

# Seceding from Secession: The Civil War, Politics, and the Creation of West Virginia

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## Review

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**Wittenberg, Eric J., Edmund A. Sargus, Jr., and Penny L. Barrick.** *Seceding from Secession: The Civil War, Politics, and the Creation of West Virginia*. Savas Beatie, 2020. HARDCOVER. \$32.95. ISBN 9781611215069. pp. 268

Former Virginia Governor Henry A. Wise famously classified the creation of West Virginia out of Virginia as the “bastard child of a political rape.” The story of West Virginia’s statehood is an intriguing mix of political bandying, court rulings, military actions, and societal differences between prewar Virginians living on either side of the Appalachian Mountains. Eric Wittenberg, Edmund Sargus, Jr., and Penny Barrick—lawyers or judges all—form a team well-equipped to examine Wise’s famous claim. As such, *Seceding from Secession* highlights the legitimacy of West Virginia’s statehood while placing President Abraham Lincoln and the Baltimore & Ohio Railroad in the center of the discussion.

Contrary to popular belief, West Virginia did not spring out of thin air once the American Civil War began. Geography, demographics, religion, and politics created differences between Virginia’s eastern and western sections that dated back to the country’s founding. Even before Confederate shells exploded above Fort Sumter on April 12, 1861, some western Virginians noted the stark contrasts between Virginia’s two distinct sections.

The B&O Railroad traversed 188 miles of Virginia territory in 1861, all of it through modern West Virginia. This east-west railroad connected the Ohio River to Baltimore and the Chesapeake Bay. The railroad provided economic stability to those who lived near its tracks, most of whom voted for Abraham Lincoln in the 1860 presidential election. Federal victories in

western Virginia early in the war secured the railroad for the Union, though Confederate troops constantly raided the railroad during the war.

Western Virginians' differences with their eastern counterparts and their ties to the B&O Railroad propelled twenty-five counties in northwestern Virginia to vote against the state's secession from the Union. Immediately, delegates to the First and Second Wheeling Conventions met to create a new state out of Virginia's boundaries that was loyal to the United States. Northwestern Virginians first reorganized Virginia's state government and seized "control of the levers of government." (51) Attorney Francis Pierpont became governor of the Reorganized Government of Virginia, a body that President Lincoln quickly supported.

As evidenced by Wise's fiery comment about the legitimacy of West Virginia's statehood, questions immediately arose regarding the expediency and credibility of Virginia's reorganized government formed in June 1861. An October 1861 referendum of the proposed new state's citizens showed support for the formation of the new governing body. However, according to the United States Constitution, the citizens of West Virginia and Virginia had to approve the divorce of western Virginia from the rest of the state. Governor Pierpont and the Reorganized Government's legislature argued that the government they created spoke for all Virginians.

The legality of western Virginians' actions was not the only hurdle they had to clear for statehood. Radical Republicans in the United States Congress pushed for the immediate emancipation of all slaves within the new state's boundary upon its admission to the Union. This measure "as a condition of statehood doomed a new West Virginia." (78) West Virginia Senator Waitman Willey's compromise amendment, known as the Willey Amendment, outlined a plan for the gradual emancipation of the new state's enslaved population. By December 10, 1862, the United States Senate and House of Representatives approved West Virginia's statehood and passed the bill along to the President for his approval.

Lincoln and his Cabinet discussed the issue of West Virginia's validity as a state. Ultimately, the Cabinet's decisions split 3-3 (they can be read in full in an appendix) and the approval or disapproval of the new state fell directly in Lincoln's lap. The President determined that this conundrum "is not a constitutional question, it is a political question." (109)

One of the last elements of creating West Virginia as we know it today was incorporating two counties in the Shenandoah Valley, Jefferson and Berkeley counties. Both county's citizens voted in the majority about joining the state and Congress approved the transfer in 1866.

The Civil War did not end the question of West Virginia's statehood. Virginia's first postwar General Assembly withdrew that body's earlier consent to the new state's creation. Then, late in 1866, Virginia filed suit against West Virginia to have the two eastern panhandle counties, Berkeley and Jefferson, returned to the Old Dominion. The suit claimed that Virginia "only conditionally consented to including these counties in the new state." (145) This case, which made its way to the Supreme Court, occupies the book's second half.

Due to political wrangling, the Supreme Court's decision on the case languished in a 4-4 tie. Ulysses S. Grant's administration filled the Court's vacancies and restored it to nine justices. Finally, in 1871, the Supreme Court ruled 6-3 in favor of West Virginia's claim to the two disputed counties. However, as the authors note in an appendix and as this reviewer can personally attest to, West Virginia and Virginia still occasionally lock horns over some of the borderline counties in West Virginia's original quest for statehood.

This book includes several maps that nicely supplement the text. Five appendices appear in the back of the book, each of which provides primary sources quoted in full for the reader to explore. *Seceding from Secession* has a few minor editing gaffes that could have been averted. The most prominent of these appears on page 167, where information intended for the footnotes appears in the text of the paragraph on three different occasions.

Civil War political historians will find much to learn in this encompassing tale of West Virginia's admission to the Union. This book places Abraham Lincoln directly at the center of the statehood process and firmly—and affirmatively—answers the question of the legitimacy of West Virginia. The state's story is unique and it has long deserved the treatment that Wittenberg, Sargus, Jr., and Barrick have finally given it.

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