibid.*, p. 61, and Coulter, *The Confederate States of America*, p. 26.

¹⁶Lee, *The Confederate Constitutions*, pp. 79-80, and Thomas, *The Confederate Nation*, pp. 61-62.

¹⁷*Ibid.*, p. 60, and Lee, *The Confederate Constitutions*, p. 79.

¹⁸*Ibid.*, pp. 82-87, and Thomas, *The Confederate Nation*, pp. 62-63.

¹⁹Lee, *Confederate Constitutions*, p. 87.

²⁰*Ibid.*

²¹*Ibid.*, pp. 103, 123.

²²Permanent Confederate Constitution, Article VII, Section 1.

This was accomplished in less than three weeks, as Mississippi became the fifth state to ratify the constitution on March 29.²³

The permanent Confederate Constitution provided that upon its ratification by five states, Congress would set a time for the election and inauguration of the president, vice-president, and Congressmen.²⁴ The elections were held on November 6, 1861, and Davis and Stephens were re-elected without opposition.²⁵ In May, 1861, the capital of the Confederate States had been moved to Richmond, Virginia,²⁶ and Davis and Stephens were inaugurated for their second terms in that city on February 22, 1862.²⁷ By the terms of the provisional constitution, the inauguration was to have taken place no later than February 18, 1862; however, the inaugural ceremony was delayed until Washington's birthday as a symbolic gesture to signify the historical connection between the Confederate States and the United States.²⁸ On that date, February 22, 1862, the permanent Confederate Constitution went into effect.²⁹

The Confederate Constitution was closely patterned after that of the United States. As J.L.M. Curry later wrote: "The seceding States were not dissatisfied with the Constitution, but with its administration, and their avowed and manifest purpose was to restore its integrity and secure in the future its faithful observance."³⁰ In fact, several states were so intent upon embodying the basic framework of the United States Constitution into that of the Confederate States, that they sent their delegates to Montgomery with specific instructions not

²³Lee, *The Confederate Constitutions*, pp. 132-35. The other six states ratified the permanent constitution on the following dates: Alabama, March 12; Georgia, March 16; Louisiana, March 21; Texas, March 23; South Carolina, April 3; and Florida, April 22. The four states that seceded after the start of the Civil War ratified the permanent constitution on these dates: Arkansas, June 1; North Carolina, June 6; Virginia, June 19; and Tennessee, August 1.

²⁴Permanent Confederate Constitution, Article VII, Section 2.

²⁵Coulter, *The Confederate States of America*, pp. 103-104; Clement Eaton, *A History of the Southern Confederacy* (New York: MacMillan Co., 1954), p. 54; and Stephens, *A Constitutional View of the Late War Between the States*, II, pp. 483-84.

²⁶Arnold Whitridge, "Jefferson Davis and the Collapse of the Confederacy," *History Today*, Vol. XI, No. 2 (February 1961), p. 85

²⁷Coulter, *The Confederate States of America*, pp. 103-104, and Eaton, *A History of the Southern Confederacy*, p. 54.

²⁸Roy F. Nichols, "The Operation of American Democracy, 1861-1865: Some Questions," *Journal of Southern History*, Vol. XXV, No. 1 (February 1959), pp. 31-52.

²⁹Stephens, *A Constitutional View of the Late War Between the States*, II, p. 483.

³⁰Curry, *Civil History of the Government of the Confederate States*, p. 69.

to deviate greatly from the provisions of the parent document.³¹

Several reasons why the Confederate Constitution should be modelled after the United States Constitution were evident to the Montgomery delegates. First, as indicated above, was the fact that Southerners admired the United States Constitution as a document — they were just unhappy with the interpretations given some of its sections by the United States Congress and the Supreme Court.³² As Alexander Stephens said, the aim of the Montgomery convention “was to sustain, uphold, and perpetuate the fundamental principles of the Constitution of the United States” as Southerners interpreted those principles.³³ By only modifying the United States Constitution, the Confederate States would be operating under a system of government with which they were familiar.³⁴ Furthermore, border states that were uncertain about whether or not to secede would know that the Confederate States government would not be very different from the one under which they had been functioning, and their fears of a radical Confederate government would be alleviated.³⁵ The same would be true of those Southerners who had opposed secession.³⁶ So using the United States Constitution as the foundation for the Confederate States government would act to unify the Southerners in support of their new nation. Moreover, the United States Constitution had been tested for seventy-two years and had worked well; the Southerners believed that with the correction of its few “defects,” it would be the best form of government they could

³¹*Ibid.*, p. 50; Curry, *The Southern States*, pp. 194-95; and Alexander H. Stephens, *Recollections of Alexander H. Stephens*, ed. by Myrta Lockett Avery (New York: Doubleday, Page and Co., 1910), pp. 171-72. All delegates to the Montgomery Convention, except those from Florida, were chosen at state secession conventions. Florida's governor appointed that state's three delegates. See Lee, *The Confederate Constitutions*, p. 22.

³²*Ibid.*, p. 89.

³³Stephens, *A Constitutional View of the Late War Between the States*, II, p. 339.

³⁴Whitridge, “Jefferson Davis and the Collapse of the Confederacy,” p. 80; E. A. Pollard, *Southern History of the War*, I (New York: Charles B. Richardson, 1866), p. 45; and Charles Henry Ambler, *Correspondence of Robert M. T. Hunter, 1826-1876* found in American Historical Association, *Annual Report, 1916* (Washington, D. C.: Government Printing Office, 1918) 2:114 quoted in Jesse T. Carpenter, *The South as a Conscious Minority, 1789-1861: A Study in Political Thought* (New York: New York University Press, 1930).

³⁵John Witherspoon DuBose, *The Life and Times of William Lowndes Yancey: A History of Political Parties in the United States from 1834-1864; Especially as to the Origin of the Confederate States* (Birmingham, Alabama: Roberts & Son, 1892) 144 as quoted in Jesse T. Carpenter, *The South as a Conscious Minority*.

³⁶Thomas, *The Confederate Nation*, pp. 56-57.

devise.³⁷ Finally, time was still of the essence, and merely modifying the United States Constitution was the quickest and easiest way to organize the new government.³⁸

Of paramount importance to the Montgomery delegates was that the new constitution would embody the concepts of sovereignty and states' rights. Thus, in the preamble of the Confederate Constitution, it was stated that the people of the Confederate States were forming their government as "sovereign and independent" states. The delegates were creating a "permanent federal government" rather than a "more perfect Union."³⁹ This was done, Stephens said, "to put at rest forever the argument of the Centralists, drawn from the Preamble of the old Constitution, that it had been made by the people of all the States collectively, or in mass, and not by the States in their several Sovereign character."⁴⁰ And Curry noted that the preamble made it clear that the federal government of the Confederate States was the creation of the states and the only power it had was that given to it by them.⁴¹

Other sections of the Confederate Constitution echoed the theme of state superiority. Whereas the legislative power of the United States government was "granted" to Congress, the Confederate Constitution "delegated" that power to its Congress.⁴² The two words differ in meaning in that "to grant" means "to give," while "to delegate" means "to entrust."⁴³ Thus, the Southern states reserved the right to take back any power that they were allowing the Congress to exercise. In addition, states retained the power to impeach federal officers whose duties were "solely within the limits of any State." The impeachment was to be by a vote of two-thirds of both houses of the legislature of the particular state;⁴⁴ however, the trial of the impeached official was to be conducted by the Confederate Senate.⁴⁵

³⁷Curry, *Civil History of the Government of the Confederate States*, p. 63, and Carpenter, *The South as a Conscious Minority*, p. 222.

³⁸*Ibid.*, pp. 224-25

³⁹Permanent Confederate Constitution, Preamble.

⁴⁰Stephens, *A Constitutional View of the Late War Between the States*, II, p. 335.

⁴¹Curry, *The Southern States*, p. 195.

⁴²Permanent Confederate Constitution, Article I, Section 1.

⁴³*Webster's New World Dictionary of the American Language* (Nashville: Southwestern Co., 1965), pp. 199, 326.

⁴⁴Permanent Confederate Constitution, Article I, Section 2, Clause 5.

⁴⁵*Ibid.*, Article I, Section 3, Clause 6.