**Sovereignty, Legitimate Authority, and White Domination:**

**South Carolina and the Confederate Battle Flag**

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*Abstract*: On June 17, 2015, one young white man’s murderous rampage at Charleston’s Mother Emanuel AME Church led to the deaths of nine black parishioners, including a current member of the South Carolina State Senate. On July 10, 2015, after flying on State House grounds since 1962, the Confederate Battle Flag was finally removed from a sovereign setting – unfurled and flying on capitol grounds – and sent to a more appropriate historical setting – the Confederate Relic Room and Memorial Museum. The question I seek to answer here is why South Carolina, after 53 years of flying the Confederate flag on its capitol grounds, decide to remove the flag? I argue that to make sense of these events, it is helpful to consider concepts of sovereignty via Hobbes, Schmitt, and Edkins, as well as the idea of legitimate authority laid out by Weber; I also suggest, quite tentatively, that conceptually separating sovereignty and white dominance may be impossible. I begin with an overview of the events of June and July 2015, then discuss sovereignty and legitimate authority. I then provide a brief history of the Confederate Battle Flag generally, as well as a more focused review of its history in South Carolina. I conclude by offering a series of ways we might read the decision of South Carolina to remove the flag from the grounds of the State House, and considering how these events may have contributed to the election of the current president.

**Introduction**

In 1816, Morris Brown, a Black pastor, founded Emanuel African Methodist Episcopal Church in Charleston, South Carolina. In 1822, Denmark Vesey, having purchased his freedom, enlisted several congregants and possibly even church leaders into his 1822 slave revolt. Days after the plot was exposed to a Charlestonian slave owner, a white mob burned Mother Emanuel Church. The congregation, now missing Pastor Brown who had fled north for safety, rebuilt the structure, and services were held at the current location until state authorities closed all black churches in 1834 following widespread unrest in the wake of Nat Turner’s failed 1831 rebellion. From 1834 to 1865, congregants worshipped without a building and in secret, as open services were certain to provoke white violence. The congregation became public again after the Civil War ended in 1865. A wooden structure was rebuilt in 1872 but was destroyed in an earthquake in 1886; the current building was constructed in 1891. Over its 125-year history, the current building has housed numerous luminaries, including Booker T. Washington, Martin Luther King, Jr., and Coretta Scott King. It is the oldest standing Black church south of Baltimore.[[1]](#footnote-1) In short, Mother Emanuel is a repository of tremendous significance and memory for the Black community of Charleston, and its successes, defeats, underground resistance, and persistence in the face of massive threat mirror those of Black America.

It was this church that Dylann Roof, a young white man, entered on June 17, 2015. He arrived and joined an evening prayer service with about a dozen African American worshippers. After sitting with those gathered for about an hour, 21-year-old Roof brandished a weapon, at which point a member of the congregation, Tywanza Sanders, stepped between Roof and one of Sanders’ relatives, asked Roof what he was doing and pleaded with him to put the weapon away. Roof responded by saying: “No, you’ve raped our women, and you are taking over the country…I have to do what I have to do.”[[2]](#footnote-2) Roof then opened fire, killing Sanders and eight others and gravely wounding four others (one of whom died). Those killed by Roof were the Rev. Clementa Pinckney, a pastor of Mother Emanuel AME and a member of the South Carolina State Senate; Cynthia Hurd, a librarian who was the director of the St. Andrews Regional Library; Rev. Sharonda Coleman-Singleton, a pastor at the church as well as a speech therapist and girls track and field coach; Tywanza Sanders, a recent college graduate; Ethel Lance, a custodian at the church and grandmother; Susie Jackson, a member of the church; DePayne Middleton Doctor, an admissions coordinator at her alma mater: Southern Wesleyan University; Rev. Daniel Simmons, a retired pastor; and Myra Thompson, the wife of another pastor in Charleston.[[3]](#footnote-3) With ages ranging from 26 to 87, the dead represent those who lived through the civil rights years and those who were still waiting for its promise to be realized. Roof was quickly apprehended, after which he confessed without hesitation to the deeds of which he was accused. In 2017, Roof was convicted of murder in federal court and condemned to death for his actions.

In response to the shootings, the United States and South Carolina state flags atop the South Carolina State House were lowered to half-staff by order of the Governor Nikki Haley. In stark juxtaposition, the Confederate flag – located at a Confederate War Memorial on the grounds of the South Carolina State House – remained at full staff, unable to be lowered to half-staff without a 2/3 majority in both houses of the State Assembly. Though not quite as long as Mother Emanuel’s storied past, the Confederate flag in South Carolina has a long history. After the South’s defeat and subsequent occupation by the Union Army, the Confederate flag had been re-installed atop the South Carolina State House in 1962, allegedly to commemorate the centennial of the Civil War but likely also a response to the surging Civil Rights Movement. In May 2000, in response to an economic boycott by the NAACP begun in January, the Confederate flag was moved from the top of the State House to a flagpole on the grounds of the State House, as part of a monument to Confederate War Veterans. The move of the Confederate flag from the top of the Capitol Building to Capitol grounds came about as a result of classic logroll: South Carolina agreed to enact a holiday to celebrate Martin Luther King, Jr. and to remove the flag from the top of the Statehouse, but the flag would remain on the grounds of the Capitol Building itself.[[4]](#footnote-4) On Friday, July 10, 2015, 23 days after Dylann Roof’s killing spree, the Confederate flag was removed from the flagpole in front of the South Carolina State House and taken to the Confederate Relic Room and Memorial Museum after being defiantly flown on the grounds of the state capitol for 53 years. In essence, the Confederate flag was (re-)removed to a museum.

My argument is that debates about the place of the Confederate Battle Flag in the United States are embedded within larger debates about sovereignty and legitimate authority, and that conflicts over the meaning of these help make sense of the events of 2015. Using Weber’s discussion of legitimate authority and Hobbes’, Schmitt’s, and Edkins’ reflections on sovereignty, I suggest that – given its tortured history – the Confederate Battle Flag must be read as a symbol of sovereignty and legitimate authority, both of which coincide with white domination in the form of the Confederate Battle Flag. The decision to remove the flag from the State House grounds in South Carolina, then, might be read as an avowal of the substantive conflict between white domination and liberal democratic ideals. This recognition by the state legislators required the flag’s removal to sustain the fiction of popular sovereignty and a neutral and fair liberal state. But the flag’s quick removal without a substantive effort to combat white domination may leave those seeking racial justice with an ever-shifting enemy that may be even harder to combat now that its symbol has been removed.

**Legitimate Authority and Sovereignty**

In this section, I will offer a brief overview of legitimate authority in Weber as well as sovereignty in Hobbes, Schmitt, and Edkins.[[5]](#footnote-5) While the terms ‘legitimate authority’ and ‘sovereignty’ are not interchangeable, both involve responses to the questions of who should rule and why, as well as the character of that rule. Additionally, as I will further elaborate below, both concepts provide tools to interpret the removal of the Confederate Battle Flag from the State House grounds in South Carolina.

Hobbes’ Sovereignty

In *Leviathan*, Hobbes meticulously, even mathematically, describes individuals in the state of nature, as well as how they can come together to leave the state of nature through erecting a sovereign to rule over them. Hobbes’ conceptions of sovereignty is foundational and well-known, and thus I won’t spend much time on it. However, a few key points are significant. First, before the erection of the sovereign power, each individual in nature is essentially a tiny (though fearful!) sovereign. To the extent that he is able, each decides the law that guides his conduct and can use force to defend himself from external threats. He is responsible to no one except through others’ potential agreement to consent to his rule in exchange for protection. The result, as we all know, is a world where in the “life of man” is “solitary, poor, nasty, brutish and short.” Sovereignty, then, is separate from terror, but on some level also a cause of it. Sovereignty widely distributed makes us unable to work together to create great collective works like agriculture, art, or industry.

To solve this problem, Hobbes introduces the social contract; the assembly comes together and consents to be ruled. Their authority is the ground of the sovereign’s power; that, they ‘author’-ize him to act in any way necessary to keep them out of the state of nature. The sovereign so created is not a party to this contract; the contract creates his awesome power, such that he is like a “mortal god.” His now-political power is a much greater, more effective version of the sovereign power we held as individuals in the state of nature; through our consent, he gives meaning to words, issues laws, determines the proper rituals and scope of religion, defends his subjects from external threats and each other, and – perhaps most importantly – ensures that each of us keeps our promises. This is particularly true in the case of keeping our faith toward each other within the commonwealth. In this sense, each of us is essentially equal before the sovereign’s awesome and awful power; we are equally subject to his will. As a result, at no point may we legitimately resist his power and if we do, we ourselves have authorized our own punishment.

The sovereign, then, orders the internal affairs of political community of which he is head. But he is also responsible for protecting this community from external threats. Should he be unable to protect us, we are thrown back into the state of nature, and his power dissolved. We are then free to contract again with one another to establish or recognize a new sovereign. In this sense, while the sovereign is above his subjects, in the international realm, he is one amongst equals again. The result is that while he may be able to order domestic relations, he cannot ever rest from defense against external ones; his fellow sovereigns and he remain essentially in the state of nature.

To think ahead to the discussion of how sovereignty, authority, and white domination intersect, Hobbes – rare amongst the social contract theorists, as noted by Charles Mills – goes so far as to suggest that Europeans might also fall into this dreaded war of all against all rather than confining its horrors to ‘uncivilized’ spaces.[[6]](#footnote-6) Mills suggests this universal vulnerability to the state of nature is no small part of why his work scandalized Europeans. And as Carole Pateman argues, Hobbes is at least honest about the true nature of this contract made under terms of coercion; women in the state of nature must submit to a master to preserve their lives against stronger individuals, particularly if should they become pregnant or if they are caring for a child.[[7]](#footnote-7) Thus, submitting to subjection (or even slavery) is a rational choice if the only other possible outcome is death.

For whites in America, expropriation and exploitation of Natives and the later establishment of a racialized slave society ensured that all whites were essentially sovereigns over all people of color. The American state joined white domination and political sovereignty in its earliest years, while individual whites could perpetrate violence on non-whites with impunity and with the permission of the state. As Du Bois and others have noted, this united whites around the identity of whiteness such that class divisions were sutured over.[[8]](#footnote-8) Whites were equals and citizens in relation to other whites were equals and citizens; while whites were sovereigns and masters to non-whites. In essence, whites were political beings, while non-whites remained in the state of nature, and thus were ruled by force. The power of the actually organized state supported these non-political relationships in its midst by deputizing whites to enforce the racial order at all times and in all places.[[9]](#footnote-9)

Weber and Legitimate Authority

In “Politics as a Vocation,” Weber offers two particularly helpful points. First, his definition of the state, widely referenced; and second, his descriptions of three different kinds of legitimate authority. I discuss each in turn below.

First, Weber writes: “The state is the form of human community that (successfully) lays claim to the *monopoly of legitimate physical violence* within a particular territory…all other organizations or individuals can assert the right to use physical violence only insofar as the *state* permits them to do so. The state is regarded as the sole source of the ‘right’ to use violence.”[[10]](#footnote-10) Thus, to be a state means to be the sole wielder of legitimate violence. If other entities resort to violence against fellow citizens or subjects *without* the state’s permission, then the state does not have a monopoly and is – by definition – no longer a ‘successful’ state. One must assume, then, that if actors besides the state are perpetrating violence and the state is not intervening to quash their actions or them, then the state is tacitly approving of these actions. In that sense, then, these non-state actors are acting with the state’s blessing, even if that blessing is not explicitly given.

Second, Weber makes distinctions between different kinds of authority the populace perceives as legitimate. Importantly, in this discussion, Weber is not addressing the normative basis for these perceptions of legitimacy; instead, he seeks to show that these are commonly appealed to justifications. He is not here worried about whether any one of these is normatively legitimate or illegitimate, but whether those ruled accept them as such. Weber calls these the “internal justifications” of legitimate authority.[[11]](#footnote-11)

Weber writes that “there are in principle three grounds that *legitimate* any rule;” these three justifications are rule by tradition, rule by a charismatic leader, and rule by legality. First, rule by **tradition** is basically what has been brought forward into the present from “the eternal past.” Also referred to as the rule by custom, this type of internal justification regularly supports the rule by patriarchal figures. Simply put, we continue to accept as legitimate what always has been, and so do not question those patterns or distributions of power.[[12]](#footnote-12) Second, rule by a **charismatic leader** is characterized by Weber as “the wholly personal devotion to, and personal trust in, the revelations, heroism, or other leadership qualities of an individual.” Those who rely on this ground of legitimation are “prophets or – in the political sphere – the elected warlord or ruler chosen by popular vote, the great demagogue, and the leaders of political parties.” These rulers have something about them that draws us in: a unique ability that leads us to wholeheartedly trust their judgment regardless of other forms of legitimacy. The charismatic leader just gets us, understands who we are, and thus we explicitly trust that even if he has no experience, he will nonetheless protect and defend our society. Third, Weber describes rule by **legality** as a “belief in the validity of legal *statutes* and practical ‘competence’ based on rational rules. This type of rule is based on a person’s willingness to carry out statutory duties obediently.” Rule by legality relies on public servants acting in accordance with rules handed down by a thoroughly legalistic system. It is the bureaucracy par excellence; I do as instructed without questioning the instructions because it is what I ought to do.[[13]](#footnote-13) Weber is keen to acknowledge that these do not appear as ‘pure’ types in the real world; in reality, appeals to legitimate authority draw on aspects of all three woven together in complex ways.

In “Politics as a Vocation,” Weber is most interested in the charismatic leader – the characteristics of such a leader, the responsibility born by her, and the type of character necessary to face up to the distinctly political responsibilities of ruling. Weber distinguishes between those who rely on an ethic of conviction and an ethic of responsibility. He writes: “there is a profound abyss between acting in accordance with the maxim governing an ethics of conviction and acting in tune with an ethics of responsibility. In the former case this means, to put it in religious terms: ‘A Christian does what is right and leaves the outcome to God,’ while in the latter you must answer for the (foreseeable) *consequences* of your actions.”[[14]](#footnote-14) For the person truly called to politics – not true for either the patriarch or the bureaucrat – the two ethics do not necessarily conflict. A person for whom politics is a vocation, then, acts because she judges the action necessary and right in these circumstances, *but also* faces up to the burden of political responsibility for her actions. Weber – dazzlingly optimistic, it seems – holds out hope that western democracies have evolved institutional mechanisms to ensure that demagogues and tyrants won’t usurp charismatic leaders. I will discuss this hope again near the end of the paper. But for now, it’s important to realize that Weber is keenly interested to create the space within politics for this person to emerge. These leaders who combine conviction and responsibility in the face of impossible, tragic choices are the ones who do the hard work of politics and who resolve (or at least manage) the intractable conflicts that permeate even homogenous societies.

So how does Weber’s conception of legitimate authority help us understand white domination in the American state? As I will argue in more detail below, the more rule-bound vision of constitutional democracy that each of the 50 united states possesses is essentially in line with Weber’s rationalistic, legalistic justification for legitimate authority. Each state, including South Carolina, employs massive numbers of bureaucrats who interpret the laws according to norms and customs that are, for the most part, bound by rules and which follow the dictates of those who determine the rules (in this case, legislatures and governors). But some states also have a particularly long line of custom that supports the rule of whites over blacks. This custom-bound, traditional rule of whites over blacks has, in the past, coincided with the legalistic justifications of authority through what Charles Mills calls “racial liberalism.”[[15]](#footnote-15) Whites meet one another before the law and treat one another as citizens, while whites meet blacks in the marketplace and treat them as subjects; the relation between whites is as citizens, while the relationship between whites and non-whites is sovereign/subject. Here, then, tradition as justification and legality as justification exist side-by-side; there are two different rules, but they are applied to different groups. Thus, Southerners in the Jim Crow era could talk about an equality-based rule by law *while at the same time* enforcing racialized segregation.

The charismatic leader, then, has two possible options, given that, as Weber notes, these sources of authority are rarely separated in real life. He may draw on the legalistic paradigm or he may draw on the traditional paradigm. Adding conditions of white domination into the mix means that the charismatic leader may appeal to both. Of course the charismatic leader may ignore both, as well, and simply assert that he knows better how rule than those he supplants.

Schmitt: Sovereignty and the Moment of Exception

Carl Schmitt’s articulation of sovereignty illuminates the challenges of containing ‘the political’ –sovereign power – within the confines of liberal democratic constitutionalism. Liberal democracy relies on the illusion that the people are sovereign. Take Locke’s social contract, wherein the body that represents the people in the legislative capacity must also provide for the enforcement of the law through prerogative power. Prerogative power acts when circumstances arise beyond the scope of the law or when time is of the essence. It exists to uphold natural law in the absence of positive law. But Locke recognizes that a good ruler – one well-loved and thus granted power to do what she will – is most dangerous to the people’s liberty. Locke’s solution, of course, is that the people may resist if the executive power oversteps or abdicates its purpose of upholding natural law. It is for this reason that Schmitt begins his investigation into sovereignty with this powerful phrase: “Sovereign is he who decides the exception.”[[16]](#footnote-16) For Schmitt, then, positing that sovereignty sits with ‘the people’ is misrecognizes what sovereignty *is*. Sovereignty is not the power that legitimates rule, as with Weber, but the power to decide when the legal order must be suspended.

The exception occurs when the order that has prevailed during ‘normal’ times is perceived as inadequate or even deemed dangerous to the political community. In that moment, an actor (the one who holds the power to suspend the rules), makes a decision (not simply an interpretation of the legal order) that excepts himself or others from following the worn paths of normalcy. In this sense, the charismatic leader – or at least the person for whom Weber suggests politics is a vocation – acts outside the legal order to maintain the community.

Schmitt is not saying that the rules are necessarily bad – simply that in a particular context, they may prove inadequate to the task of upholding the good of order within the political community. Thus, the rules and the normal order they uphold are defined by the exception. Schmitt writes: “The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It conforms not only the rule but also its existence, which derives only from the exception. In the exception the power of real life breaks through the crust of a mechanism that has become torpid through repetition.”[[17]](#footnote-17) Part of what seems to be motivating Schmitt is to expose the contradictory impulses of liberal constitutional democracies – the security of a strong sovereign who is nonetheless constrained by a legal order which he has the power to override.

Schmitt identifies the exception as a moment when the community is defined by action beyond the law, an action that “breaks through” everyday politics and becomes an actual instance of “the political.” I will suggest below that the events of June and July 2015 provided two moments of exception, though not exactly in the ways that Schmitt describes. The first was the excessive violence visited on black bodies; killing nine parishioners at a prayer meeting is different than police killing singular black bodies on the streets. This exception to the rule served to illustrate the rule. Roof’s actions were similar enough to the actions of the state itself, and yet the enormity of the violence uncomfortably brought the similarities of the state’s use of violence into view. Furthermore, it exposed the decidedly violent nature of sovereignty, as I will discuss below. In order to establish a new rule – one that asserted that the state stood not for white domination but for equal treatment of all citizens, the second exception is South Carolina’s removal of the flag. This decision might be read as the state attempting to recover its liberal legitimacy – as the sovereign performing as a fair and just decider – rather than allowing an individual to define the state’s sovereign power as a form of white domination.

Edkins: Sovereignty, Violence, and Memory

Jenny Edkins, in *Trauma and the Politics of Memory*, offers a review of the memory literature to suggest that at its foundation, questions of memory come down to how we think of time. She suggests that memory is neither individual nor social, but that “the social world and the individual are mutually constituted, or in other words…social activity produces both society and the individual.” The result is that “the past is produced in the present, rather than preceding it.”[[18]](#footnote-18)

Edkins further suggests that our conception of memory includes assumptions about the character of time: whether it is linear or whether it is not. In the psychoanalytic account of memory and trauma, there is a certain non-linearity. Social order, like subjects who have experienced trauma, “only *ever will have been*.”[[19]](#footnote-19) That is, “subjects only retrospectively become what they already are.” Like the social order, “the person is formed, not through a process of interaction with the social order (since that would mean thinking of the social as already there), but by imagining or supposing that the social order exists. This supposing by the individual is what brings the social into being.” [[20]](#footnote-20) Using the example of speaking, Edkins writes “it is not at the moment we decide to speak that we see who we are, but only a moment later, when we get a response. The response tells us not who we are now, since we are no longer that – we already have changed. It tells us who we were, at the moment when we spoke. This is the sense in which we never *are*, we *only ever will have been*.” And yet this past is also never expressible – the excess/real always exceeds our ability to communicate that experience fully. In thinking about Dylann Roof’s actions, we can imagine that he assumes “whiteness” as a social ordering tool/social reality exists, but that it was his own actions that re/created that reality. The actions of immediate past shape the present so that it looks like the past created the now. And yet the now tells us little about the future.

To demonstrate how time, memory, and trauma coincide, Edkins – like Wolin in “Fugitive Democracy” – argues for an important distinction between politics and the political which, again, is connected to the conception of time as linear v. time as non-linear. Edkins writes:

Politics refers to the sphere of activity and institutions that is called ‘politics’ as opposed to ‘economics’ or ‘society’. Politics is part of what we call social reality. It exists within the agendas and frameworks that are already accepted within the social order. The political, in its ‘properly traumatic dimension’, on the other hand, concerns the real. It refers to events in which politics of the first sort and its institutions are brought into being. This can be the day-to-day production and reproduction of the social and symbolic order. This continual process has to take place; the social order is not natural, it doesn’t exists unless it is produced continually. The political also takes places at moments when major upheavals occur that replace a preceding social and legal system and set up a new order in its place. At such points, the symbolism and ideology that concealed the fragile and contingent nature of authority collapse altogether and there is a brief interregnum before the new order imposes a different form of concealment.[[21]](#footnote-21)

While there is much here to parse, the takeaway is that the political is exposed when the social order is shown to be a needful yet contingent construction. This helps resolve what seems like a contradiction in Edkins’ definitions above: the political is the daily performance of social order that then creates the institutions and processes that appear ordered and stable *as well as* the moments when that apparent order is unmasked as disorder or chance.[[22]](#footnote-22) Thus, the political – both as performance and as event – threatens the stability of politics. To some degree, Edkins seems casually agnostic about the implications, when it seems like this is a pressing normative question. But for now, I will leave this aside. The key point is that any given social/political order is created daily, the illusion of stability requires maintenance, and yet there are moments when the taken-for-grantedness of the order is openly questioned.[[23]](#footnote-23)

Like Hume and Burke, Edkins argues against the placid rationality that stages the myth of the nonviolent social contract. In its stead, the forms of sovereign power now in place came to be *through* moments of violence and trauma, yet to retain its authority, sovereign power must paper over these events by remembering them as heroic and redemptive. In explanation, Edkins writes:

Memory is central to relations of power. Dominant powers can use commemoration as a means of *forgetting* past struggles. For example, they can use accounts of heroism and sacrifice that tell a story of the founding of the state, a narrative of glorious origin. This obscures trauma. In this context practices that insist on remembering can be insurrectionary and counter-hegemonic. They remind us that power is provisional and contingent, and that it entails violence.[[24]](#footnote-24)

In short, “remembering is intensely political: part of the fight for political change is a struggle for memory.”[[25]](#footnote-25) As Edkins and others have pointed out, PTSD is a fine example of this social framing: the medicalization and pathologization of veterans ends up depoliticizing the deep critiques they might offer of the effects and uses of sovereign power.[[26]](#footnote-26) In a similar vein, the criminalization of Blacks in the United States similarly works to depoliticize issues around race by silencing/ignoring those who speak for ‘the criminals’ who bear the brunt of the changed economic conditions that have made the social order increasingly unstable, while providing a stable platform of white privilege for those whites who have been similarly damaged by the economic transformations of the past half century.[[27]](#footnote-27) In such situations, remembering what has been forgotten – that violence founds the social order and particularly the violence that founds the racial order within a purportedly liberal state – can be a powerful lever for change.

In the case of South Carolina as in the rest of the United States, the violence of white domination and state sovereignty – the violence of slavery, the Confederacy, the Civil War, massive resistance to school integration, continual large and small ways in which Blacks throughout America are politically disenfranchised and economically marginalized – has been papered much like the violence of sovereignty has been obscured. White domination, this ‘history’ asserts, is a thing of the past, much as the violence of founding is. Encapsulated by the Confederate Flag, flying not atop the State House but still on State House grounds, the politics of sovereignty, allied with the politics of white domination, is the status quo: daily machinations of power that propel the constructed past into each day’s present. An eruption of the political disrupts this by exposing the entwined violence at the heart of sovereignty that lives alongside white domination.

*[[TK: Summary paragraph of section here]]*

**South Carolina and the Confederate Battle Flag**

In *The Confederate Battle Flag*, John M. Coski provides a broad overview of the origins, uses, and symbolic meanings of what is now referred to as the Confederate flag.[[28]](#footnote-28) However, the flag we most associate with the Confederacy was never the flag of the Confederate States; the CSA’s original flag was the so-called ‘Stars and Bars,’ which looked quite like the American flag. After the flag’s similarities caused confusion on the ground at the First Battle of Manassas, General Beauregard of the CSA determined that a more visually different “battle flag” should be used when armies met in the field.[[29]](#footnote-29) Thus, the flag most often displayed as and called the Confederate Flag is in fact the Confederate *Battle* Flag. Importantly, this flag did not fly over state capitols, nor did it fly over the Southern White House. It was flown by the army when it was in the field. Why is that significant? Because the Confederate States of America never existed during peace; its entire existence was during war, and so it makes sense that battle flag has come to stand in for the flag of state. And yet it seems important that the flag most associated with the Southern rebellion was the flag of war and not of peace. Surely, from this it is fair to infer that the flag – and particularly the battle flag – is a symbol of sovereignty; a symbol of the sovereign’s power in the form of military force. In this section, I provide a summary of the shifting meanings of the Confederate Battle Flag from the end of the Civil War through today, then provide a brief history of the use of the flag in the State of Carolina.

Shifting Meanings of the Confederate Battle Flag

Coski’s excellent history of the Confederate Battle flag suggests that its display and meaning have shifted several times since the end of the Civil War. Based on his work, we can identify three major periods of the battle flag’s display: 1) memorialization, 2) reappearance, and 3) resurgence. During the Era of Memorialization (~1865-1910s), the primary reason to display the flag was at memorial gatherings; Confederate holidays, the dedications of memorials to the fallen; parades of veterans; at funerals of veterans who died, etc. The flags displayed were often originals that had been taken onto the fields of battle – hidden and not handed over to the US Army – and thus were often marked by their time on the battlefield: blood-stained and tattered. These were treated with sacred reverence. Heritage organizations like the United Confederate Veterans (UCV) and the Sons of Confederate Veterans (SCV) strongly policed the use of the flags and ensured that when flown, they were treated reverently.[[30]](#footnote-30) During this period, it was generally agreed upon that the war had been lost, and that the flag, as a symbol of the sovereign state, should be furled as a symbol of sovereignty. This is not to say that Southerners gave up the ‘Lost Cause’ ideology; they did not. In the years after the Civil War’s conclusion, one might characterize the shift as a recognition that the South had lost the war but was going to win the peace; the cause may have been lost, but its goals were not forsaken.[[31]](#footnote-31) The Battle Flag came to stand not for threat or secession, but to recognize and honor valor and sacrifice. Though in 1913, at the 50th Anniversary of the Battle of Gettysburg, Union and Confederate soldiers and their descendants honored their war dead together, the Confederate flag flew below the American one; four years later – during WWI – both flags were flown at the same height.[[32]](#footnote-32) The image of the two flags crossed and at equal height was a symbol of national reconciliation (though that came at the cost of federal support for racial equity).[[33]](#footnote-33)

In the Era of Reappearance (1890s-1940s), a few Southern states began to insert elements of Confederate flags into their state flags.[[34]](#footnote-34) This coincides with the passage of Jim Crow statutes into law, and the Supreme Court’s decision that such statutes were within the proper jurisdiction of state’s power. Much of the flag’s reappearance outside the realm of memorialization can be traced to a single fraternity: Kappa Alpha. Kappa Alpha (KA), founded in 1865 at Washington College (where Robert E. Lee would soon assume the school’s presidency) was essentially founded as a Confederate heritage organization: “Members should cherish the southern ideal of character – that of the chivalrous warrior of Christ, the Knight who loves God and country, honors and protects pure womanhood, practices courtesy and magnanimity of spirit and prefers self-respect to ill-gotten wealth.”[[35]](#footnote-35) In the 1910s and 1920s, KA “Dixie Dances” gradually expanded into very formal and very Confederate “Old South” themed parties by the 1940s. Surprisingly, however, during the KKK’s second incarnation in the 1910s, the Battle Flag remained unfurled as a symbol of white supremacy.[[36]](#footnote-36) Furthermore, in the many visual records we have of fatal violence visited on black bodies – lynching photographs – few if any of those images includes the Confederate Battle Flag.[[37]](#footnote-37) The lack of display by the KKK and by those engaging in violence against black bodies is a bit surprising. While the flag’s appearance was moving beyond mere memorialization, it remained – mostly – an historic item, though one clearly aligned with a white supremacist ideology.

All of that changed as the Confederate Battle Flag entered its current phase, which I’m calling the Era of Resurgence (1940s-date). The real marker of the resignification of the flag from memorialization to a straightforward political articulation of contemporary white resistance to federal civil rights intervention is the States Rights Party Convention in 1948.[[38]](#footnote-38) Truman had made substantive efforts toward inclusion and civil rights protection for African Americans by forming a Civil Rights Commission in 1947 (whose 1948 report, *To Secure These Rights*, Truman quickly endorsed) as well as by ordering the desegregation of the military in 1948.[[39]](#footnote-39) The unsurprisingly response by Southern states was the beginning of massive resistance. This resistance became embodied in the Confederate Battle Flag, like many other strange artifacts of 1950s life, became an inexplicably huge fad that swept the country.[[40]](#footnote-40) Similarly, NASCAR is founded in 1949, and quickly becomes a site for the new ‘rebel’ spirit.[[41]](#footnote-41) Coski suggests that during the ‘flag fad’ of the 1950s, the battle flag came to stand for a more generalized rebelliousness, defined not necessarily by white supremacist leanings so much as a yearning for individuality. But by the mid-1950s, while those other more individualized meanings may have accreted to the symbolic Confederate Battle Flag, it once again was being waved to explicitly endorse white domination in the form of resistance to the Civil Rights Movement and to federal intervention into southern states on behalf of non-white citizens.[[42]](#footnote-42) This explicit reinvigoration of the flag for contemporary rather than memorial purposes was new, and it coincided with the observations of the centennial of the Civil War, creating a perfect storm for the Confederate flag to become a central site of contestation over the place of race in the American polity.

The Confederate Battle Flag in South Carolina

At the instigation of John D. Long, son of South Carolina’s leader of his county’s KKK in the 1870s and a “staunch segregationist,” South Carolina’s House voted to display the Confederate Battle Flag in the House chambers in 1938, followed by its display in the Senate chambers in 1956 (coinciding with Long’s election to both houses).[[43]](#footnote-43) In 1962, as in many Southern states, the flag was raised over the State House, purportedly in recognition of the Civil War Centennial (though the resolution that passed made no mention of the centennial). Coski asserts that “it was assumed widely that the centennial was the impetus for the resolution and that the flag come down upon the commemoration’s close in 1965.”[[44]](#footnote-44) However, the flag was not removed. The state’s Black Caucus took up the cause of removal in 1972, and it remained a topic of agitation and debate for the next four decades. For flag supporters, the flag “represented a proud period of the state’s history, ‘the only time when the state made a total commitment to anything.’”[[45]](#footnote-45) To its opponents, the flag could honor the valor and ‘commitment’ of the soldiers just as well, even better, in the state’s Confederate Relic Room rather than flying over the State House.

For years, compromises were pursued and then failed; the closest opponents came to a resolution was in 1994, which would remove the flag from the State House and insert into the journals of both houses of the legislature the following statement:

Confederate flags are not racist emblems *per se*. It depends on how they are utilized. The misuse of them as emblems for racial purposes is deplored and condemned. These emblems have been misused. These are battle flags which should not be displayed for political purposes.

The State is displaying the Confederate flags as symbols of our heritage. They are not flown in defiance of any government or as a statement regarding any civil rights, constitutional, or racial issues. These flags represent the valor which was displayed by the men and women of this state in another time. That heritage of honor, courage, and independence is worthy of remembering.[[46]](#footnote-46)

In addition to this statement, the flag would be removed from atop the State House to be displayed at two Civil War monuments on the grounds of the capitol, and a new civil rights memorial, funded by private donations but overseen by a state commission, would fly an “appropriate flag” (possibly a black liberation flag).[[47]](#footnote-47) This compromise failed, and the Republican Party – many of whom were flag supporters – won a considerable victory in the 1994 elections as a result (the Republicans won the South Carolina House for the first time since Reconstruction).[[48]](#footnote-48)

In January of 2000, the state NAACP with the agreement of the national organization enacted a statewide boycott, calling for “the removal and relocation of the Confederate battle flag to a place of historical rather than sovereign context.”[[49]](#footnote-49) In May of 2000, a compromise was reached. Among other parts, the Confederate Battle Flag was removed from atop the State House and placed instead at a Confederate monument on the Capitol grounds, as well as removing the flag from the House and Senate chambers. Additionally, the state finally recognized Martin Luther King, Jr.’s birthday as a holiday, as well as Confederate Memorial Day.[[50]](#footnote-50) The compromise was unsatisfying, in part because the flag was now more obvious than ever. Flag supporters gathered to protest the removal of the flag from the dome and cheered as it was raised over the memorial, some holding signs that read: “Off the dome and in your face.” Coski writes:

“Off the dome and in your face” was an appropriate metaphor for the compromise. The flag no longer flew in a place that implied sovereignty over or official approval by the people of South Carolina. Flying high over the capitol dome may have been a symbolically significant place for the flag, but it was barely visible to the naked eye. In contrast, flying alone on a pole at the main entrance to the capitol grounds (and across from the city’s main commercial artery) made the flag more visible than ever. Few people entering the capitol grounds from the city could miss the flag and the implied approval of the state’s Confederate past.[[51]](#footnote-51)

The flag remained there, and could not be lowered without a 2/3rds vote in both South Carolina legislative bodies, until July 10, 2015, when it was finally removed – only after Dylann Roof killed nine black parishioners – in a church and sent to the Confederate Relic Room. The question, then, is why. Why did such a massive display of white violence against black bodies finally prompt the legislators and governor of South Carolina to remove the Confederate Battle Flag from a ‘sovereign context?’

**Sovereignty and the Removal of the Confederate Battle Flag**

The long series of debates over the display of the Confederate Battle Flag are linked to the question of who should rule. The flag itself symbolizes many things, but I would suggest that sovereignty – who should rule, what form that rule should take, and how far it extends – is at the heart of the debate.

There is much to be unpacked in terms of representations of sovereignty and legitimate authority in the events of June and July 2015 in South Carolina, as well as in the long history of the Confederate Battle Flag in the United States in general. As Hobbes and Weber remind us, the use of force is the surest expression of sovereign power. And the Confederate flag – in part because it is the *battle* flag and not the flag of the Confederate States of America, such that it is not defined by politics-as-usual but by the use of sovereign force to enact violence – represents the aspiration to sovereign power (regardless of the carefully crafted but nonetheless rejected compromise statement in 1994). At issue in the Civil War and in the States Rights movement of the 1940s and 1950s was the right of southern states to make laws stripping African Americans of their rights – the right to treat blacks as subjects rather than as citizens. Regardless of efforts to rename the Civil War the ‘War Between the States,’ argue that it was a principled battle over the meaning of federalism, or assert that the CSA was a movement to resist federal tyranny, the question at its most basic is this: states’ rights to *what*? A right to own slaves, to use black labor without pay, to refuse black citizenship, to continue exploiting black bodies – in essence, the right to continue white domination.

Coski is admirably careful to note that the meaning of the flag has shifted over time, and that context is crucial to any interpretation. I am willing to grant that, and even, for the sake of argument, that many Americans who wave the Confederate flag are not (consciously) advocating a racial state. And yet to do so in any context is to advocate the symbol of a racial and racist state – a sovereign nation whose primary purpose was to protect the legal institution of chattel slavery – regardless of intention. As Ian Haney López argues in the last chapter of *White by Law*, whether an action (or in his work, laws and the legal system as a whole) is racist cannot be determined by a reduction to individual intent. Thus, advocating colorblindness essentially perpetuates white dominance.[[52]](#footnote-52) Surely, there can be no image as tone-deaf as arguing for a doctrine of colorblindness while waving a Confederate flag, and yet many Americans do.

While Coski is probably correct that the flag has come to symbolize personal independence and a ‘rebel spirit’ more generally, the fact that that symbol was the symbol of a nation whose sole purpose was to maintain slavery is not actually separable from its current meaning. Of course it makes a difference whether one is flying the flag at a memorial rather than over a state institution, and the removal of the flag from the State House grounds in South Carolina is a signal about that meaning (more on that in a minute). However, when individuals display the Confederate flag, it might be read as an effort to symbolize their sovereignty rather than their citizenship.[[53]](#footnote-53) Thinking back to Weber, the flag might symbolize to whites a traditional view of legitimate authority rooted in white domination (also known as ‘history’), paradoxically paired with a rational view of legitimate authority as a member of a liberal democratic state. The easy and equal display of the Confederate flag and the American flag by many signals that the two symbols are not as paradoxical as they initially seem. I suggest that Weber’s internal justifications for legitimate authority, when paired with Charles Mills’ articulation of racial liberalism helps us understand how those symbols are – for whites – complementary rather than contradictory. For whites, the authority of tradition and the authority of law have coexisted well and to their advantage. Thus, many who display the flag on their homes proudly proclaim their American-ness precisely *through* the display of the Confederate battle flag. Coski and others go so far as to suggest that the Confederate battle flag has become a second US flag – recognizable around the world and flown on battlefields from the Marne to Normandy to Okinawa to Korea to Desert Storm.[[54]](#footnote-54)

Perhaps even more apt is Edkins’ argument that we create the past in the present, that as we wave the Confederate flag we shape a new past. As (often poor) white Americans aim to mobilize the Confederate Battle Flag as a symbol of ‘heritage not hate,’ that action resignifies and rewrites the past as one of honorable duty rather than racial domination: a past that a rational, liberal subject who is white can feel recover as a ‘good identity’ and no longer feel guilty about. In doing so, Edkins’ work suggests that the enactment of sovereignty symbolized by the flag is purged of its violence and thus made rational and reasonable.

So why did the murder of nine Blacks in a Black church by a single, gun-toting, baby white supremacist prompt the state of South Carolina to remove the flag? I offer several possible ways to read this series of events below. But first, a quick recap of why I think Weber, Schmitt, and Edkins’ might help us make sense of what happened. Recall that for Weber, a state is only a state if it enjoys a successful *monopoly* on the use of violence. Recall too, that, until well into the 20th century, black victims could be killed in the town square at high noon with the sheriff standing right there, and the murder would go unsolved as having been performed by ‘persons unknown.’ In short, as Charles Mills argues in *The Racial Contract*, all whites were basically deputized as enforcers of the racial order.[[55]](#footnote-55) Thus, violence against black bodies by average citizens was *not* a violation of the state’s monopoly of violence, because such persons were acting with the state’s blessing. By choosing not to prosecute whites who killed blacks outside of the law, the state granted its tacit permission.

It’s important to remember that, following Cover, the law itself is violence.[[56]](#footnote-56) What sets the violence of law apart from the violence the law polices is the connection provided by the legitimating words of the law and the social organization that lets the judge order and interpret law’s meaning while the warden executes based on those words – the separation of the word from the action is an essential part of law. When individual white citizens act as sovereigns – as judges, juries, and executioners combined – law’s legitimacy is undermined.

Schmitt’s and Edkins’ attention to the paradox of containing sovereign power via a constitutional order. We might read Schmitt’s moment of exception – when the sovereign acts on his own decision rather than the law’s guidance – as the political moment that, for Edkins, exposes the taken-for-granted order. Both Schmitt and Edkins concur actions outside the normal realm of rule- and norm-driven quotidian politics is an important site of meaning-making where the real actors and values are revealed.

I offer the following as possible ways of interpreting the reasons and meanings of the removal of the Confederate flag by the State of South Carolina. Once I list out the options, I will discuss which ones I find more likely.

First, it could be that the legislators in South Carolina came to realize that flying a symbol of white domination anywhere in a sovereign context was a challenge to the legitimate authority of a rational legal order. To think of this in Weberian terms, the conflict between the legitimate authority of custom and the legitimate authority of law was exposed to such a degree that it could not be sutured together again. Thus, legislators debated some 13 hours about the meaning of the flag, and a considerable majority of them decided that the flag should now become a historical symbol rather than remain a sovereign one. Like good rational Enlightenment heirs, they flirted with custom as the legitimation, but ended up going with rational legal systems as a better option. We might think of this as a moment when what Mills calls the ‘epistemology of ignorance’ that plagues whites in EuroAmerican societies was broken through such that the paradoxes of racial liberalism were uncomfortably exposed.[[57]](#footnote-57) In an effort to become rational, then, the legislators agreed to remove the symbol of white domination and move toward actual liberalism. It seems clear from legislators’ remarks that clash between liberal values of equality and white domination – played out against a body count of nine black bodies in a church – motivated them to vote to remove the flag.

But why did it take nine black bodies paired with a manifesto by a young white supremacist complete with images of him waving a confederate flag to get whites to see this contest as real, meaningful, and actionable? Secondly, then, the flag came down because the violence of Roof’s actions was exceptional. This is demonstrated in three ways. First, as noted by many, these were unimpeachably innocent victims. They were praying at a regular prayer meeting in a historic black church. Several were pastors. There was no reasonable way these victims could be ‘criminalized’ like so many other black bodies gunned down by whites are.[[58]](#footnote-58) Second, while the state of South Carolina and the United States in general both use massively disproportionate violence to kill and control black bodies, both the quantity of bodies and the fact that Roof was not a state actor combined to make this an exceptional event. The carceral state of the US and South Carolina chew through black bodies at an incredibly disproportionate rate. But as noted above, that violence is covered over by law’s words and a social organization that legitimizes – at least procedurally – the use of law to inflict pain and suffering. This violence, on the other hand, was perpetrated by a single individual white man. Third, the young man who killed nine black bodies penned a deeply racist manifesto that explicitly noted his reasons for targeting blacks; blacks were inferior, dangerous, and threatened white domination. Several images surfaced of Roof trampling on an American flag, holding a Confederate flag, and his jacket had both Confederate and Rhodesian flags sewn on. In every way, Roof was the apotheosis of white supremacy doctrines – doctrines symbolized by the flag flying at the entrance to the capitol building – unfettered by any tinge of liberal values. His manifesto is a fascinating and appalling read, notable for a number of correct claims, including that not all whites owned slaves. The genteel racism of Southern ‘heritage’ this is not; it is more akin to the genocidal racism directed toward Native Americans. The number of bodies and the naked white supremacist justifications, all in front of the Confederate flag, prompted the people of South Carolina to reconsider flying the flag in a sovereign context. In short, Roof’s actions did not look like everyday white violence against black bodies, but like terrorism.[[59]](#footnote-59) This perfect storm of horror served to interrupt the previously encoded meanings of ‘heritage’ that many saw when they saw the flag.

Third, we might read the decision to remove the flag as an effort to uphold a story of democratic sovereignty that squares with constitutional sovereignty. That is, while Schmitt argues that the sovereign is the one decides the exception, in this case, the legislators were simply enacting the will of the people. Recall that Schmitt identifies that the liberal-constitutional story of sovereignty is a paradox; the sovereign as the people is incoherent, because the sovereign is he decides the exception and suspends the rules. To maintain the illusion of sovereign power located in the will of the people, then, the state must bow to their wishes in this instance. A university public opinion poll in the fall of 2014 found that only one third of the state’s residents wanted the flag to come down, while in the months after the shooting, that number doubled.[[60]](#footnote-60) In short, the decision by legislators to remove the flag fuels the belief that “the people” are the source of sovereign power. As their beliefs shifted, so too did the legal system. This upholds the fiction of sovereign power bound by the people’s will.

Fourth, the state’s decision to remove the flag might be read as an effort to reassert its waning sovereignty. In *Walled States, Waning Sovereignty*, Brown argues that the huge increase in wall-building explosion throughout the world is an effort to shore up the appearance of sovereign power that can never be complete and is more fractured by the day; as bodies and capital increasing cross borders with ease, the question of political sovereignty becomes an urgent one.[[61]](#footnote-61) And so states resort to building walls when sovereignty itself has already been shown to be a fiction by the free flow of humans and capital across borders; the sovereign builds walls as demonstration of its power but in reality, the walls demonstrate its inefficacy and lack of power. Something similar might be happening with the performative removal of the flag, though South Carolina is seeking to distance itself from the symbol of white domination that continues to permeate and penetrate the body politic. As walls are a largely symbolic gesture meant to staunch the circulation of bodies into the body politic, removing the flag is meant to symbolize the impenetrability of the body politic to racial bias. But like walls, a symbol alone will not accomplish this task because the solution and the problem don’t match. Notably, the state of South Carolina removed the symbol but did not pair that removal with a substantive effort to root out white domination. Thus, like walls, the removal of the flag was largely a symbolic effort rather than a substantive one. And, like walls, it doesn’t accomplish its goal, because the goal it seeks to accomplish is impossible without larger, structural changes paired with a conceptual shift about the ground of politics.

To some degree, all four of these possibilities are what happened; the question is from which vantage point we take up the question. Regarding the first, second, and third options, legislators did the right thing, acting on the hope that we can get better at this thing called politics; the flag is a symbol of white domination and to fly it in a sovereign context within a liberal democratic state is an affront to norms of equality and fairness. Similarly, that Roof’s horrific murders prompted about a third of the citizens of South Carolina to change their minds and demand the flag’s removal suggests there was something truly exceptional about this event. It made people see the past differently and thus seek to change the present to be different; it made them want to separate the neutral state from the conditions of white domination. In response, the legislature acted on the will of the people to enact another exception and put distance between the sovereignty of the state and white domination. In all of these the norm-bound, legal, rational system overcomes the rule of custom and tradition, to use Weber’s formulation. All accord with a liberal perspective on sovereignty and authority; it can express the will of the people and its proper use can move us toward justice. Thus, options one, two, and three are quite hopeful. They provide a story of progress, improvement, and repair; they move us toward a more perfect union.

Turning to the last option, though, the fact that a third of citizens of South Carolina were impervious to this exceptional moment and thus remained mired in the epistemology of ignorance is actually the more interesting story. If this event could not shake one’s beliefs that the flag is a symbol of heritage and not hate, what could? This suggests that, in South Carolina (at the very least and more likely the US at large), white dominance is deeply entwined with conceptions of sovereignty, to the point that sovereignty itself may be an irredeemable concept if we seek racial justice.[[62]](#footnote-62)

Furthermore, and again turning to Weber, it might be that the people – particularly this third of citizens who, when faced with a conflict between tradition and legality, stuck with tradition – found the entire issue confusing and unsettling, and so turned toward Weber’s third form of legitimate authority: the charismatic leader. Donald Trump announced his presidency on the day before Dylann Roof’s murderous rampage. His response was, not surprisingly, a tweet: “The tragedy in South Carolina is incomprehensible. My deepest condolences to all.”[[63]](#footnote-63) By June 22, most presidential candidates had endorsed Governor Haley’s calls to remove the flag. Trump fell in line with the other candidates the next day, during the same press appearance where, when asked which woman he would put on the $10 bill, Trump responded, “My mother.”[[64]](#footnote-64) On June 28, the *Daily Stormer*, “America’s most popular neo-Nazi news site,” endorsed him for president. By the end of August 2015, as noted by several reporters, support for Trump’s campaign among self-described white supremacists was very high.[[65]](#footnote-65) Trump’s focus on immigration and alarms about criminals and rapists hiding in plain sight certainly did not cause Dylann Roof to shoot nine worshippers at Mother Emanuel Church. But by positioning himself as the leader who will save the “real” Americans from the violence and criminals within and without – the leader who will approximate Hobbes’ sovereign and free us from the tedious and tragic work of politics – his policy goals aligned with the most radical wings of the American white supremacist movement and drew in many white Americans who find politics distasteful or confusing.

I want to be clear that I am not saying that the events in Charleston caused Trump’s ascent. However, the deeply racialized language he used in his announcement (as well as the multiple examples of racism displayed throughout his public life), the context of Black Lives Matter (and white American’s perpetual unwillingness to take it seriously), and a white supremacy movement that had finally recovered from its long hibernation after Oklahoma City provided a context in which some of the most anti-liberal elements in American society could burst forth. Evan Osnos, a *New Yorker* correspondent researching white supremacist movements in the summer of 2015, heard Michael Hill deliver a speech to the League of the South, a white supremacist organization. According to Osnos, Hill asserted “that the recent lowering of the Confederate flag was just the beginning. Soon, he warned, adopting the unspecified ‘they,’ they will come for the ‘monuments, battlefields, parks, cemeteries, street names, even the dead themselves.’ The crowd was on its feet, cheering him on. ‘This, my friends, is cultural genocide,’ he said, adding, ‘Often, as history has shown, cultural genocide is merely a prelude to physical genocide.’”[[66]](#footnote-66) Later, Osnos writes that in the wake of the calls to remove the flag from the South Carolina State House grounds:

Defenders of the flag were galvanized, and they organized more than a hundred rallies around the South, interpreting the moment, months of racial unrest in Ferguson and Baltimore, as a sign of backlash against political correctness and multiculturalism. Trump’s language landed just as American hate groups were more energized than at any time in years. Griffin, the blogger for the League of the South, told me that the removal of the flag had crystallized “fears that people have about what happens when we become a minority...”[[67]](#footnote-67)

As we all now know, this energized sector of the electorate helped Trump win at the polls in November 2016.

**Conclusion**

The Confederate Battle flag symbolizes many things. One of those – which I suggest is actually inseparable from the flag itself – is white domination: what Weber would call rule by custom or tradition. The message of white dominance was eschewed by the people of South Carolina when the Confederate flag was finally sent to the Confederate Relic Room in July 2015. But was the removal too quick? Was it, too, merely symbolic? My suspicion is that the flag came down too quickly; as we often are, we were drawn to the pageantry and symbolism rather than to debate over the real substance, institutionalization, and objectification of white dominance.

We can imagine another response: that South Carolina removed the flag *while simultaneously* enacting a program of affirmative action meant to repair the racial divide in the state: that it gave up arresting young black men for possession of controlled substances, committed to a substantive program of repairing subsidized housing, providing massive support to primarily black schools, and improving public transportation. In the absence of such a program, the removal of the symbol of white domination leaves the institutions intact while making the headquarters even harder to find. And as one symbol of a past-that-is-not-past fell, another symbol rose: this one representing a white savior from an apocalyptic present that requires a *true* sovereign in order to take us back to a past that never existed.

1. Kat Chow, “Denmark Vesey And The History Of Charleston's 'Mother Emanuel' Church,” <http://www.npr.org/sections/codeswitch/2015/06/18/415465656/denmark-vesey-and-the-history-of-charleston-s-mother-emanuel-church>, Accessed February 17, 2016; “‘Mother Emanuel’ A.M.E. Church History,” <http://www.emanuelamechurch.org/churchhistory.php>, Accessed February 17, 2016. [↑](#footnote-ref-1)
2. Ralph Ellis, Greg Botelho and Ed Payne, “Charleston church shooter hears victim's kin say, 'I forgive you,'“ <http://www.cnn.com/2015/06/19/us/charleston-church-shooting-main/>, Accessed August 22, 2015. [↑](#footnote-ref-2)
3. “The Victims: 9 Were Slain At Charleston's Emanuel AME Church,” NPR News, June 18, 2015.

   <http://www.npr.org/sections/thetwo-way/2015/06/18/415539516/the-victims-9-were-slain-at-charlestons-emanuel-ame-church>, accessed April 17, 2017. [↑](#footnote-ref-3)
4. David Firestone, “S. Carolina Senate Votes To Remove Confederate Flag”<http://partners.nytimes.com/library/national/race/041300race-ra.html>, Accessed August 22, 2015. [↑](#footnote-ref-4)
5. I am purposefully ignoring Bodin’s discussion of sovereignty here (mostly because I ran out of time). A question for readers: should I include it? Does it get me anything more than the current discussion of Hobbes, Weber, and Schmitt? [↑](#footnote-ref-5)
6. Charles Mills, *The Racial Contract* (Cornell, 2007), 64-67. [↑](#footnote-ref-6)
7. Carole Pateman, *The Sexual Contract* (Stanford, 1988). [↑](#footnote-ref-7)
8. W. E. B. Du Bois, *Black Reconstruction in America* (Free Press, 1998); Richard Young and Jeffrey Meiser, “Race and the Dual State in the Early American Republic,” in *Race and American Political Development* eds. Joseph Lowndes, Julie Novkov, and Dorian T. Warren (Routledge 2008), 31-58. [↑](#footnote-ref-8)
9. A similar argument could be made for the patriarchal order, the heterosexual order, and the able-bodied order. See Barbara Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (Cambridge, 2010). [↑](#footnote-ref-9)
10. Max Weber, “Politics as a Vocation,” in *The Vocation Lectures*, eds. David Owen and Tracy B. Strong, trans. Rodney Livingstone (Hackett, 2004), 32. [↑](#footnote-ref-10)
11. Weber, “Politics as a Vocation,” 34. [↑](#footnote-ref-11)
12. As Owen and Strong point out in their “Introduction” to *The Vocation Lectures*, Weber was particularly concerned to educate the German public back into active political life; German political life been shrunk to a small realm due to Bismarck’s deft and authoritarian rule. They write that “Bismarck…had by his very political genius given rise to a situation in which no one could possibly take his place and for which his policies had ensured that none would have adequate training in responsibility and political experience to assume leadership.” See Owen and Strong, “Introduction,” in *The Vocation Lectures*, xi (footnote omitted). [↑](#footnote-ref-12)
13. All citations in this paragraph are drawn from Weber, “Politics as a Vocation,” 34. [↑](#footnote-ref-13)
14. Weber, “Politics as a Vocation,” 83 (internal citation omitted, emphasis in original). Several pages later, Weber summarizes how these two ethics need not always be separated:

    I find it immeasurably moving when a *mature* human being…who feels the responsibility he bears for the consequences of his own actions with his entire soul and who acts in harmony with an ethics of responsibility reaches the point where he says, “Here I stand, I can do no other.” That is authentically human and cannot fail to move us. For this is a situation that *may* befall *any* of us at some point, if we are not inwardly dead. In this sense and ethics of conviction and an ethics of responsibility are not absolute antitheses but are mutually complementary, and only when taken together do they constitute the authentic human being who is *capable* of having a “vocation for politics.” (92). [↑](#footnote-ref-14)
15. Charles Mills, “The Racial Polity,” in *Blackness Visible: Essays on Philosophy and Race* (Cornell, 1998), 134. [↑](#footnote-ref-15)
16. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago, 2005), 5. [↑](#footnote-ref-16)
17. Schmitt, *Political Theology*, 15. [↑](#footnote-ref-17)
18. Jenny Edkins, *Trauma and the Memory of Politics* (Cambridge, 2003), 33-33. [↑](#footnote-ref-18)
19. The corollary is that social order never *is*; that is always a myth/illusion. [↑](#footnote-ref-19)
20. Edkins, *Trauma and the Memory of Politics*, 13. [↑](#footnote-ref-20)
21. Edkins, *Trauma and the Memory of Politics*, 12-13 (internal citations omitted). [↑](#footnote-ref-21)
22. I’m not sure this isn’t a contradiction still. How can it be both everyday and episodic? [↑](#footnote-ref-22)
23. In understanding the political as moments of trauma rather than as moments of democratic swooning, Edkins seems to differ from Wolin’s understanding of the political as a moment of specifically democratic impulse. It *could* be democratic for Edkins (and she later argues that the testimony of victims of genocide may fulfill this function), but it is not necessarily so. It has democratic potential, but that potential can quite easily be absorbed into practices of remembrance that institutionalize undemocratic power. [↑](#footnote-ref-23)
24. Edkins, *Trauma and the Memory of Politics*, 54. [↑](#footnote-ref-24)
25. Edkins, *Trauma and the Memory of Politics*, 54. [↑](#footnote-ref-25)
26. See Marita Sturken, *Tangled Memories*, Chapter 2; Edkins, *Trauma*, Chapter 2. [↑](#footnote-ref-26)
27. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2012). [↑](#footnote-ref-27)
28. John M. Coski, *The Confederate Battle Flag: America’s Most Embattled Emblem* (Harvard, 2005). [↑](#footnote-ref-28)
29. Coski, *Confederate Battle Flag*, 8. [↑](#footnote-ref-29)
30. Coski, *Confederate Battle Flag*, Chapter 3. [↑](#footnote-ref-30)
31. Coski, *Confederate Battle Flag*, 58-63. [↑](#footnote-ref-31)
32. Coski, *Confederate Battle Flag*, 73-77. [↑](#footnote-ref-32)
33. Coski, 65; referencing David Blight, *Race and Reunion: The Civil War in American Memory* (Harvard, 2001). [↑](#footnote-ref-33)
34. Coski, *Confederate Battle Flag*, 79-80. [↑](#footnote-ref-34)
35. Coski 89. [↑](#footnote-ref-35)
36. Coski 84-85. [↑](#footnote-ref-36)
37. Coski, 86. [↑](#footnote-ref-37)
38. Coski, Ch 5. [↑](#footnote-ref-38)
39. Coski 99. [↑](#footnote-ref-39)
40. Coski 110-112. [↑](#footnote-ref-40)
41. Coski 126. [↑](#footnote-ref-41)
42. Coski 128. [↑](#footnote-ref-42)
43. Coski 82, 245. [↑](#footnote-ref-43)
44. Coski 245. [↑](#footnote-ref-44)
45. Coski 245. [↑](#footnote-ref-45)
46. Coski 247-248. Interestingly, even the leaders of the States’ Rights Party tried to distance themselves from the Confederate flags, but their followers continued to wave them with zeal. Coski notes that the Confederate flag is notably absent in political campaigning by candidates, so this effort to separate the flag from ‘political-ness’ is not entirely without precedent. [↑](#footnote-ref-46)
47. Coski 247. [↑](#footnote-ref-47)
48. Coski 248. [↑](#footnote-ref-48)
49. Coski 249. [↑](#footnote-ref-49)
50. Coski 250. [↑](#footnote-ref-50)
51. Coski 251. [↑](#footnote-ref-51)
52. Ian Haney López, *White by Law: The Legal Construction of Race* 10th Anniversary Ed. (New York University, 2006). [↑](#footnote-ref-52)
53. The so-called ‘sovereign citizen’ movement regularly mobilizes the confederate flag and embraces the idea that each individual is a sovereign rather than a citizen. [↑](#footnote-ref-53)
54. Coski, “Epilogue.” [↑](#footnote-ref-54)
55. Charles Mills, *The Racial Contract* (Cornell, 1999), Chapter 2. [↑](#footnote-ref-55)
56. Robert Cover, “Violence and the Word,” in *Narrative, Violence, and the Law: The Essays of Robert Cover* (Michigan, 1995). [↑](#footnote-ref-56)
57. Mills, *Racial Contract*, 93. [↑](#footnote-ref-57)
58. Alexander, *New Jim Crow*. [↑](#footnote-ref-58)
59. Terrorism by white supremacists has claimed more bodies that terrorism by any other group in the United States, so this shouldn’t be a shock. As Leti Volpp and many others have pointed out, when members of a minority group take similar actions, they are made to stand in for the entirety of the group they represent, while when a white person acts in this way, his actions are explained as mental illness or deviance. Thus, not all white men were rounded up after the OKC bombing, but a considerable number of Muslims/Arabs/Middle Easterners were after September 11. See Leti Volpp, “The Citizens and the Terrorist,” *Immigration and Nationality Law Review* 23 (2002). [↑](#footnote-ref-59)
60. Andrew Shain, “Winthrop Poll: Majority in SC back Confederate flag’s removal,” *The Herald*, September 30, 2015. <http://www.heraldonline.com/news/state/south-carolina/article37020057.html> See also: <http://www.publicpolicypolling.com/main/2015/09/south-carolinians-support-removal-of-flag-want-tougher-gun-laws.html> And for Americans, in general, see here: <https://www.nytimes.com/2015/08/06/us/most-americans-support-south-carolinas-removal-of-rebel-flag-poll-says.html?_r=0> [↑](#footnote-ref-60)
61. Wendy Brown, *Walled States, Waning Sovereignty* (Zone Books/MIT Press, 2010). [↑](#footnote-ref-61)
62. This is a huge claim. I’m not sure what to do with it. [↑](#footnote-ref-62)
63. Twitter: <https://twitter.com/realDonaldTrump/status/611578826745847809> (I would also like to note that Roof’s actions are entirely comprehensible in a political system that is built on slavery and settler colonialism. We can explain – even with cause and effect! – how this series of events came to pass.)

    Shortly thereafter, without mentioning Trump’s name, Hillary Clinton obliquely linked Trump’s presidential bid announcement (with its references to Mexicans as murderers and rapists and criminals) to the events in Charleston. According to CBS News, she said:

    “Unfortunately, the public discourse is sometimes hotter and more negative than it should be,” [Clinton told Nevada journalist John Ralston](https://www.ralstonreports.com/blog/hillary-clinton-ralston-live-video-and-transcript" \t "_blank), suggesting such invective could “trigger people who are less than stable to do something like” the Charleston shooting. “I think decent people need to stand up against it,” Clinton added. “We have to speak out against it. Like for example, a recent entry into the Republican presidential campaign said some very inflammatory things about Mexicans. Everybody should stand up and say, ‘That's not acceptable.’”

    Trump’s response was to assert that Clinton had blamed him for the Charleston shooting, saying: “Wow, it's pretty pathetic that Hillary Clinton just blamed me for the horrendous attack that took place in South Carolina,” Trump said in the video above. “This is why politicians are just no good. Our country's in trouble.”

    Jake Miller, “Donald Trump: Hillary Clinton blamed me for Charleston shooting,” CBS News, June 19, 2015.

    <http://www.cbsnews.com/news/donald-trump-hillary-clinton-blamed-me-for-charleston-shooting/> [↑](#footnote-ref-63)
64. Jacequline Alemany, “Donald Trump tees off on the Confederate Flag,” June 23, 2015. <http://www.cbsnews.com/news/donald-trump-tees-off-on-the-confederate-flag/> See also: <http://abcnews.go.com/Politics/2016-candidates-stand-confederate-flag-issue/story?id=31947516> [↑](#footnote-ref-64)
65. While several journalists note this trend, the longest and most authoritative piece in this time period is Evan Osnos, “The Fearful and the Frustrated: Donald Trump’s nationalist coalition takes shape – for now.” *The New Yorker*, August 31, 2015. http://www.newyorker.com/magazine/2015/08/31/the-fearful-and-the-frustrated [↑](#footnote-ref-65)
66. Osnos, “Fearful and Frustrated,” *The New Yorker*. [↑](#footnote-ref-66)
67. Osnos, “Fearful and Frustrated,” *The New Yorker*. [↑](#footnote-ref-67)