

**Wearing The Gray Suit:  
Black Enlistment and the Confederate Military**

**Frank Edward Deserino**  
University College London  
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Department of History  
University College London  
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## ABSTRACT

This thesis examines the role and place of slaves and free black Southerners in the Confederate Army during the American Civil War 1861-1865.

Much has been written on the use of slaves and free blacks as a conscript labour force for the Confederacy during the war, but there has been little serious examination of their role within the South's military infrastructure. I argue that black Southerners participated for varied reasons and situations throughout the war as an earlier version of twentieth century military support staff. Their role in the regiments of the Confederacy provided them with the title of soldier. It was this role which was defined in Confederate legislative policy, supported through military regulations, and verified in company muster and pay sheets. In the post war period these same sources of documentation were utilised by Southern legislators, white veterans, and eventually black 'army veterans,' within the former Confederate states, to establish, Confederate veterans pension benefit.

Although there is sufficient evidence to demonstrate that, depending upon the circumstance, some blacks Southerners actually fought for the Confederacy, overall these occurrences were rare. I argue that up until March 1865, instances of black Southerners in combat situations had more to do with the confusion and 'fog of battle,' than a concerted effort by the military high command to place blacks in the ranks as actual combatants. This idea is further supported in the stories written by white veterans, who, in publications like the *Confederate Veteran*, spoke of such "occurrences" with pride, while at the same time tempered them with concern for the safety of their property.

Overall the research addresses the issues surrounding the role and place of black Southerners within the Confederate Army, and the reasoning behind their involvement in the war effort.

**This thesis is dedicated to my wife  
Virginia Krauss-Deserino,  
and to my family**

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Writing this thesis has certainly been an adventure. I have achieved many things in my life, but rarely has my mind, and emotions been stretched so far as they have been over these past four years. I have had experiences that I truly would not trade in, and have done things that I had only read about other historians doing. At a time when I believed that everything there was to discover about the Civil War had already been written I find an obscure passage about black Confederate pensions. From that moment on the course that I had set, has taken me on a journey of knowledge, where source material has been discovered from the most obscure places, and where assistance has come from friends who are genuinely interested in my topic. Completing this thesis has been an adventure, but it is one that I could not have done without the assistance, and patience of many along the way.

There have been many archivists and librarians who have assisted me in my work. From supplementing my extensive collection of source materials, to assisting me through the legislative quagmire that awaits any researcher attempting to navigate their way through government documents from the war period, their help and patience has been invaluable. Most notably John M. Coski from the Museum of the Confederacy in Richmond, Virginia who provided me with a wealth of material, and follow up, as well as contacts to other scholars in the field. James A. Miller, and Allen Stokes from the University of South Carolina who provided me with unlimited access to the source materials housed in their library and archives. Also, J. Tracy Power at the South Carolina Department of Archives and History whose patience assisted me in many long distance requests for sources. At Louisiana State University, Judy C. Bolton was quite helpful in providing me with access to on-loan materials and newspapers, as was Mark Cave from the Williams Research Center in New Orleans. Former Director at the Tennessee State Library and Archives, Charles A. Sherrill was instrumental in directing me through the detailed pension materials housed there. This trip provided me with some of the most compelling material I have found to date on the subject of state veterans pensions including the only state thus far to have archived their pension board meeting minutes.

A host of scholars have either assisted me directly, or have lent an ear to discuss my work. Of these special notice and sincere thanks goes to my graduate supervisor, Rick Halpern, for his patience, assistance in finalizing my draft, and countless hours in redirecting my focus. "Eyes on the Prize," Rick, "Eyes on the Prize." In addition, I would like to thank the following historians: Enrico Dal Lago, as in the early stages of this work he was consistently available to read some of my first drafts, and discuss potential pitfalls within my arguments; Catherine Clinton, for her assistance with reviewing and commenting on my introduction in particular, and the thesis overall. Peter Parish, and, John B. Boles, for their critical comments on defining a soldier within a nineteenth century context, and the comparative nature of black support staff and white soldiers. Leslie S. Rowland, for her concerns with the controversial nature of my work and her comments on strengthening my arguments based on the primary evidence. Elna C. Green, and Jennifer L. Gross for helping me to see pensions within the context of social welfare, their suggestions will assist me in the transition of my thesis into a manuscript.

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## **Donning the Gray: Black Southerners and the Confederate Military**

This thesis examines three overlapping topics: the direct involvement of black Southerners within the Confederate military, the legislative process that defined their role in the army as soldiers, and subsequent legislative measures designed to recognize their role as veterans. I argue that the scale of slave and free black involvement in the Confederate military was far greater than historical research has previously suggested, and that the role of blacks as critical combat support staff began in the Southern states and military departments with the start of the war.<sup>1</sup> These actions preceded efforts by the Confederate government to recruit blacks as non-combatants in 1862 and as combat soldiers in March 1865. These 'supportive roles' functioned from within the regiment, thus separating and distinguishing them from those positions where black Southerners had been either conscripted or impressed as laborers in industry and/or military construction.<sup>2</sup> Those who participated as military labor, and as critical

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<sup>1</sup> The word 'soldier' in its modern context and by definition is inclusive of a combat role, but this terminology can become problematic when used to refer to those slaves and free blacks who worked in a supportive capacity within the Confederate military. Other terms have been recommended in the development of this thesis, each ending with a similar connotation to slaves and free blacks as combat soldiers. Enlistment is an example of one such term, but the majority of black Southerners did not enlist as they were either conscripted, impressed, or coerced into service. Enlistment also contains implications to volunteerism and the draft. While a minority of free blacks did volunteer for military duty early in the war, black Southerners were not drafted, they were conscripted, as this was the terminology universally accepted within the legislative dicta at the start of the war. I argue that just as modern military infrastructures contain different dimensions within the army, the term 'soldier' should not be confined to the strictest understanding of the definition. Within the Confederacy, the use of the word 'soldier' in the language of the law and military regulation held a much broader meaning which was inclusive of a supportive role. 'Critical combat support staff' is a phrase utilized in the language of the modern military, and is used to provide a narrower classification of 'soldier' for establishing the groundwork from which further discussion on this issue can begin. Subsequent research and understanding into the way nineteenth-century field officers defined these supportive roles as soldiers is necessary before an acknowledgment of the term in its broader connotation can be accepted: this thesis is a step in that direction. However, given the contentious nature of this definition, and its use in determining the legislative structure of the pension system, some repetition is unavoidable, and so further inquiry into these issues will be presented throughout the thesis. See, especially Albert B. Moore, *Conscription and Conflict in the Confederacy*, (Columbia: University of South Carolina Press, 1996).

<sup>2</sup> The historiography on the subject of slave and free black labor in the Confederate military is extensive. However, the research only concentrates on their use as labor, and not as support staff, it is this latter role where the focus of this thesis lies. In general, the grouping of slave and free black roles as both labor and support has provided the idea that these groups are one in the same, that there is no distinct difference between them, but this assumption is inaccurate. When the Southern states were developing their black pension legislation they would use the war time definition of support staff as 'soldiers' to distinguish and define these former slaves and free blacks from their use as military laborers. For an example of where this general grouping of military labor and support occurs, see, Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867 Series I Volume 1, The Destruction of Slavery*, (New York: Cambridge University Press, 1985), pp. 663-670.

combat support staff in many respects were placed in that role through the same legislative process, and subject to similar duties, and restrictions. However, those who were in a supportive role as part of a regiment incurred different perceptions, definitions, and qualifiers, which set them apart from the larger slave and free black military labor force.<sup>3</sup>

The legislative acts and army regulations enacted at the national level became a major part of the developing tensions between individual states and the government in Richmond as to who would control this vital labor source. However, in light of the post war phenomenon of black veterans' pensions, any examination of these developments must include a discussion of the legal and military backdrop that provided structure and definition for slave and free black roles as support staff within the broader context of their place as soldiers. The black pension materials are largely an undeveloped source, but they have much to offer to our understanding of black roles within the Confederate military and the differences in white beliefs and perceptions about this distinctive minority of participants.

In addition to these specific objectives, the thesis makes a more significant contribution to our knowledge of the interaction with, and participation of, slaves and free blacks in the Confederate military. Three major argumentative threads are woven through the thesis. First, I maintain that the extent of black Southerner roles within the Confederate army, as expressed through legislative intent and military tradition, was far greater than previously understood. Their role in the army was treated differently from their assigned place as military laborers, and

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<sup>3</sup> The issue of slave and free black support staff, once separated from the presumption that this group was inclusive of military labor, has created considerable controversy and debate amongst historians. An important aspect of this thesis is to discover why black Southerners performed these supportive roles within the military, but to do this without addressing the significance of a distinction between these roles and those of labor tends to weaken the argument behind the development of the black pension system. Military regulation and Confederate legislation provides strong evidence that black support staff were defined as 'soldiers,' both during the war, and later with the establishment of black pension legislation, but the meaning behind the term, and its connotation to black Southerners places it within an area of contention. Although a minority of slaves and free blacks were legislatively defined as 'soldiers,' this does not mean that they had exclusively volunteered to serve with the Confederate army, or that they were loyal to any aspect of it, as the evidence overwhelmingly shows that coercion was central to their participation. However, historians like Catherine Clinton, Peter Parish, John Boles, Leslie S. Rowland, and Brian Holden Reid believe that both the distinction and the inferred definition of black support staff raises questions of comparison. Were slaves and free blacks paid equally to white soldiers; were they required to take an oath to the Confederacy, were they issued weapons; and a key point, were they issued uniforms? These are all questions for discussion in both the emerging debate, and for this thesis.

the language used to define this role is in need of further examination, devoid of modern military definitions. Second, I argue that the developing nature of the South's legislative policies which established black impressment and conscription added to the increasingly tenuous, and counter-productive, political relationship between the individual states and the Confederate government. Third, following in the footsteps of historians such as Ira Berlin and James Hollandsworth, this thesis attempts to further our awareness of the deteriorating conditions, and military involvement, of the South's free black population during the war.<sup>4</sup> Together, these larger aims contribute to the emerging historiography on the roles played by slaves and free blacks in the Confederacy, and help lay the groundwork from which further debate can occur.

Historians of the Civil War period have written extensively on the role of black Southerners as a readily available source of labor for the Confederate military, but their specific place as support staff within the regiment has never been clearly defined.<sup>5</sup> While the larger Confederate field armies had to conform to the government's unwritten policy prohibiting direct

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<sup>4</sup> There is a large and well-established literature on the subject of free black populations in the South. Although there are some gaps in respect of their role in the Confederate military, much of this historiography will be used to support both my legislative arguments for their use as support staff, as well as add to our knowledge of their place in the army. Chapter two of the thesis will concentrate on examples of Louisiana's free black population. A few examples of this historiography are, Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South*, (New York: Pantheon Books, 1974); James G. Hollandsworth, *The Louisiana Native Guards: The Black Military Experience During the Civil War*, (Baton Rouge: Louisiana State University Press, 1995), Michael P. Johnson, and James L. Roark, *Black Masters: A Free Family of Color in the Old South*, (New York: W.W. Norton, 1986); Whittington B. Johnson, *Black Savannah, 1788-1864*, (Fayetteville: University of Arkansas Press, 1996); and James T. Wilson, *The Black Phalanx: African American Soldiers in The War of Independence, The War of 1812, and The Civil War*, (New York: Da Capo Press, 1887, reprint 1994).

<sup>5</sup> Current scholarship appears to emphasize the role of black Southerners as military laborers for the Confederacy, or their effectiveness as soldiers in the Union army. Although some historians do examine free black roles in the South during the war, and the efforts of the Confederate government to enlist blacks as soldiers in 1865, the place of slaves and free blacks as support staff has been largely ignored, or wrongly equated to military labor. An exception to this is the work by Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*, (Charlottesville: University Press of Virginia, 1995). Some examples of scholars who work in the areas of black military labor, and their role in the Union army are: Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867, Series II, The Black Military Experience*, (Cambridge: Cambridge University Press, 1982); James M. McPherson, *The Negro's Civil War: How American Blacks Felt and Acted During the War for the Union*, (New York: Ballantine Books, 1965); Charles B. Dew, *Ironmaker to the Confederacy: Joseph R. Anderson and the Tredegar Iron Works*, (Richmond: The Library of Virginia, 1999); and James H. Brewer, *The Confederate Negro: Virginia's Craftsmen and Military Laborers, 1861-1865*, (Durham, North Carolina: Duke University Press, 1969).

involvement of blacks as combat soldiers,<sup>6</sup> state legislatures saw this issue differently. Geography, the military situation, and the philosophy of state sovereignty were all factors in the developing tension between state needs versus those of the Confederate government regarding the use of slaves and free blacks. From as early as 1862 the government focused its attention almost exclusively on the war in Virginia, leaving the states to manage with the dual priorities of supplying the army with troops and defending themselves from Union invasion. States within the Confederacy continued to adapt the philosophy of state's rights to justify their use of slaves and free blacks not only as a labor force but also to supplement state militia and departmental forces.

### Reasoning and Numbers

While the vast majority of former slaves and free blacks sided with the Union, the small minority of black Southerners who stood with the South did so for a number of very complex reasons. The overwhelming majority of these participants were brought into the army through coercion. However, the pragmatic nature of many black Southerners can not be dismissed, as some of those who were in Confederate ranks acted out of loyalty to themselves and their families without regard to abstract political causes.<sup>7</sup> Black Southerners gave support to both sides, and that support was conditional and pragmatic, based on an individual assessment of the immediate situation. For the majority, the war brought not elation and joy, but anxiety, wariness, and difficult choices. The historian Clarence Mohr wrote that there was much to suggest that throughout the war black Southerners "maintained a strong sense of local identity and a bittersweet affinity for the land of their birth." He concluded that during the war "an almost bewildering array of emotions and private considerations shaped the behavior of individual bondsmen. Concern for friends or relatives in slavery, uncertainty over the war's

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<sup>6</sup> An examination of the laws made by the Confederate government does not provide instruction as to how slaves and free blacks cannot be used within the military and state defense forces; only a definition of the positions where they can be used. See *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vol. (Washington, D.C.: Government Printing Office, 1904-1905); See also Marshall L. DeRosa, *The Confederate Constitution of 1861: An Inquiry into American Constitutionalism*, (Columbia, University of Missouri Press, 1991).

<sup>7</sup> Clarence L. Mohr, *On the Threshold of Freedom: Master and Slaves in Civil War Georgia*,

outcome, personal esteem for white owners, disillusioning contacts with racially prejudiced Northerners, awareness of religiously inspired efforts at ameliorative reform, and the actual expansion of slavery's customary prerogatives all served to bind particular African-Americans to the Southern cause."<sup>8</sup> Likewise Benjamin Quarles stated: "like thousands of white Southerners who personally hated slavery and felt that it was doomed with the coming of the war, but who nevertheless defended the Confederacy, these free Negroes had a sense of community responsibility which impelled them to throw their lot with their neighbors."<sup>9</sup> In 1861 a majority of the Southern white population and a minority of mainly free blacks were caught up in the mutual feelings that comprised "war fever." While the overwhelming majority of black Southerners anxiously awaited the invading Union army, equating its progress with an end to slavery, a few slaves and free blacks held a different view. As individuals and in groups, black Southerners took actions that indicated motives more of a sense of dignity for themselves, and a desire to protect their families and community, than wholehearted support for the Confederacy.

Another issue is the subject of numbers. There are a number of problems here, but a rough estimate of those involved can be derived from Union and Confederate accounts, letters, newspapers, foreign observations, muster sheets, as well as the legislative record. For example, an observation by a British attaché estimated that there were 30,000 black servants in the Army of Northern Virginia in 1862, while estimates in the secondary literature suggest that twelve per cent of the Confederates' supportive arm of the army were black.<sup>10</sup> From these sources, I

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(Athens: University of Georgia Press, 1986), p. 136.

<sup>8</sup> Ibid., p. 136.

<sup>9</sup> Benjamin Quarles, *The Negro in the Civil War*, (New York: Da Capo Press, 1953, reprint 1989), p. 39

<sup>10</sup> T. E. C., *Battlefields of the South, from Bull Run to Fredericksburg; with sketches of Confederate Commanders, and Gossip of the Camps, By an English Combatant*, 2 volumes, (London, England: Smith, Elder and Company, 1863, 1865), vol. I, p. 58. Another example is found in the diary entry of Dr. Lewis Steiner, of the U. S. Sanitary Commission, who, while in Frederick, Maryland, in September 1862 noted the presence of black Southerners in the Army of Northern Virginia. He surmised through observation about five per cent of the Confederates forces moving through the town were black. Stating that in a sixteen-hour period, he witnessed some 64,000 men move through the town, and over 3,000 of those were black, shouldering "arms, rifles, muskets, sabers, bowie-knives, dirks, etc. They were supplied, in many instances, with knapsacks, haversacks, canteens, etc., and they were manifestly an integral portion of the Southern Confederate army. They were seen riding on horses and mules, driving wagons, riding on

estimate that some eighty to one hundred thousand slaves and free blacks participated in state militias and Confederate national forces as critical combat support staff throughout the entire conflict – that is, not at any given moment in the war. Evidence is further based on a limited examination of the black pension files, records of monuments and grave markers to the black veterans, company muster sheets, and eyewitness accounts obtained from official reports, and veterans' recollections.<sup>11</sup> The estimate cannot be conclusive as a definitive undertaking would

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caissons, in ambulances, with the staff of generals and promiscuously mixed up with all the Rebel horde.” Isaac W. Heysinger, *Antietam and the Maryland and Virginia Campaigns of 1862*, (New York: Neale Publishing Company, 1912), pp. 122-123. Dr. Lewis Steiner's diary entry was dated Wednesday, 10 September 1862. The secondary literature is scant on the issue of numbers of black support staff within the regimental infrastructure of the Confederate military. For one example of where this issue is discussed see, Jay S. Hoar, “Black Glory: Our Afro-American Civil War Old Soldiery,” *Gettysburg Magazine*, (January 1990), p. 125.

<sup>11</sup> Secondary and primary monographs aside, the procedure I followed for calculating this “estimated guess,” as to the number of black participants, was accomplished through extensive work in the archives. However, it is important to emphasize that this is not a conclusive estimate, as the scope of this thesis only examines Louisiana, South Carolina, Tennessee, and several other states of the former Confederacy. An initial survey of muster and pay sheets, black pension records, and those materials mentioned throughout this thesis were used to develop a theoretical framework from which the question of numbers can be examined further. The Museum of the Confederacy has copies of company and regimental Confederate army muster and pay sheets provided by the Library of Congress, along with a small collection of originals. The slaves and free blacks listed on these documents were hand counted as their race on the form was indicated by either the word ‘colored,’ and/or the letter ‘C’ by their name and job title. State archives did have among their records a limited collection of muster sheets not included in the Library of Congress holdings, but they also held recruitment and company surrender tallies, pension board hearings, Comptroller General pension reports, and the black pension documents themselves. Most states within the Confederacy kept lists of those white residents who were either conscripted, impressed, or volunteered for service, and these lists included those who brought with them their body servants. Company surrender tallies were completed as part of an accounting of those individuals present for duty at the time of their surrender and/or capture. These forms/muster sheets were at times utilized for the processing of individuals slated for prisoner exchange. Although rare, two primary examples of company surrender tallies do exist: those completed as part of the Confederate surrender at Vicksburg, Mississippi, 4 July 1863; and those collected prior to the formal capitulation of Robert E. Lee's army at Appomattox Court House, Virginia, on 9 and 10 April 1865. These documents show those slaves and free blacks who were currently serving as critical support staff at the time of capitulation. The hearings of the separate state pension boards, and the Comptroller General pension report, lists the names of those black and white applicants who applied for, and were either granted or demed a veteran's pension. With this evidence, either the word ‘Negro,’ ‘colored,’ and/or the letter ‘C’ was used to single out any black Southerners who applied for pension benefit. Finally, there are several examples of memorials and/or grave markers dedicated to former slaves and free blacks who served in the army that were either erected and/or arranged in the post war era by the United Confederate Veterans, and/or the Sons, or Daughters of the Confederacy. See, R. A. Brock, ed., *The Appomattox Roster: a List of the Paroles of the Army of Northern Virginia, Issued at Appomattox Court House on April 9, 1865*, (New York: Antiquarian Press, 1962 reprint of the 1887 edition); Alabama State Archives microfilm, *1907 Alabama Census of Confederate Soldiers, Autauga, Baldwin, and Barbour Counties*, (Cullman, Alabama: Gregath Co., 1982); Ted O. Brooke, and Linda Woodward Geiger, *Index to Georgia's Confederate Pension Supplements*, (Cumming, Georgia: T. O. Brooke and L. Woodward Geiger, 1999); Lillian Henderson, ed., through the Georgia State Division of Confederate Pensions and Records, *Roster of the Confederate Soldiers of Georgia, 1861-1865, 6 vol.*, (Hapeville, Georgia: Longina & Porter, 1959-1964); Virgil D. White, *Index to Georgia Civil War Confederate Pension Files*, (Waynesboro, Tennessee:

consist of extensive archival research to obtain an exact figure, and this is not an objective of the thesis.

The issue of exact numbers of slaves and free blacks in 'supportive' roles is a matter of considerable debate, as there is no all-encompassing and definitive answer to the question of numbers. Even though company level muster and pay sheets do provide a record of service, Confederate documentation, particularly towards the latter part of the war, was not always diligently completed for various reasons such as the vigor of the campaign, the death of the recording officer(s), and loss or destruction of the documents. Nor did the Union Army always take conscientious care of captured records.<sup>12</sup> Furthermore, after the Union's success in the Vicksburg campaign of 1863, the South's line of communication west of the Mississippi was virtually cut, which added to the difficulty of sending these sorts of materials to the government in Richmond. Although in 1865, surrendering Confederate armies were required to provide final muster lists for parole purposes, these lists did not include deserters, those wounded in hospital, partisans, those who refused to surrender, or those on detail or recruitment duty. Neither were there accurate records for those few veterans groups founded before the establishment of the United Confederate Veterans in 1894, as these provide only anecdotal evidence on the presence of a 'black membership'. Although, many 'veterans' had died prior to 1894, membership records for the different divisions of the UCV were likewise inadequate, as there was no real requirement to maintain these under the regulations listed in the organization's Constitution.<sup>13</sup> By the 1920s, when most of the former Confederate states had established black

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National Historical Pub. Co., 1996); Michael L. Cook, and Alicia Simpson, *Kentucky Confederate Veteran and Widows Pension Index*, (Hartford, Kentucky: Cook & McDowell Publications, 1980); John C. Rietti, *Military Annals of Mississippi: Military Organizations Which Entered the Service of the Confederate States of America from the State of Mississippi*, (Spartanburg, South Carolina: Reprint Co., 1976). As with many issues connected to the Civil War, questions over numbers are very debatable: for example, "how many Civil War soldiers died during the war?" I do not believe that the issue of numbers is a reason for disputing the fact that a small yet significant number of slaves and free blacks were defined as soldiers. However, because of the contentious nature of this topic the question of numbers will continue to be a subject of considerable debate.

<sup>12</sup> See, Michael B. Ballard, *A Long Shadow: Jefferson Davis and the Confederacy*, (Athens, Georgia: University of Georgia Press, 1997), pp. 41-43, 66, 88, 110, 127, 133, 154-155; Ernest B. Furgurson, *Ashes of Glory: Richmond at War*, (New York: Vintage Books, 1996), pp. 323, 339.

<sup>13</sup> See, *Constitutional and By-Laws for the Government of the United Confederate Veterans of North America 1894*, (Chicago: Rand McNally & Company, Printers, 1894), Tennessee State Library and

veterans pension schemes, many of the potential applicants were dead, and in some states not all of those who applied were accepted, due in many cases to a lack of proper evidence.

### **The Use of Slaves and Free Blacks**

The relationship that existed between the Confederate government and state legislatures with regard to the military conscription and impressment of slaves and free blacks was based in part on the legislative interpretation of state sovereignty versus the necessity of national defense. Actions taken early on by states and individuals to use black Southerners for defense illustrate not only a continued belief in sovereignty, but also an understanding that the conflict would not be limited to a single area. Although most Confederate authorities did not support these state-led efforts, they did little to dissuade or deflect them, as the debate over the use of blacks by the military had already begun at the national level. In practice, many planters would have agreed with Confederate Vice-President Alexander H. Stephens' belief that slavery was the "cornerstone of the Confederacy," but to many state-level politicians, the maintenance of sovereignty was the mortar that provided substance to this foundation.<sup>14</sup>

By 1861, state legislatures understood their responsibilities to the Confederacy under the umbrella of secession, but they also had the responsibility to protect the rights of their citizens and defend themselves against probable Union invasion. Generally, the Confederate government had steadfastly opposed enrolling blacks in the armed services except as servants and laborers. In addition, many officials believed from the beginning that slave and free black military enlistment would not be necessary as there were more than enough whites to defeat the enemy. From the start, the sentiments of the planter aristocracy held sway, as the Confederate government's policy was firmly set to object to any formal enlistment of black Southerners.<sup>15</sup> By 1863, as the fortunes of the Confederate military deteriorated, the government's position

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Archives, Nashville, TN. This was reprinted in *Confederate Veteran*, no. 10, (October 1894), pp. 296-303.

<sup>14</sup> Alexander H. Stephens, Myrta L. Avary, ed., *Recollections of Alexander H. Stephens*, (Baton Rouge: Louisiana State University Press, 1998), pp. 172-174; Thomas E. Schott, *Alexander H. Stephens of Georgia, A Biography*, (Baton Rouge: Louisiana State University Press, 1988), pp. 332-336.

<sup>15</sup> Stephen Ambrose, "By Enlisting Negroes, Could the South Still Win the War," *Civil War Times* vol. 3, no. 9 (January 1965), pp. 17-19.

was still firmly against direct participation of slaves and free blacks in combat roles. At the time, Secretary of War James A. Seddon stated “that the foundation of the Southern theory of the racial superiority of whites would crumble if blacks were allowed to enlist.”<sup>16</sup> However, the ensuing conflict brought with it harsh realities that forced many to compromise on the topic of slave and free black impressment. Issues of protection, care, and compensation for the use of the slaves remained highly contentious throughout the war. Furthermore, as the Union’s strategic position throughout the South improved, state legislatures proceeded to nullify Confederate impressment laws, despite their intended purpose of strengthening the military through their use as a labor force. Planters believed in their rights to profit and property, and they saw the Confederacy’s promises to them as increasingly hollow as state needs for agricultural supply and economic preservation became paramount. By 1864, many planters lobbied state leaders, who tried protecting them through legislative action. In turn, these state actions created an environment where most planters ignored not only the needs of the Confederacy but eventually state impressment policy as well.

During the war, the terms conscription and impressment defined in legislative policy to identify an intended purpose for both white and black Southerners.<sup>17</sup> The Confederacy’s state and national conscription or draft policies were established with white military recruitment as the primary goal. While slaves were predominately pressed into service, impressment and conscription were used interchangeably in the law, as the authorities’ concern was not the formal meaning of these terms but their intended purpose. As the war became more involved, and the necessity to infuse the ranks with more front-line recruits increased, the Confederate government and military looked to black Southerners to replace those whites who previously had been detailed to non-combat support roles within the regiment. Detailed troops, while technically functioning as non-combatants in supportive roles, were considered soldiers because

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<sup>16</sup> *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D C.: Government Printing Office, 1901), series III, vol. IV, p. 1009.

<sup>17</sup> See William L. Shaw, “The Confederate Conscription and Exemption Acts,” *The Journal of American Legal History*, vol. VI, (1962); and Memory F. Mitchell, *Legal Aspects of Conscription and Exemption in North Carolina 1861-1865*, (Chapel Hill: University of North Carolina Press, 1965).

of the requirement to follow military regulations. Blacksmiths, musicians, teamsters, and cooks were originally white positions, but as the war continued they were gradually opened to blacks. The Confederate government's preoccupation with the war in Virginia increasingly over-rode the state governments' needs. South Carolina, Georgia, and North Carolina, for example, saw their white population depleted through battle losses and national conscription, and their black population impressed. Eventually the state governments proceeded to annul Confederate impressment policy, which in their view did not supercede local defense and economic needs even in wartime.

Though many political leaders were initially reluctant to impress the property of their citizens, the realities of a founding nation gripped in a war soon changed this. Various legislative measures at both the national and state levels sought to utilize the services of slaves and free blacks, and constituted a body of law intended to supplement and replenish dwindling ranks. However, it was here that the weakness of the policy lay. The state's perceived right to exert authority over its black population versus the prerogatives of the Confederate congressional and military leadership served to pit the state and national governments against each other and thus complicate any cohesive and concise legislative action.

Early in the war Confederate authorities realized that the impressment of slaves and free blacks meant accepting certain liabilities that would burden the national treasury – which they were reluctant to do. During the first year of the conflict, the government simply encouraged patriotic Southerners to volunteer their slaves for the war effort. However, as the death toll mounted, and the need for white recruits increased, the government enacted in April 1862 its first legislation designed officially to use slaves and free blacks in the army for support. Its provisions authorized regimental and company officers to employ “colored persons” as army musicians; those hired would be entitled to the same pay as their white counterparts.<sup>18</sup> Later

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<sup>18</sup> *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vol. (Washington, D.C.: Government Printing Office, 1904-1905), 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, p. 45; James M. Matthews, ed., *Public Laws of the Confederate States of America, Passed at the First Session of the First Congress 1862*, (Richmond: R. M. Smith, Printer to Congress, 1862), 15 April 1862, p. 29; *Official Records*, series IV, vol. I, p. 1059. Pay for musicians in the Confederate army was set at eleven dollars per

that month, measures allowed commanding officers to enlist at least four cooks for each company. Those selected could be “white, slave, or a free person of color, providing that slaves were employed only upon the written consent of their masters.”<sup>19</sup> A significant element of the bill stated that company cooks should be defined as enlisted personnel and placed on the muster rolls with their pay put between ten and twenty dollars a month.

The arbitrary military conscription and/or impressment of slaves and free blacks across the South, without any legal authority, finally compelled the Confederate government to regulate their use for military purposes. However, planters, through their state legislators, began clamoring for compensation for the value of slaves who had been lost to them. They wanted a law authorizing and limiting slave impressment, and providing for the payment to owners whose slaves were lost or injured.<sup>20</sup> The Confederate Senate considered such a measure on 12 March 1863, but some members of President Jefferson Davis’ cabinet were outraged. Confederate Attorney General Thomas H. Watts opposed assuming responsibility for escaped or injured slaves because of the burden such a measure would place on the treasury.<sup>21</sup> Nevertheless, on 23 March 1863 the first comprehensive Confederate act regulating the impressment of slaves and free blacks was signed into law.<sup>22</sup> State sovereignty was recognized by compelling Confederate

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month, which was the same as a private. However, the rate of pay for soldiers was not standardized. At the national level the government borrowed their military pay structure from the pre-war army system, but early in 1861 most state legislatures also issued pay to their troops which at times was higher than that offered by the Confederacy. See *Public Acts of the State of Tennessee Passed at the Extra Session of the Thirty Third General Assembly April, 1861*, Chapter 3, “An Act to Raise, Organize, and Equip a Provisional Force, and for other purposes,” passed 6 May 1861, (Nashville: J. O. Griffith & Company, Public Printers, 1861), p.28.

<sup>19</sup> Throughout the spring of 1862, Confederate Congressional law makers debated the issue of how to use slaves and free blacks at the company and regimental level as support staff. The introduction of black Southerners as teamsters, cooks, ammunition tenders, and in other areas where their services were most suited, soon followed. Under the bill of 18 April 1862, to employ slaves and free blacks in the army as cooks, the pay for a chief cook was set at twenty dollars per month while assistant cooks received ten dollars per month. See *Journal of the Congress Confederate States of America*, 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, pp. 113, 118, 145, 152, 174, vol. V, pp. 54, 79, 141-159, 199, 250, 262.

<sup>20</sup> Virginia, *Acts of the General Assembly*, 1862, (Richmond, Virginia: State Printer, 1863), p. 153.

<sup>21</sup> “Communication From the Secretary of War and the Attorney General,” *Journal of the Congress, Confederate States of America*, 21 March 1863, Amendment to Journal.

<sup>22</sup> This was the first comprehensive statute on the impressment of slaves and free blacks. Subsequent additions were made to strengthen the Act throughout 1864-1865. The impressment of slaves and free blacks for military labor differed from Confederate legislative measures that targeted specific company and regimental positions for blacks, but in general these legislative measures taken as a whole carried the same intent. The gradual introduction of slaves and free blacks for all military purposes was intended to place more whites in front line service, and to limit substitutions, exemptions, detail, and any other duties which

officers to impress slaves only in conformance with the impressment laws of the individual states. Moreover, impressment was permitted only when slaves could not be hired or procured by the consent of owners or their agents. Slaves laboring on farms exclusively devoted to the productions of grains and provisions were exempt, except in case of urgent necessity.<sup>23</sup>

Various states resisted the Confederate impressment by refusing to send slaves, demanding new legislation that opposed the government policy, or amending existing impressment law further to impede the army's efforts. One particular grievance was the ill treatment of slaves and the inequality of apportioning the levies among the states. North Carolina's Governor Zebulon B. Vance, perhaps the most vehement opponent of the national government, enacted a resolution against the ill treatment of slaves conscripted for military purposes.<sup>24</sup> In mid-June 1863, Vance refused to furnish the slaves asked for because "he didn't feel justified in supplying the labor."<sup>25</sup> He recognized the importance and necessity for the labor, but did not feel that North Carolina should be called upon for a further sacrifice of slaves. His views reflected those of planters who protested against the inhumane manner in which slaves from North Carolina were treated.<sup>26</sup>

On 24 October 1863, Secretary of War Seddon amended the impressment act through General Orders, which provided the department commanding general, or the officer of Engineers in charge, with the power to decide upon the necessity of impressing any slaves or free blacks.<sup>27</sup> These officers could obtain slaves regardless of state laws, but were required to consult with state governors in those areas where impressments were to occur.<sup>28</sup>

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excluded them from battle. *Journal of the Congress, Confederate States of America*, 23 March 1863, 1<sup>st</sup> Congress, 3<sup>rd</sup> Session, vol. III, p. 191; *Official Records*, series IV, vol. II, pp. 897-898, Charles H. Wesley, *The Collapse of the Confederacy*, (New York: Russell and Russell, 1937), pp. 147-151.

<sup>23</sup> *Journal of the Congress, Confederate States of America*, 23 March 1863, 1<sup>st</sup> Congress, 3<sup>rd</sup> Session, vol. III, p. 191.

<sup>24</sup> North Carolina, *Journal of the Senate, 1864-1865*, p. 148

<sup>25</sup> *Official Records*, series IV, vol. II, pp. 385-386.

<sup>26</sup> *Ibid.*, series IV, vol. III, p. 993.

<sup>27</sup> R. H. P. Robinson, *General Orders from the Adjutant and Inspector General's Office, Confederate States Army, for the year 1863*, General Orders No. 138, 24 October 1863, (Richmond: A. Morris Publisher, 1864), pp. 190-192, Orders authorized by Adjutant General Samuel Cooper, Moore, ed., *The Rebellion Record*, vol. VII, pp. 574-575.

<sup>28</sup> *Ibid.*, p. 575, *Official Records*, series IV, vol. II, pp. 897-898. Although the Confederate government made payments directly to free blacks, payment for slave laborers was made to the owner in

Despite these amendments in the legislation, Southern state law-makers were quick to contest slave and free black impressment as carried out through the use of General Orders, contending that military commanders made labor acquisitions arbitrarily within the counties of a state. Virginia's Governor John Letcher, for example, argued that, in some cases, "while five per cent of slaves are called for in one county in other counties less than five per cent of the slaves are impressed."<sup>29</sup> An audit of slave and free black impressments in six Virginia counties in 1864 showed that counties containing more slaves had smaller quotas while counties with fewer slaves had the greater burden of supplying the needs of the military.<sup>30</sup> These discrepancies in the Confederate government's impressment policy were enough to persuade state legislators to enact new laws designed to correct these abuses.<sup>31</sup>

Because of problems of enforcement, equality, and the general fears of planters, both the March and October impressment acts failed to furnish the Confederate military with either a black support staff or labor force necessary for public defense.<sup>32</sup> On 7 December 1863, President Davis, in his message to Congress, hinted at these defects while requesting further legislation to employ more slaves and free blacks as teamsters, cooks, and nurses, and in "any other service for which the Negro may be found competent."<sup>33</sup> However, despite his request, difficulties in securing an adequate supply of laborers by the military continued to worsen, as both owners and state legislators emphasized that slaves were needed for agriculture, and actions taken by the army took them away from this necessary role.

During the winter of 1863-1864, it became increasingly apparent that the Confederacy

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Confederate scrip. As the war continued owners and free blacks were also reluctant to lend their services to the government due to the devaluation of Confederate money

<sup>29</sup> Message to the Legislature, 3 September 1863, Virginia, *Journal of the Senate*, Extra Session, 1863, pp. 12-13.

<sup>30</sup> Virginia, *Journal of the Senate*, 1864, pp. 5-7.

<sup>31</sup> See, Alabama, *Joint Resolutions of the General Assembly of the State of Alabama, in relation to Impressments and the Schedule of Prices Fixed by Confederate Commissioners*, 29 November 1864, South Carolina Historical Society, folder no, CR 491 DKE, Charleston, SC; Virginia, *Resolution, Passed by the General Assembly of the State of Virginia, in Relation to the Confederate Impressment Laws*, 24 February 1865, South Carolina Historical Society, folder no, CR 222, Charleston, SC. Further examples of state reaction to the Confederate government's impressment acts will be developed in chapter one.

<sup>32</sup> James D. Richardson, ed., *A Compilation of the Messages and Papers of the Confederacy*, 2 vol., (Nashville: United States Publishing Company, 1906), vol. II, pp. 567-584.

<sup>33</sup> *Ibid.*, pp. 534-535.

could not hold its own against the Union's apparently endless supply of recruits and materiel. Casualties, desertions, the halt in prisoner exchange, and plummeting morale, brought about a sharp decline in the Confederate armies' numerical strength since its zenith in the spring of 1863.<sup>34</sup> Field commanders, most notably General Robert E. Lee, had been requesting more men for over a year, as well as advocating new measures, including the end of all class exemptions, the streamlining of military detail, and in general an improved use of the available labor. In the western theater of operations, Confederate General William J. Hardee presented a proposal for changes to the government's enlistment policy that would place all men, including black Southerners, between the ages of 15 and 60 at the complete disposition of the military. While his suggestion did not support the direct use of slaves and free blacks as soldiers, it was designed to increase their role as military support. However, at this point the main concerns of the War Department were geared towards the recruitment of whites, not to increasing the numbers of blacks at the regimental level.<sup>35</sup> President Davis, in his final message for the 1863 legislative term, stated that Congress must "add largely to our effective forces as promptly as possible." He advised Congress to substitute the current system of class exemption with one of executive detail, and to extend the draft age beyond 45 with the older men detailed as replacements for those recruits performing inactive duties, but who were fit for combat service.<sup>36</sup> Davis also addressed the issue of using more black Southerners as critical combat

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<sup>34</sup> The 31 December 1862 official Confederate returns listed 233,374 men in the army and present for duty out of a total enlistment of 449,439. The returns of 31 December 1863, however, listed only 213,860 present for duty of a total enlistment of 464,646. *Official Records*, series IV, vol. II, pp. 278, 1073. The enlisted men not present for duty included the ill, those on furlough, and deserters. In the last year of the war, there were over 100,000 deserters. Several studies on desertion in the Confederacy have been written see, Ella Lonn, *Desertion During the Civil War*, (Lincoln: University of Nebraska Press, 1928 reprint 1998); Mark A. Weitz, *A Higher Duty: Desertion among Georgia Troops during the Civil War*, (Lincoln, Nebraska: University of Nebraska Press, 2000); and Georgia Lee Tatum, *Disloyalty in the Confederacy*, (Chapel Hill: University of North Carolina Press, 1934 reprint 1970).

<sup>35</sup> *Montgomery Monthly Advertiser*, 6 January 1864. This call upon the government by General Hardee and his colleagues, to place all men, black and white, at the complete disposition of the military did not equate the arming of black Southerners. However, this letter was issued only four days after hearing General Patrick Cleburne's statement on the need to enlist the slaves as soldiers. Both men were officers in the Army of Tennessee, but in this instance, it was rank that counted, as Hardee was a Corp commander while Cleburne commanded a Division. See Ezra J. Warner, *Generals in Gray*, (Baton Rouge: Louisiana State University Press, 1981), pp. 53-54, 124-125.

<sup>36</sup> State of the Country speech delivered to the Confederate Congress, President Jefferson Davis, 7 December 1863 for the First Congress, Fourth Session, 7 December 1863 to 17 February 1864. James D.

support staff with the objective of “placing in the ranks such of the able-bodied men now employed as wagoners [teamsters], nurses, cooks, and other employees as are doing service for which the Negroes may be found competent.”<sup>37</sup>

On 17 February 1864, Davis signed into law an amended impressment act that authorized the Secretary of War to employ up to 20,000 slaves and free blacks between the ages of eighteen to fifty for military purposes.<sup>38</sup> Slaves employed under this act “earned such wages as may be agreed upon, and were entitled to proper rations and clothing.”<sup>39</sup> Planters found protection for their property in a provision assuring them compensation for the full value of those slaves who were captured, injured, ran away, killed in battle, died in the performance of their duties, or contracted disease while employed in Confederate service. Owners were also allowed to keep at least one male slave at home while an equal quota of slaves from all masters was guaranteed to insure fairness with payment to be in line with that of privates in the ranks.<sup>40</sup>

However, legislative initiatives by the Confederate government to secure this type of labor were far less successful than those measures taken by the state governments to impress laborers for the defense of the state. Moreover, this central policy evoked more criticism, both internally and externally, within the government, and caused more dissatisfaction among the citizenry than possibly any other legislative measure pursued by the Confederacy during the war.

In the end, the problems of state sovereignty, the concerns of planters, and the demands of the Confederate government and military for slave and free black labor proved counterproductive, and contradictory. The war brought with it sacrifices that planters were not

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Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 345-382. Also see Communication from the Secretary of War, James A. Seddon, 17 December 1863. in *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vols. (Washington: Government Printing Office, 1904), vol. III, p. 446. At this time Virginia, North Carolina, South Carolina, and Georgia contained 64,830 men under exempted status.

<sup>37</sup> Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 370, 371. Eventually Congress would approve Davis's request.

<sup>38</sup> *Official Records*, series IV, vol. III, p. 208.

<sup>39</sup> *Ibid.*; *Public Laws of the Confederate States of America Passed by the Fourth Session of the First Congress: 1863-1864*, (Richmond. R. M. Smith, Printer to the Congress, 1864), pp. 235-236.

<sup>40</sup> *Ibid.*; *Official Records*, series IV, vol. III, p. 716. The pay for a Confederate private at this time was set at eleven dollars per month.

prepared to make without just compensation, even in the face of an increased Union presence. All these factors assisted in the breakdown of the slave system and, in turn, benefited neither the government nor the planters. The military used slaves in limited ways as established by the Confederate government; the potential of unlimited usage was never fully realized until late in the war.

Another area for concern with the approach of war regarded the free black populations in the South. The South was apprehensive that these black Southerners would seek equality or question white domination. Maintenance of southern institutions, therefore, depended upon the ability of the South both to control this population as well as unleash its potential for the benefit of the Confederate war effort.

The status of free black Southerners under the Confederate regime was hardly enviable. The term "free person of color" was a misnomer, for this distinct population was in no sense genuinely free. Their rights to property and movements were restricted; they were subject to attack and abuse without provocation; and they were in some states denied protection or redress under the law. Moreover, occupational restrictions prevented them from selling or hiring out their labor.<sup>41</sup>

Despite this, the Southern states felt no compunction against accepting and even soliciting their services in defending the state. Even before the opening of the conflict, Southerners began to enroll free blacks for service with the state militias,<sup>42</sup> sometimes by state law or by purely local action. The use of free blacks in the military was varied, as they saw service as laborers, support staff, or in rare instances as soldiers. Consequently, large numbers of the South's free black and mulatto population, were either coerced, conscripted, or impressed. There are a few limited examples of where these black Southerners had 'volunteered' for military service, but once received, were usually reorganized as army laborers,

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<sup>41</sup> See, Berlin, *Slaves Without Masters*, pp. 92-97, 172-173.

<sup>42</sup> Horace Greeley, *The American Conflict; a History of the Great Rebellion in the United States of America, 1860-1864*, (New York: Negro Universities Press, 1969), vol. II, p. 522; Charles H. Wesley, "The Employment of Negroes as Soldiers in the Confederate Army," *Journal of Negro History*, vol. IV, no. 3, (July 1919), p. 243.

or placed in white regiments as critical combat support staff.

In late June 1861, Governor Isham G. Harris of Tennessee recommended a measure “to receive all free male persons of color between fifteen and fifty years of age into the military service of the state.”<sup>43</sup> On 28 June, a formal bill was passed by the state legislature which stipulated that free blacks enrolling under this act were to receive eight dollars per month as pay, one ration a day, and a yearly allowance for clothing.<sup>44</sup> Power to enforce this act was vested in the county sheriff whose duty it was to collect and report to the Governor the numbers, conditions, and the names of free blacks subject to the provisions of the act.<sup>45</sup>

Louisiana began using its free black population for the defense of the state at about the same time as Tennessee. In late April 1861, the *New Orleans Picayune* reported “a meeting of ten thousand men, representing the flower of the free colored population of New Orleans, and that this meeting resulted in the organization and enrollment of the Louisiana Native Guards.” In November under the overall command of Major General Mansfield Lovell, the Guards Regiment, along with their white counterparts, marched in review. It was estimated that there were more than fourteen hundred blacks in the line of march.<sup>46</sup> In 1862, a regiment of free mulattos was also enlisted in defense of New Orleans, and the following year they were taken into the Confederate service as heavy artillerymen.<sup>47</sup> Also, in that year, Louisiana’s Governor Thomas O. Moore praised the free blacks of the state for their patriotism and requested that their military organization be maintained for the duration of the war.<sup>48</sup>

As the war continued, those states with large free black populations came to rely increasingly on their service. An act of 11 February 1864 authorized Governor Henry W. Allen

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<sup>43</sup> *Official Records*, series I, vol. IV, p. 409, by the close of the first year of hostilities, at least five of the Confederate states employed all able-bodied free blacks in the state militias. For example, one hundred and fifty able-bodied free black men of Charleston offered their services on 3 January 1861 in throwing up redoubts wherever necessary for the protection of the coast. Three months later, a company of free blacks from Memphis were observed passing through the city. See Charleston, *Mercury*, 3 January 1861, and 30 April 1861.

<sup>44</sup> *Official Records*, series I, vol. IV, p. 409; *Tennessee Public Acts of the State of Tennessee*, Extra Session April, 1861, Chapter 24, “An Act for the Relief of Volunteers,” passed 28 June 1861, p. 49-50.

<sup>45</sup> Memphis, *Avalanche*, 3 September 1861, Wesley, *The Collapse of the Confederacy*, p. 141.

<sup>46</sup> New Orleans, *Daily Picayune*, 24 November 1861, and 9 February 1862.

<sup>47</sup> *Afro-American*, 2 February 1935.

<sup>48</sup> *Official Records*, series I, vol. IV, no. 1, p. 1020.

of Louisiana to enlist “all Free Men of Color between sixteen and fifty five years into the service of the state.”<sup>49</sup> Free blacks called into service received the same pay and were subject to the same regulations as whites within the same branch of service. Possible transfer to Confederate service by the state was also authorized based on consultation and evidence of need.<sup>50</sup> Later that year, Governor Allen signed a bill that required all slaves and free blacks between eighteen and fifty years old to be registered by the Bureau of Conscription and subject to call as laborers. Usually no more than one-seventh to one-fifth of the able bodied hands were summoned, although state law provided that one-half the able bodied males (aged eighteen through fifty) could be impressed.<sup>51</sup> On 29 October 1864, Allen went on to issue a General Order which specified his intentions for the use of the state’s free black population for military purposes. This new policy stated that, “all Free Colored Persons, between eighteen and forty five years of age, and former residents in New Orleans, were required to report at the district enrolling office to be enrolled for the purpose of state defense.”<sup>52</sup>

The question of whether or not any slave or free black actually fought for the Confederacy, as part of either the state militia or within the regular army, is a matter of definition. There is, indeed, little verifiable evidence that these men were ever actually armed, and at least until March 1865 no effort was made through the law to expedite such an idea. However, the state and Confederate governments did seek legislative measures for their use as military support staff, and in rare instances, free blacks especially, were seen as a viable asset for state defense. One author asserts that the only black Southerners who are on record as fighting for the Confederacy at the company level or higher were certain free mulattos in Mobile, Alabama.<sup>53</sup> Another wrote that an analysis of all available testimony showed that rebel

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<sup>49</sup> Louisiana, *Acts of the Legislature*, 1864, p. 65; See also, Sarah A. Dorsey, *Recollections of Henry Watkins Allen: Brigadier General Confederate States Army, Ex-Governor of Louisiana*, (New York: M. Doolady Publishers, 1866), p. 382.

<sup>50</sup> Louisiana, *Acts of the Legislature*, 1864, p. 65. This law also included assignment of shops and manufacturers.

<sup>51</sup> *Shreveport News*, 2 August 1864; Acts Passed by the Twenty Seventh Legislature of the State of Louisiana in Extra Session at Opelousas, December, 1862-January, 1863, (Natchitoches, 1864), pp. 10-11.

<sup>52</sup> New Orleans, *Daily True Delta*, 1 November 1864.

<sup>53</sup> Walter L. Fleming, *Civil War and Reconstruction in Alabama*, (New York: Columbia University Press, 1905), p. 86.

armies employed blacks, not only as military laborers, but also in the ranks.<sup>54</sup> Debate on this issue has either subtly or directly defined the Civil War 'soldier' within the parameters of modernity, as someone having either military skill or experience. However, this is not an entirely correct analysis, as state and national legislation, backed by military regulation, were clear and concise in this regard, and defined all personnel within a company as soldiers, including those that held a supportive function. It was this interpretation which later became the foundation and guide for the amended eligibility criteria for white veterans, and later in the establishment of pension benefit for 'black veterans.'

### Pensions

In the late 1880s, and more notably during the decade of the 1920s, the former Confederate states broadened their veterans' pension systems to include a small minority of eligible former slaves and free blacks who functioned in supportive roles within the military.<sup>55</sup>

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<sup>54</sup> Joseph H. Allen, "Africans in America and Their New Guardians," *Christian Examiner*, vol. LXXIII, (1872), p. 106.

<sup>55</sup> In the post war era, which included the period of Reconstruction, Southern State governments established a system of pensions for white Confederate veterans. Several of these pension systems were based on previous war time legislation that sought to care for disabled white veterans who had been seriously injured in battle, usually with monies set aside for artificial limbs, and initially this legislation was carried over with very little amendment. However, in the late 1870's a few states allowed a minority of former slaves and free blacks who could prove disability resulting from wounds received in battle, i.e. loss of a limb, blindness, etc., to apply for pension benefit. By the 1880s and 1890s the state pension systems were extended to include an old age pension, and a state system of veterans' homes, but these benefits were exclusively for white Confederate veterans. See, Patrick J. McCawley, *Artificial Limbs for Confederate Soldiers*, (Columbia: South Carolina Department of Archives and History Publishers, 1992); Judith A. Strange, *The Tennessee Confederate Soldiers Home: "Marching out of the Mist into the Light,"* (Nashville: Tennessee Tracers Publishers Limited, 1996); and R. B. Rosenburg, *Living Monuments: Confederate Soldiers' Homes in the New South*, (Chapel Hill: University of North Carolina Press, 1995). By 1900, all eleven states of the former Confederacy, as well as Kentucky, Maryland, Missouri, and Oklahoma, offered Confederate white veterans an old age pension, or space in the veterans home system, provided they met certain dependency, and residency requirements. See, "Pensions for Veterans and Widows," *Confederate Veteran*, vol. XVI, no. 10, (September 1912), pp. 485-486; *Report of the Florida State Board of Pensions, Made Under the Provisions of Sections 291.01 to and Inclusive of 291.37*, "Florida Statutes of 1955 and Supplements, as of 31 December 1956, pp. 3-12, Tennessee State Library and Archives, Nashville, TN. The first state to establish pension legislation, inclusive of black support staff was Mississippi, on 2 March 1888, all the more remarkable as most states would not have black veterans pension legislation in place until the 1920s. The following citations should not be seen as a comprehensive list of either black pension legislation in particular, or of the pension documents in general, they are only a sample of the available archival materials, and are specific to the development of this thesis. *Laws of the State of Mississippi, Passed at the Regular Session of the Mississippi Legislature, held in the City of Jackson, Commencing 3 January 1888, and Ending 8 March 1888*, (Jackson, Mississippi: R. H. Henry, State Printers, 1888), "Chapter 12, An Act for the relief for certain soldiers and sailors and servants of officers, soldiers and sailors of the late war between the states," approved 2 March 1888, pp. 30-33; *Public Acts of the State of Tennessee passed by the Sixty Second General Assembly*,

This addition to state pension schemes was the result of a legislative process, established during the Civil War by separate state, national, and military authorities, which had recognized these particular black Southerners as having a necessary role in the regimental infrastructure.

Generally subject to the same duties and restrictions as those slaves and free blacks who were conscripted or impressed as military laborers, their function equated to that of critical combat support staff, while their title was 'soldier'. The term 'soldier' during the Civil War included many duties that were performed by both whites and blacks within the regiment and was not restricted only to those who bore arms.<sup>56</sup> It is this structured definition of soldier, which post-war Southern legislators used to determine who would be eligible to apply for and receive pension benefit. This distinction went beyond the issue of combat, as many white Confederate veterans saw these individuals differently from other blacks in the post-war, segregated, South. It was the commonality of a shared mutual experience that provided the impetus, and the boundaries, for the successful lobbying efforts of white veterans, and the legislative acts that established black Confederate veterans pensions.

Organizations such as the United Confederate Veterans actively lobbied Southern state governments to establish a system of Confederate pensions for their black 'veterans,' and

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1921, (Jackson, Tennessee: McCowat-Mercer Publishers, 1921), "Chapter No. 129, An Act to be entitled an Act to provide pensions for those colored men who served as servants and cooks in the Confederate Army in the war between the States: 1861-1865," approved 9 April 1921, p. 351; A listing of approved and declined black pension applications can be viewed on microfilm, see, *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, Tennessee State Library and Archives, Nashville, TN; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Regular Session of 1923*, (Columbia, South Carolina: Gonzales and Bryan, State Printers, 1923), "No. 63, An Act to Provide for Pensions for Certain Faithful Negroes who were Engaged in the Service of the State in the Late War Between the States," approved 16 March 1923, pp. 107-108; See also, *Acts and Joint Resolutions (Amending the Constitution) of the General Assembly of the State of Virginia, Session Which Commenced at the State Capital on Wednesday, 9 January 1924*, (Richmond: Davis Bottom, Superintendent of Public Printing, 1924), "Chapter 188, An Act to amend and re-enact an act approved 28 February 1918, entitled an act to amend and re-enact an act approved 21 March 1916, relating to Confederate Pensions," approved 14 March 1924, pp. 294-303.

<sup>56</sup> Early in the introduction of this thesis, the issue over the definition of the term 'soldier,' in both its modern and nineteenth century context, has been noted as a matter of debate among historians. Arguments that reject the use of this term within its nineteenth-century perspective rest on specific qualifiers: whether they were provided uniforms and/or weapons; the differences in duties performed in the army from those on the plantation; and the issue of pay or other forms of compensation. See, J. Tracy Power, *Lee's Miserables: Life in the Army of Northern Virginia from the Wilderness to Appomattox*, (Chapel Hill: University of North Carolina Press, 1998), pp. 221-223. I argue that the understanding of the word soldier, within its nineteenth-century usage, is inextricably tied to how the term was seen as a determiner for veterans' pension benefit. Analysis into the intricacies of these arguments will be revisited

“faithful Negroes.” Whether accomplished by legislation, or amended through state constitutions, the pension system in each state allowed both white veterans, and subsequently a minority of black Southerners, to apply for assistance provided that no other means of monetary support were available to them. It represented a milestone by recognizing the contributions of those slaves and free blacks who had directly participated in Southern regiments. However, much white support used the perceived notions of “loyal slaves” to fuel the Lost Cause ideology of white supremacy, and justify the contention that slavery was not the prime cause of the war. In the period of Jim Crow and segregation, the black pension system was in many ways a parody of legislation previously established for whites. However, it did provide a limited income at a time when benefit for the elderly was unknown.<sup>57</sup> Although the Confederate pension system excluded those slave and free blacks who were used as impressed laborers, the fact remains that many states in the South had enacted laws to establish, or allow some method of pensioning this small minority of black Southerners.

With any examination of the state pension systems, there are several points that require a brief explanation. First, both white and black pension records throughout the South are incomplete. State archivists, county auditors, and/or the Comptroller General in charge of the pension records may have had a hand in destroying the archival material.<sup>58</sup> In some states, such as Louisiana, the lists of black pensioners from the State Comptroller’s yearly report do not match those on file in the archives. In this case, the evidence suggests that the Louisiana records were simply discarded following the death of the last black pensioner in the 1940s.<sup>59</sup> Second,

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throughout the thesis.

<sup>57</sup> Research on the subject of Confederate veterans’ pensions as a form of state-sponsored social welfare is just emerging, see, Kathleen Gorman, “Confederate Pensions as Southern Social Welfare,” in *Before the New Deal: Social Welfare in the South, 1830-1930*, ed. Elna C. Green, (Athens, Georgia: University of Georgia Press, 1999). The chapter examines the development of white veteran’s pensions as a form of social welfare, and although it does not include black veterans, it provides insight into the application process prior to state reliance on the Confederate muster sheets. Further discussion on the development, process, and meaning behind the pension scheme will be examined in chapter five.

<sup>58</sup> Charles A. Sherrill, Director of Public Services, Tennessee State Library and Archives, interviewed by author, Nashville, Tennessee, 30 March 1999. Mr. Sherrill had been instrumental in the development and expansion of the black pension materials at the Tennessee State Library and Archives and in the process has been attempting to coordinate this collection with other state archives.

<sup>59</sup> Any comparative analysis of those blacks who applied for a pension, with those that were listed on the Comptroller General’s year end report, and those on file in the archives should see, *Louisiana*

without exception, both black and white pension files are void of any legal bills imposed directly on the applicant, as these were sent to the state for payment when appropriate. Many states incorporated the payment of legal and court costs within their pension legislation so that the extra financial burden was not placed on the applicant.<sup>60</sup> Some lawyers even refused to accept payment for their services because they were either veterans themselves or the sons of veterans. State legislators were conscious that many of the veterans could not afford to pay the attorney fees and therefore would not apply for the pension. By setting the fee and incorporating it within the legislation, this barrier was removed.<sup>61</sup> Finally, in each case, either initially or through subsequent amendment, state pension law required that either the applicant or the secretary of the state Board of Pension Examiners obtain proof of service from the Federal government. At this time, the federal War Department held all Confederate government and military documents including company muster sheets. Although there were exceptions to this rule in the early history of the veterans' pension system; state governments increasingly sought Federal verification to establish the application as a means to protect limited resources. In addition, as the pool of former Confederate officers dwindled, the reliability and supportive intent of an applicant's affidavits diminished, and state pension boards based their decisions on whether the claimant's rank and term of service matched those on the muster sheets.<sup>62</sup>

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*Confederate Pension Applications*, Microfilm editions, Louisiana State Archives, Baton Rouge, Louisiana. The black applications are not separated from the white applicants, the accompanying finding aid lists only 15 to 25 "colored applicants" in total, and some of these are in doubt as issues of the applicant's color are suspect. However, the Comptroller General's report lists more approved applicants than those on file. The suggestion that the black applications were discarded is just one possible answer, but it should be noted that archivists were unable to explain this discrepancy. The Comptroller General's year end pension board reports distinguish black applicants with either a "c" for colored or place them in a separate section of the report. Pension board reports begin in the legislative year ending 1899, see for example *Acts Passed by the General Assembly of the State of Louisiana at the Regular Session*, (Baton Rouge: The Advocate, Official Journal of the State of Louisiana, 1899).

<sup>60</sup> An example of this can be seen in, *Public Acts of the State of Tennessee passed by the Forty-Seventh General Assembly, 1891*, (Nashville, Tennessee: Albert B. Tavel, Printers to the State, 1891), Chapter 64, pp. 150-152. In this case the payment of attorney's fees by the state was neither amended to nor changed, with the enactment of black pension legislation in 1921.

<sup>61</sup> See for example, *Public Acts of the State of Tennessee passed by the Forty Seventh General Assembly 1891*, (Nashville: Albert B. Tavel, Publishers, 1891), "Chapter 64, An Act for the benefit of the indigent and disabled soldiers of the late war between the States, and to fix the fees of attorneys or agents for procuring such pensions and fixing a penalty for violation of the same," approved 12 March 1891, pp. 151.

<sup>62</sup> As in previous wars the definition, classification, and specified function of both soldiers and critical

Black pension applications, like those of white applicants, reveal a great deal about veterans' class, age of the applicant pool, and their movements following the end of the war. The pension files are not a complete listing of those who participated in the war. Nor are they a complete record of state residency in the antebellum period, or of recruitment as defined by conscription, impressment, or in rare cases enlistment. They are a listing of those veterans who met the residence and other qualifications at the time of the enactment of the pension legislation. Furthermore, not everyone who was eligible – and this is true of both white and black applicants – either applied or were approved for state pensions. Reasons for this are varied, but the Tennessee records are probably typical: many applications were denied by the pension board because of insufficient evidence, indigence, and/or lack of witnesses needed to support the claim. For black Southerners in particular, the issues of pride and dignity were also tempered with fear and intimidation from members of both races, once it was discovered that they applied for a pension. In addition, Southern politicians, not under the influence of lobbying efforts conducted by veterans, saw the pension scheme as a means to reaffirm a patriarchal dominance of whites over blacks. Despite the varied reasoning behind the pension system, in the broader context the legislation was in itself an early form of state sponsored social welfare for aging “black veterans” in an age dominated by segregationist policy.

The conclusions that can be derived with regard to the white ex-Confederate discourse surrounding the establishment of black pensions suggest much about the momentous shift in race thinking that was taking place in the South at the turn of the century.<sup>63</sup> This raises the

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combat support staff were determined by military regulations which in the case of slaves and free blacks worked in concert with established Confederate legislative practice. These policies took shape in a system of record keeping which started with the company muster sheet, as the source for determining the structure of the company. Along with the recording of privates and non-commissioned officers, subsequent regulation required that this documentation also register those persons detailed in supportive roles, which included, but was not limited to, body servants, musicians, cooks, and teamsters. This evidence relates in practice military regulations that determined and defined the regimental structure, and where the definition of a ‘soldier’ was extended to encompass, at least on paper, those supportive duties largely held by slaves and free blacks.

<sup>63</sup> There is emerging literature on the perception of white veterans towards this minority of black “veterans” specifically, and black Southerners in general. See for example, Joel Williamson, *A Rage for Order: Black-White Relations in the American South Since Emancipation*, (New York: Oxford University Press, 1986); Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, (New York: Alfred A. Knopf, 1998) pp. 194-196; David W. Blight, *Race and Reunion: The Civil War in*

question of how race and memory fit into the perceptions and values of white veterans as opposed to the larger white Southern population. There is no doubt that these changed over time, but in their efforts to secure black pensions for “faithful Negroes” the veterans’ motives can be traced largely to their desire to recognize slave and free black loyalty. The efforts of a majority of white veterans in lobbying for black pensions suggests that there were, for a brief time, two Souths within the former Confederacy: the South of Jim Crow and segregation, and the South as manifest in the memory of the veterans.<sup>64</sup> This does not mean that veterans treated all blacks the same, for within the UCV there were expressions of racial hatred, and white veterans saw blacks that supported the Union during the war as traitors.<sup>65</sup> White perceptions toward this minority of “black Confederate veterans” were slanted with regard to faithful slaves and free blacks who had served with them, the influence and impact of the war, and the hardships mutually shared. Leon Litwack, for example, discusses pensions only as a transition for the larger issues of black fidelity and white memory, pointing out that in the 1920s veterans’ organizations, “took the initiative... and acknowledged the need for formal recognition of their [black Southerner’s] service.”<sup>66</sup> What occurred with the development of the black pension system was a shift in race thinking by more moderate ex-Confederates, but it was a shift that

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*American Memory*, (Cambridge, Massachusetts: Harvard University Press, 2001).

<sup>64</sup> I suggest that there were veterans who, in the haze of past memory, developed a more moderate view towards these particular black men, and it is here where the impetus for lobbying efforts to establish black veteran’s pension legislation largely began. See, Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South*, (New York: Oxford University Press, 1987); Nina Silber, *The Romance of Reunion: Northerners and the South, 1865-1900*, (Chapel Hill: University of North Carolina Press, 1993).

<sup>65</sup> Foster, *Ghosts of the Confederacy*, pp. 85-87.

<sup>66</sup> In the book *Trouble in Mind*, Litwack provides only a brief glimpse into the issue of black pensions. In the first instance he relates an incident where, “a young legislator proposed to stop the pensions paid to old Negro servants who had served their owners in the Confederate Army, every old Soldier in the house rose up in his Manhood and put themselves on record against it.” His evidence for this incident suggests that it occurred in reference to black pension legislation in Mississippi. However, there is little else to place this as an actual event, and by itself can be seen as further support for his argument on black fidelity and white memory. In addition, the differences between the assumed white supremacist attitude of the young legislator against that of the older veterans can not be missed, as it lends itself to supporting the two Souths argument. A second comment on pensions relates to initial legislative efforts of North Carolina in 1907, to establish a system of black pensions for, “the true, faithful Negroes of the Confederate Army.” Although these discussions could have occurred, there is little in the way of sources to verify these legislative actions, and in the broader context lends further credence to the distinctive views of whites towards blacks in the post war South. *Laws of the State of Mississippi, 1888*, Chapter 12, pp. 30-33, Litwack, *Trouble in Mind*, p. 194-196.

differed from the dominance of white supremacy and segregation.

Further conclusions on the involvement of white veterans in the debate over black pensions suggest much about the issues of race and the war. The memories of these veterans were complicated and, in some ways, confused by the conflict between post war white supremacy and reminiscences of “equality under fire” for black veterans. Veterans and their organizations were instrumental in lobbying for black pensions and in some states, such as Tennessee, became political activists in a position to oversee the implementation of all pension legislation. This unlikely position produced two different and ultimately incompatible perceptions of the South concerning this minority of black veterans.

In a real sense, Civil War veterans were living reminders of the past, but as time wore on their dwindling numbers placed them more as curiosities within the national consciousness and understanding of a past era. This phenomenon of fascination for the war in all its detail began in the narratives and remembrances of the war veterans. Over time white Confederate veterans reminisced nostalgically over their war experiences. They relived and remade those memories and, in doing so, ‘cleaned up’ the real war, rendering it exciting and normal all at once. Veterans’ meetings and reunions generally were racially segregated, but nevertheless provided a clearinghouse for the reminiscences of white veterans, and provided a venue where a reconciliatory conception of the war could take deep root. These veterans permitted “certain Negroes” to attend so they could throw their arms around them, drink and laugh with them, and remember times shared, but this only happened within the confines of veterans’ gatherings. However, this camaraderie was out of step with the dominant Jim Crow ethos of the South.

Scholars have been cautious in examining these pension materials and accepting their validity. An uncertainty has arose with the emerging debate on black pensions concerning these materials which could be considered tainted if applicants were motivated precisely by their desire to win white supremacist approval for the application. In other words were those blacks who applied for veterans state pensions in the post-Reconstruction era not bound to exaggerate their loyalty to former masters and/or the Confederate army? This question, although important,

simplifies the development of the veterans pension scheme without understanding the larger structural context of the Confederate pension system. Certainly, racial attitudes did have an impact on the further development of black pensions, but this had more to do with notions of patriarchal dominance, subsequent amendments, and payment allocations that followed the initial laws. The majority of white Southerners' acceptance of black wartime loyalty was based in part on the demeaning perception that they served as mascots and functioned as good luck charms. An increasing minority of surviving white veterans' memories of wartime loyalty served an ideological function that allowed them to believe in a 'slave utopia' that added luster to the memory of the lost cause and informed their lobbying for black veterans' pensions. However, the structure and regulations created by the state pension boards placed the burden of proof squarely on the shoulders of the applicant, while the board of examiners rigorously scrutinized all of the application materials largely irrespective of race.

Throughout the life of the pension system both black and white pension legislation was heavily amended with specific attention to appropriations and reductions. However, the basic process and application procedure remained the same. For example, Tennessee's white veterans' pension legislation in 1891 established a Board of Pension Examiners. The Board's membership consisted of the State Comptroller, the Attorney General, and three ex-Confederate soldiers who were recommended by the Tennessee Division of the United Confederate Veterans and appointed by the Governor. These men had the authority to decide first, if a veteran applying for a Confederate pension was incapable of "making a support," and second, if his separation from service was honorable. The burden of proof rested with the veteran, who was obliged to prove disability and/or need.<sup>67</sup> As the system developed and the pool of veterans providing corroborating evidence dwindled, the overriding determinant came to be the official army muster sheets.

The questions on the application forms stuck strictly to the facts: term of service, where, when, what company or regiment they were attached to, and duties performed; information that

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<sup>67</sup> See, *Public Acts of the State of Tennessee, 1891*, Chapter 64, pp. 150-152.

could only be verified by the Confederate muster and pay sheets obtained from the War Department in Washington D.C. Issues of slave and free black fidelity were part of the materials, which could be used to support an application. By law these affidavits were completed by white citizens or, when available, white veterans, but their use was left to the discretion of the pension board.<sup>68</sup> White veterans in general believed that this minority of black Southerners deserved a measure of compensation at a time when such concern for the aged was almost exclusively left to the family.

The black Confederate veterans pension materials provide a wealth of information on the scale of involvement of slaves and free blacks within the Confederate military infrastructure. It would be easy to overlook this material simply because the applications themselves may contain tainted information. But both white and black pension applicants had to verify their service from the Confederate muster sheets, and that evidence could only be obtained through written confirmation at Federal level. This final step in the application process provides substance to the pension data as at the time it was only at this level that the pension information could be verified. The post-war pension materials lend significant support to how the states and the Confederate government defined the roles of slaves and free blacks as soldiers and as support staff, as it was these issues that permeated the imagery of white veterans, and brought structure to state pension legislation.

#### **A Note on Secondary Sources, and Historiography**

With few exceptions, the subject specific historiography of slave and free black roles as

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<sup>68</sup> The need for affidavits was largely a holdover from previously established white pension legislation, and generally served as a further addendum in the application process prior to approval. As death limited the pool of white veteran officers, who were the preferred source of recommendation, those remaining white and subsequent black applicants increasingly relied on the endorsement of white citizens, which could include the lawyer processing the application. As pension boards became dependent on the muster sheets for verification, the affidavits for black applicants were relied on less to verify the applicants' wartime loyalty than to establish their post-war fidelity. With time future appropriations for the board's upkeep were phased out or ended, and responsibility for the applicants' approval fell to either the Comptroller General or the State Assembly. Here white supremacy dominated the processing of a black application both for their approval and for maintaining white superiority over, and dependence of, this minority of black Southerners. With regard to the phasing out of the pension boards see for example, *Public Acts of the State of Tennessee passed by the Sixty Ninth General Assembly, 1935*, (Clarksville, Tennessee: Star Publishing Company, 1935), "Chapter 61, An Act to amend the code of Tennessee, 1932, Section 4937," approved 21 February 1935, p. 176.

support staff within the Confederate military and state militias is, at best, ambiguous, limited in the use of primary materials, and riddled with misconceptions and misinformation.<sup>69</sup>

Essentially, current scholarship on the place of black Southerners in the Confederacy, has focused on three fields of study: first, their use as military laborers, second, the place of free blacks in the defense of New Orleans from 1861-1862, and third, efforts to enlist blacks as soldiers from 1864-1865. This thesis incorporates these dominant areas of scholarship as a backdrop against which important questions can be addressed: the extent of black involvement within the Confederate military, the redefinition of their place in the army, and the analysis of the legislative efforts to established black veterans' pensions. The major arguments of this thesis are largely based on primary materials, i.e. government documents, pension records, legislative correspondence, and newspapers. In using these sources to illuminate the black military experience, I simultaneously address some of the misconceptions in the historiography.

Two essential works address the role of black Southerners as military laborers: James H. Brewer, *The Confederate Negro: Virginia's Craftsmen and Military Laborers, 1861-1865*, published in 1969, and Charles B. Dew, *Ironmaker to the Confederacy: Joseph R. Anderson and the Tredegar Iron Works*, first printed in 1966. These monographs provide a deep understanding of how slaves and free blacks were utilized by the Confederacy. They provide

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<sup>69</sup> One current exception to this is the comparative work by Jordan, *Black Confederates and Afro-Yankees in Civil War Virginia*, which despite a few shortcomings, is by far the best current analysis on the subject of slaves and free blacks in the Confederate military. For emphasis, what is meant by "subject specific historiography" is stated here to stress the difference of this particular group of black Southerners, used as critical combat support staff, as distinct from their use as military labor. With the considered exception of body servants, both laborers and support staff, had many of the same duties, but it is the latter group that held a legislative definition more akin to soldier to that of labor. Current readings on the topic of "black Confederates" appear to be based on a historiography from the pages of the progressive and/or revisionist schools of thought. Examples of this are, Charles Kelly Barrow, et. al. ed., *Forgotten Confederates: an anthology about Black southerners*, (Atlanta, Georgia: Southern Heritage Press, 1995), and Charles K. Barrow, and J. H. Segars, ed., *Black Southerners in Confederate Armies: A Collection of Historical Accounts*, (Atlanta, Georgia: Southern Heritage Press, 2001). These works tend to present primary materials with no thought, or investigation as to the deeper meaning behind these sources. Historians of this caliber paint the facts of black Confederates with a broad brush, and in turn are labeled with the title neo-Confederate, or racist, as a means to discredit their work. However, the use of this terminology is an injustice to scholars, as it vilifies any thoughtful analysis, or worse places the subject of black Confederates in a shadow of denial, at times even before the argument is properly presented. For background into the use and history of such labels, see, Tony Horwitz, *Confederates in the Attic: Dispatches from the Unfinished Civil War*, (New York: Pantheon Books, 1998). On the history of the progressive and revisionist schools, and their interpretation of the Civil War, see, James M. McPherson,

detailed information on the specific duties that black military laborers performed, and suggest differences, which distinguished them from their role as military support staff. Dew's work is primarily concerned with the operational structure at Richmond's Tredegar Iron Works, and the role of its founder, Joseph R. Anderson in supplying the Confederacy with war material.

Examination of slave and free black roles as laborers is found only in the shadow of these larger concerns. Brewer, too, examines the role of slave and free black laborers, but his objective was to ascertain the extent of their service in Confederate Virginia. By evaluating their duties, policy decisions, and procedural issues over their management, supervision, and regulation, Brewer argues that the practice of using black Southerners had, "undoubtedly prolonged the war by preventing Federal invasions from seriously affecting the resources of the state."<sup>70</sup> This examination of the subject is essential to my own work because it helps establish the differences in slave and free black roles as critical combat support staff, as distinguished from those of military laborers. In the postwar era these distinctions were crucial in determining eligibility for state pensions.<sup>71</sup>

Ira Berlin, and the other editors of the multi-volume *Freedom* project, which documents the history of slave emancipation during the Civil War, provide an important source for the role of slaves as a labor force throughout the south.<sup>72</sup> However, this project does not explore in any significant or sustained way the role of slaves and free blacks within the Confederate military, or their use within the states, nor does it examine the legislative apparatus that provided a foundation for that role. Series one of this ongoing work, *The Destruction of Slavery*, addresses the use of blacks primarily as a labor force for the Confederacy and focuses upon the endemic problem of securing that manpower in sufficient quantities. A further section contained in the volume, "Mobilizing Free Blacks," is a succession of letters from planters,

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"What Caused The Civil War," *North & South*, vol. 4, no. 1, (November, 2000), pp. 12-22.

<sup>70</sup> Brewer, *The Confederate Negro*, pp. Xvi, 163-165, 167

<sup>71</sup> Works by both Brewer and Dew detail the roles held by a those conscripted, and/or impressed slaves, and free blacks in the performance of duties designated as military laborers, specifically in ammunition factories, mining and in the construction of fortifications. See, Brewer, *The Confederate Negro*; and Dew, *Ironmaker to the Confederacy*.

<sup>72</sup> Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867*, (New York:

yeomen, state authorities, and military officials on the feasibility of arming the South's free black population for the war effort. In series two, *The Black Military Experience*, only twenty pages are devoted to the military role and proposed use of black Southerners in the Confederacy, most of which is devoted to documenting the debate over the arming of slaves in 1864 and 1865. The rest of the section on "Confederate Recruitment" is a collection of letters advocating the use of slaves and free blacks as soldiers. However, most of this correspondence was ignored at the time and many pieces never reached their intended destination. While the vast bulk of this volume examines the role and effect of blacks in the Union army, the major argument advanced in the *Freedom* series paints a convincing portrait of southern black pragmatism during the war.<sup>73</sup>

A number of monographs address the limited role played by free blacks as part of the Confederate army, Home Guards, and state militias. These studies tend to concentrate on the free black populations of New Orleans and their "restricted" involvement from 1861 to 1862 in support of the Confederate army's defensive operations in southern Louisiana. Early works by John D. Winters, *The Civil War in Louisiana* (1963) and Jefferson Davis Bragg, *Louisiana in the Confederacy* (1943) serve as brief introductions to the roles free blacks held in the defense of New Orleans.<sup>74</sup> However, both writers based much of their work in this area on the scholarship of African-American historians, James T. Wilson, *The Black Phalanx: African American Soldiers in The War of Independence, The War of 1812, and The Civil War*, and Benjamin Quarles, *The Negro in the Civil War*. However, debate on the place of free black Southerners in defensive or military roles largely centers on the issues of whether those involved had weapons, wore uniforms, their use in the army, and even the color of their skin. While I

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Cambridge University Press, 1982).

<sup>73</sup> See, Berlin, et. al. ed., *Freedom, Series I Volume I, The Destruction of Slavery*, pp. 663-682, 760-770, and *Series II, The Black Military Experience*, pp. 279-299.

<sup>74</sup> For an introduction to Confederate military operations in this area see, John D. Winters, *The Civil War in Louisiana*, (Baton Rouge: Louisiana State University Press, 1963); and Jefferson Davis Bragg, *Louisiana in the Confederacy*, (Baton Rose. Louisiana State University Press, 1943). A much earlier book, and foundation text on the military history of Louisiana is by, Napier Bartlett, *Military Record of Louisiana: Including Biographical and Historical Papers Relating to the Military Organizations of the State*, (Baton Rouge: Louisiana State University Press, 1875, 1964).

believe these arguments are important to any discussion on the specific nature of black roles in the military, it seems the objective of some of these works is to erect barriers rather than engage in a scholarly debate. The fact that a person of African American descent would participate in any way in the Confederate war effort is so repugnant to many of these writers that their work overlooks or distorts available documentary evidence.

Written in 1887, Wilson's study is largely a first-hand account of the black military experience throughout the conflict. Although it begins with the Revolution, emphasis is placed on the Civil War, specifically black roles within the Union army. Wilson does devote some material on the use of slaves and free blacks in Confederate forces, underscoring their effectiveness in the defense of New Orleans and the efforts of the Confederate government to enlist blacks as soldiers in 1865. In these areas, unfortunately, the book is largely devoid of any structured analysis, but in a limited way it does examine black motivational factors. Wilson wrote, "the Negro who boasted the loudest of their desire to fight Yankees; who showed the greatest anxiety to aid the Confederates, was granted the most freedom, and received the approval of his master." With regard to the Confederate government's purpose behind black enlistment in 1865, he ended his narrative on a somewhat apocryphal note, "Lee, perhaps dreamed nightly that he commanded 200,000 Negro troops... and was driving the Yankees and their Black Phalanx like chaff from the 'sacred soil' of the Old Dominion, but, alas, such a dream was never to be realized."<sup>75</sup> However, the book masks the subject slave and free black resistance, and inadequately handles the general fear shared by many in the Confederacy on arming slaves,<sup>76</sup> though he does introduce the issue of black pragmatism as a possible explanation for their role in the Confederate military. Any structured debate on this topic must factor in several other variables such as the changing military situation, and issues of black autonomy.

More recent scholarship on this subject is specific to the role free blacks played in the

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<sup>75</sup> Joseph T. Wilson, was a native of New Bedford, Massachusetts, a Union veteran, he served with the 2<sup>nd</sup> Regiment, Louisiana Native Guards under General Benjamin F. Butler, and later in the Fifty-fourth Massachusetts. See, Wilson, *The Black Phalanx*, pp 483, 495, 499; Blight, *Race and Reunion*, p 196.

Confederacy's defense of New Orleans, but the events surrounding the Federal capture of the port are often placed within the much larger context of the Union's overall operations in Louisiana. Books by James G. Hollandsworth, *The Louisiana Native Guards: The Black Military Experience During the Civil War*, and Caryn Cossé Bell, *Revolution, Romanticism, and the Afro-Creole Protest Tradition in Louisiana, 1718-1868*, are typical. These works tend to be preoccupied with historical analysis based on denial, or naiveté, of the subject. They both avoid a broader approach and fail to thoroughly examine all the evidence, particular that found in the primary sources. When discussing the role of free blacks in Confederate service, the bulk of recent scholarship is more concerned with disproving the phenomenon or downplaying its significance<sup>76</sup> and the debate on the role of free black Southerners has been mired with questions of whether those involved were in Confederate uniform, carried guns, or reasoned logically.

The third area of study centers on the actions taken by Confederate governmental and military authorities on the question of arming black Southerners, and the debate over the critical issue of offering emancipation for those slaves who would serve as soldiers. Scholarship in this area started with works by Nathaniel W. Stephenson, "The Question of Arming the Slaves" in 1913, among other articles on the subject. Two of the better known books from this early period are, Charles H. Wesley, *The Collapse of the Confederacy*, and Bell Irwin Wiley, *Southern Negroes, 1861-1865*. Wesley briefly outlined the utilization of black military laborers, and the laws that established their role within the regimental infrastructure. However, the book provides little analysis, and sees blacks' military role as nothing more than a last desperate measure of a dying Confederacy. While Bell Wiley's work, published in 1938, is a detailed subject-specific analysis of blacks in the Confederacy, the book as a whole reflects the racial mores of the 1930s and largely fails to establish and analyze blacks' supportive military

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<sup>76</sup> Wilson, *The Black Phalanx*, p. 483.

<sup>77</sup> The subject of the Native Guards is drawn in more detail in chapter two of this thesis. Examples of which I argue to be a one sided view of the interpretation of free black support for the Confederacy can be found in, Caryn Cossé Bell, *Revolution, Romanticism, and the Afro-Creole Protest Tradition in Louisiana, 1718-1868*, (Baton Rouge: Louisiana State University Press, 1997), pp. 231-232;

role. The book does examine the role of black military laborers, but Wiley's assertion that they were chiefly employed in the building of fortifications overlooks evidence that suggests a far larger role.<sup>78</sup>

Overall, historians have been skeptical about the existence of black Confederates, their place as regimental support staff, their definition as soldiers, and the debate surrounding their usefulness in combat roles. One of the few exceptions was George Washington Williams who argued that "from the earliest dawn of the war the rebel authorities did not frown upon the action of local authorities in placing arms into the hands of free Negroes."<sup>79</sup> Joseph T. Wilson derided such Confederate efforts as "unrealized dreams" and condemned blacks who boasted the loudest of their desire to fight Yankees as doing so only for the approval of whites and in the hope of obtaining privileges within the confines of slavery.<sup>80</sup> Other historians like Benjamin Brawley and W. E. B. Du Bois, later echoed Wilson's arguments as both believed that the idea of black Confederate soldiers was absurd. In addition, Charles H. Wesley believed that black Southerners who had volunteered, and those white Southerners, who believed them, were both "equally misguided."<sup>81</sup> These historians acknowledged the value of slaves as agricultural and military laborers for the South and noted that had the Confederacy actually decided to field black troops in 1861, or even in 1863, large numbers of them would have been obtained. However, questions persist as to whether slaves and free blacks would have fought or been effective in battle. While historians like John Hope Franklin have argued against their effectiveness in the military, Benjamin Quarles wrote that "perhaps, [they would have fought]

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Hollandsworth, *The Louisiana Native Guards*, pp. 1-7.

<sup>78</sup> See, Nathaniel W. Stephenson, "The Question of Arming the Slaves," *American Historical Review*, vol. XVIII, no. 2, (January, 1913); Wesley, *The Collapse of the Confederacy*, and especially, Bell Irwin Wiley, *Southern Negroes, 1861-1865*, (New Haven: Yale University Press, 1938), chapter 8, passim.

<sup>79</sup> John Hope Franklin, *George Washington Williams: A Biography*, (Chicago: University of Chicago Press, 1985), p. 235; George Washington Williams, *History of the Negro Race in America from 1619 to 1880*, (New York: Bergamam Publishing, 1968), p. 278.

<sup>80</sup> Wilson, *The Black Phalanx*, pp. 483, 495, 499.

<sup>81</sup> Benjamin Brawley, *A Short History of the American Negro*, (New York: The Macmillan Co., 1924), p. 113; W. E. B. Du Bois, *Black Reconstruction in America: An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880*, (London: Cass Publishing, 1966), pp. 119-120; Wesley, *The Collapse of the Confederacy*, p. 42.

but without their hearts being in it.”<sup>82</sup>

Several of the better known works on the Civil War address the issue of black Confederates, but reach similar conclusions about the futility of their use in stemming the defeat of a doomed Confederacy and the ineptitude exhibited by officials in developing a policy that would optimize their effectiveness. Works by James M. McPherson, *The Battle Cry of Freedom*, and Emory M. Thomas, *The Confederate Nation: 1861-1865*, provide a general knowledge, but do so within the broader context of the war. Books by Eli N. Evans, *Judah P. Benjamin: The Jewish Confederate*, and Wilfred B. Yearns, *The Confederate Congress*, examine how the subject of black roles within the military was shaped by, or changed the careers of those who took part in the debate over slave labor and the military.<sup>83</sup>

Two of the more important influences on this thesis are works by Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, and Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*. Durden’s monograph largely consists of a collection of documents dealing with the debate over the dual questions of arming black Southerners to fight for the Confederacy and the granting of emancipation to faithful slaves. He focuses on government actions to use slaves and free blacks in the military from 1864 to 1865, arguing that historians either have ignored this area of inquiry or have placed Jefferson Davis in a subordinate role in the development of government policy. Durden believed that Davis and other Confederate leaders “attempted to force the south to face the desperate alternative of sacrificing one of its war aims - the preservation of slavery - in order to make a last ditch effort to achieve the other - an independent southern nation.”<sup>84</sup> However, his analysis relies too heavily on only a few primary sources without examining the larger archival

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<sup>82</sup> John Hope Franklin, *From Slavery to Freedom: A History of Negro Americans*, 4<sup>th</sup> ed., (New York: Alfred A. Knopf, 1974), p. 221; Quarles, *Negro in the Civil War*, p. 281.

<sup>83</sup> James M. McPherson, *The Battle Cry of Freedom*, (New York: Oxford University Press, 1988), pp. 831-838; Emory M. Thomas, *The Confederate Nation: 1861-1865*, (New York: Harper & Row Publishers, 1979); Eli N. Evans, *Judah P. Benjamin: The Jewish Confederate*, (New York: The Free Press, 1988), pp. 233-234, 279-280, 282-286; Wilfred B. Yearns, *The Confederate Congress*, (Athens: University of Georgia Press, 1960).

<sup>84</sup> Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, (Baton Rouge: Louisiana State University Press, 1972), p. vii.

evidence. Additionally the work in general ignores attempts made by the states to utilize slaves and free blacks in area of labor, support, and defense.

Durden concludes by addressing two questions related to the Confederacy's failure "to achieve an effective and timely change in its own policy." First, he argues that the majority of Confederate authorities knew by 1864 that they were losing the war and to bring black Southerners into the military at this point would have achieved little. Secondly, he maintains that many in the white South could not "force themselves to agree to any tampering with the cornerstone of the Confederacy. In the final analysis, the South as a whole could not summon the intelligence, imagination, and moral courage to begin voluntarily to abandon the peculiar institution."<sup>85</sup>

Ervin L. Jordan in his comparative analysis on slaves and free blacks in both the Union and Confederate armies in Virginia, provides examples of black roles as support staff in Southern forces, but for the most part his book examines their place as military labor.<sup>86</sup> His argument places the state as the initiator in using black Southerners in military roles within the Confederacy, but he provides little explanation of the intricacies of how this developed in the face of planter opposition. The book does succeed in documenting the legislative and regulatory provisions that earmarked slaves and free blacks for specific duties within the states and Confederate government. Although not an exhaustive study of slave and free black use in the military throughout the South, the book succeeds as a comparative examination of the roles black Virginians held, and how their place was perceived and defined by whites. Jordan suggests where the debate lies, and provides the basis from which further research can start. He also discusses Virginia's black pension system through the legislative record, but there is no actual analysis of the pension materials themselves or the information gained from the black pension applications.

To summarize, then, this thesis analyzes three interrelated aspects of black involvement

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<sup>85</sup> Ibid., p. 287.

<sup>86</sup> See, Jordan, *Black Confederates and Afro-Yankees in Civil War Virginia*.

in the Confederate war effort: the nature of African American involvement in the military; the legislative process that shaped blacks' roles as soldiers; and the later campaign to recognize their role as veterans through the provision of state pensions. While building upon, and critically engaging with, the existing scholarly literature on slave and free black participation within the Confederate army, this thesis breaks new ground by contributing to our knowledge and understanding of scale, extent, and precise nature of this participation in the military. It also sheds new light on the nature and process of black impressment through a detailed examination of Confederate conscription policy, placing this evolving policy within the context of the fraught political relationship between the states and the central government. Finally, the thesis charts new scholarly territory in its illumination of the deteriorating conditions of the South's free black community during the war.

### **Chapter Summary**

Chapter one examines the issues of conflict and compromise between the state and Confederate governments in defining a role for slaves and free blacks in the areas of labor, regimental support, and for defense through the legislative policies of military impressment and conscription. The war brought about a legislative change to the restrictive state level antebellum policies which were designed to curtail black autonomy, towards laws necessary for the support and, thereby, the defense of the country as a whole. However, these policies gradually frustrated an already tenuous relationship between national and state authorities and, in turn, created a labor agenda based on contradiction, confrontation, and indifference. The policies of conscription and impressment were designed to bring more whites into the army by removing them from detailed supportive roles, and replacing them with black Southerners. Although at this early stage in the war using black Southerners in combat roles was articulated in many quarters of the Confederacy, officials and planters were not ready to see this as a solution to the growing crisis. Overall, this chapter is only one part of the story, as it explains the relationship between state and Confederate authorities for the period of 1861-1864, and emphasizes the problems of defense and military support with respect to the available resources and manpower.

Chapter two concentrates on state efforts to develop a defense against Union invasion. It examines the structure of state militias and how, in Louisiana for example, both law and custom provided an environment for free black organization of home guards units. In Louisiana, free black Southerners supported their state apparently out of loyalty to the Confederacy but actually out of a more pragmatic, personal loyalty to themselves, their community, their family, and their property. Although slaves and free blacks did take on these defensive roles at varying degrees in other states, the free black populations of Louisiana arguably were the first to take actions that on the surface can be perceived as loyalty to the Confederacy but underneath are much more personal, and complex.

Chapter three returns to the divergence of state versus national policies in the use of slaves and free blacks from 1864-1865. It examines the process through which state and Confederate legislators enacted legislation designed both to conscript more whites for service, and to impress slaves and free blacks as support staff. This culminated in a heightened level of confrontation between the states and Confederate government. Despite this, there was a gradual realization in several of the state governments, as well as in the halls of the Confederate Congress, that there was no choice but to place blacks in combat roles as a measure to halt the encroaching Union armies. However, this idea presented the problem of the level of compensation for black participation in the Confederate military.

Chapter four examines the actual experiences of slaves and free blacks within the Confederate military. The focus here is upon the experiences of black Southerners as critical combat support staff, and how their duties on occasion, placed them on the battlefield. These duties, by implication, and supported through military regulation, later provided them with the necessary support from white veterans to apply for pensions.

Chapter five is an analysis of the development and process of the black veterans pension system spearheaded by the lobbying efforts of white veterans through their societies and publications. It also addresses the essential question of what the black pension scheme tells us about the shift in race thinking taking place in the South at the turn of the century. For many

white Southerners, black pension applications played a significant part in the post war Lost Cause ideology that was expressed at many levels throughout the South. Black pensions provided legislators and proponents with a potent myth of slave and free black fidelity to the Confederacy, reinforcing their belief that the war was not fought over slavery. However, evidence suggests that this ideology was not universally held in the same way. There were undoubtedly two Souths at this time, one of Jim Crow and segregation, and the other as interpreted by the veterans, where within the confines of the reunion hall, their common experience of war and memory intertwined. The second South, less overtly racist than the first, marked white veterans as significantly different in their racial thinking from the rest of the southern white population.

The conclusion ties together the major arguments while placing the larger issue of slave and free black motivational factors into context. The emphasis is on pulling together some of the major issues regarding the development and expression of slave and free black "loyalty" as explored throughout the thesis.



## Chapter One Black Southerners as the Cornerstone of the Military

This chapter examines the conflicting priorities of the Confederate government, state-level authorities, and planters over the military use of black Southerners via the legislative policies of impressment and conscription. The laws enacted during the Civil War set in place the legal structure for the use of slaves and free blacks as military laborers and as support staff. However, these policies gradually accentuated an already tense relationship between national and state officials and, in turn, created a labor situation characterized by contradiction, confrontation, and indifference. Although this was not the single most important factor contributing to overall Confederate failure, the issue of national primacy over the individual states, and in particular the conflict over the use of black Southerners for military purposes, highlights many of the problems endemic to the Confederate project.<sup>1</sup>

In 1861, many planters agreed with Confederate Vice-President Alexander H. Stephens that slavery was the “cornerstone of the Confederacy.” However, many politicians in the newly formed Confederate states saw the maintenance of states’ rights and sovereignty as its mortar.<sup>2</sup> The state governments understood their relationship to the Confederacy under the umbrella of secession, but they also knew that they were answerable to the electorate, as well as responsible for their own defense against the likelihood of Union invasion. As patriotic fervor gave way to harsh reality, those in power, especially at the state level, had to effect compromise while at the same time enforce the law, especially on the legal intent in the use of slaves and free blacks for military purposes. The only riposte many planters could make was strenuous lobbying of state and national authorities for greater protection, care, and compensation concerning their slaves and it was these issues that remained highly contentious throughout the war. Despite the

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<sup>1</sup> James M. McPherson, *The Battle Cry of Freedom*, (New York: Oxford University Press, 1988), pp. 254, 257, 278-284, 432-433; Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South*, (Baton Rouge: Louisiana State University Press, 1988), pp. 1-4, 58-60; See also, William C. Davis, *A Government of Our Own: The Making of the Confederacy*, (Baton Rouge: Louisiana State University Press, 1997).

<sup>2</sup> Alexander H. Stephens, Myrta L. Avary, ed., *Recollections of Alexander H. Stephens*, (Baton Rouge: Louisiana State University Press, 1998), pp. 172-174; Thomas E. Schott, *Alexander H. Stephens of Georgia, A Biography*, (Baton Rouge: Louisiana State University Press, 1988), pp. 332-336.

Union's advance, state legislatures in 1864, under increased pressure from planters, proceeded to annul Confederate impressment and conscription laws in respect of slave and free black Southerners, even though these policies were designed to strengthen the army overall. Planters believed in their rights to profit and property, and sought out state leaders who would help protect these rights. They saw the Confederacy's promises of protection for the state, and for their property, as increasingly hollow, and in turn preferred to ignore the needs of the country in favor of their own economic security.

During the war, the term's conscription, and impressment, were defined by Confederate authorities to identify the intended military purposes for both white draftees as well as black Southerners. Initially, conscription involved the recruitment of whites for military duty as soldiers, while impressment referred exclusively to the use of slaves and free blacks for military labor. Although the states had implemented similar legislation with the start of the war, by 16 April 1862 (the enactment of the first national Conscription Act), the procedure, meaning and implementation of these laws, as they concerned black Southerners, had changed.<sup>3</sup> In addition, the increased need for labor removed many slaves from the vigilant gaze of plantation owners.<sup>4</sup> The purpose of the pre-war laws, as they pertained to both slaves and free blacks, was to control these populations while limiting the chances of revolt and fraternization between the two groups. Confederate authorities in Richmond had established a legislative structure for the policies of impressment and conscription, but their implementation was subject to varying interpretation by the states.

Arguably, the Civil War began when Edmund Ruffin pulled the lanyard that fired the

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<sup>3</sup> The language of the law within the definition of conscription and impressment became interchangeable, especially at the grassroots, as state authorities and military commanders used the words to implement the same objective, whether that was to acquire more blacks for duty as critical combat support staff, or as labor. Current research has not uncovered why this was done, but I suggest that ignorance of the law is not the issue, rather the belief that both terms achieved the same purpose, of infusing the ranks with fresh recruits regardless of color. See, William L. Shaw, "The Confederate Conscription and Exemption Acts," *The Journal of American Legal History*, vol. VI, (1962); Memory F. Mitchell, *Legal Aspects of Conscription and Exemption in North Carolina 1861-1865*, (Chapel Hill. University of North Carolina Press, 1965), and Albert B. Moore, *Conscription and Conflict in the Confederacy*, (Columbia: University of South Carolina Press, 1996).

<sup>4</sup> Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South*, (New York: Pantheon, 1974), pp. 92-103; Judith Kelleher Schafer, *Slavery, the Civil Law, and the Supreme Court of*



first shot at the Federal bastion, Fort Sumter, on 12 April 1861. The resulting cannonade did more than damage the walls of the Union citadel at the entrance to Charleston harbor, or win a symbolic Confederate victory; it ignited a war which had been raging legislatively since the American Revolution and resulted in the end of slavery. In February 1861, the Confederate government had been established at Montgomery Alabama, and Jefferson Davis, its first President, was sworn in. As the war began, thousands of white volunteers enlisted with enthusiasm, and many, especially those with ties to the planter class, brought along their body servants. Largely coerced into their new role, or in rare instances hired out, body servants made up the largest arm of regimental support staff during the war, a classification that would be liberally applied in early versions of state pension legislation.

The interaction between body servants and white soldiers in some ways reflected a continuation of the master-slave relationship, though not for the majority of black Southerners who would be employed in other areas. Despite the restrictions imposed on slaves and free blacks, a few had either felt, or at least exhibited as much enthusiasm for the coming of the war as the whites. Their motives were untypical, but combined a degree of pragmatism with an essential view of themselves as Southerners, and were undoubtedly influenced by the excitement for war that gripped the South.<sup>5</sup> While state-level conscription and impressment laws did generally affect free blacks in 1861, national legislation, at least until 1863, did not. This resulted in occasions where the individuals sold their services directly to the military. In all matters concerning compensation, state, and later national policy was set to remunerate free blacks in Confederate service under the same regulations governing white soldiers, whereas payments for slave laborers were made directly to the owner.<sup>6</sup> As slaves departed for the front,

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*Louisiana*, (Baton Rouge: Louisiana State University Press, 1994), pp. 179, 236-237.

<sup>5</sup> Davis, *A Government of Our Own*, pp. 290, 332-333. Stories of slave and free black support for the Confederacy were prevalent in the print media of the time, North and South. Although several historians have used similar sources, I felt it necessary to acquire the same primary materials so that the newspaper article, or editorial can be read in its entirety. See, New York, *Herald*, 23 February 1861; Montgomery, Alabama, *Weekly Mail*, 19, 24, 26 April 1861; Montgomery, *Weekly Advertiser*, 24 April 1861; Montgomery, *Weekly Montgomery Confederation*, 3 May 1861; Atlanta, *Southern Confederacy*, 11 April 1861; Nashville, *Union & American*, 26 April 1861; Vicksburg, *Daily Evening Citizen*, 6 May 1861.

<sup>6</sup> Confederate regulations regarding pay for black Southerners in supportive roles were legislatively, and procedurally similar, however in general the rate of pay for blacks and whites were different. These

for some the change from master and/or overseer to military authority provided new opportunities as well as problems. Initially, slaves in the Confederate military were under increased restrictions governing their movement, (a leftover of pre-war legislative measures designed for stricter control), but these would be set aside as the realities of war impinged, and the army's ability to enforce them waned. Nearly every aspect of slaves' lives, duties and organization, as well as personal relationships, changed as a result of their induction into the military.

As the war progressed, and more recruits were needed for front line duty, the army looked to black Southerners as replacements for whites who previously had held regimental supportive roles. Blacksmiths, musicians, teamsters, and cooks were but some of the roles which now were filled by black Southerners, and because these positions did not involve combat, there was little concern that their military role threatened on their subordinate status. As the Union's military position strengthened throughout the South, state legislatures increasingly believed that their own defense and economic survival was of greater concern. State authorities proceeded to nullify, or reinterpret, Confederate conscription and impressment laws, as legislators increasingly adopted policies that took into account the needs of the state before those of the nation, even in wartime.

In 1862, the Confederate government sought to confirm through legislation the increasingly common practice of using slaves and free blacks as critical combat support staff. The Confederacy's impressment acts of March, and October 1863, further reinforced the government's actions in this area. For the national government, both logistically and legislatively, labor and support was as far as they could proceed in their use of black

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procedural laws/regulations were concerned with when, where, and how pay was to be administered, irrespective of race. Pay distribution occurred dependent upon the current military situation, and at the discretion of the regimental, or departmental commanding officer. The pay rate was determined by the position held in the military. For example in 1863, colonels in Confederate service were paid \$195, sergeants \$17, and privates \$11 per month. In general the amount of pay fluctuated due to inflation, and in several instances blacks and whites appeared to have been paid equally such as in the case of regimental musicians being paid \$11 per month. See, *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vol. (Washington, D.C.: Government Printing Office, 1904-1905), 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, p. 45; Mark M. Boatner III, *The Civil War Dictionary*, (New York: David McKay Company Inc., 1988), pp. 624-625.

Southerners, without impinging on the sanctity of the South's economic priorities, or violating their racial beliefs. In providing military support, whites now could be released for front line duty, thereby easing the problems of labor shortage and attrition.

The first part of this chapter addresses the process of antebellum laws that directly and indirectly affected mobility and autonomy within the slave system. This is not a comprehensive analysis of slavery in the antebellum era. The purpose is to examine the change that occurred in both state and national legislation with respect to the use of slaves and free blacks during the war, the conflicting nature of that use, and the diverse interpretation of conscription and impressment policy. In addition, the chapter will examine the deteriorating relationship between state, and Confederate authorities for the period of 1861-1864, and how this hindered the development of a cohesive strategy for its prosecution. Here the emphasis is placed on the problems of state defense and military support with respect to the use of available resources and manpower, while chapter two concentrates on the impact and role of black Southerners in addressing these state-level concerns.

### **The Place of Black Southerners, and State Controls**

At the start of the war, planters believed that their wealth, based on the labor of some four million slaves, would continue as the ensuing conflict, however brief, would establish the South as an independent nation, and in turn protect and strengthen its political and economic infrastructure. These beliefs were sustained by both state and federal laws, which had provided the institution of slavery with a highly developed legal base that both maintained and cemented its legitimacy. However, within this legal structure, slaves responded in a variety of ways to plantation life, to their masters, and to the legal and sustaining features of slave society. Historians acknowledge that it took more than laws and court decisions to maintain the "peculiar institution." The isolation of the plantation, its monotony and routine, the threat of the auction block, or the prospect of being owned by a new and possibly severe master was usually sufficient to restrain slaves and maintain order. However, black Southerners also had an

agenda, which ranged from the pragmatic to the violent, and to some degree it is this behavior, exhibited during the war, that is an underlining theme of this thesis.<sup>7</sup>

Resistance to slavery came in many forms: most slaves tried to avoid contact with whites as much as possible by working inconspicuously, while others challenged the plantation regimen directly through work slowdowns, or by the deliberate destruction of the owner's property. The other extreme was slave violence. In 1860, one hundred of the 330 inmates at the Louisiana State Penitentiary were slaves, of whom 79 were convicted of violent crimes

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<sup>7</sup> This chapter is in part an introduction to the social and legislative relationship between slaves, free blacks, and white Southerners in the period slightly before the war. The extensive secondary literature on slavery and the antebellum South was utilized to interpret the developing legislative status of black Southerners, and how these laws were adapted during the war to provide a role for blacks in areas of regimental support. Some of these sources are: James Oakes, *The Ruling Race: A History of American Slaveholders*, (New York: Norton Publishing, 1998); Drew Gilpin Faust, *James Henry Hammond and the Old South: A Design For Mastery*, (Baton Rouge: Louisiana State University Press, 1982); Peter Kolchin, *American Slavery 1619-1877*, (New York: Penguin Books, 1995); John B. Boles, *Black Southerners 1619-1869*, (Lexington: University Press of Kentucky, 1984); Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, (New York, Vintage Books, 1974); Herbert G. Gutman, *The Black Family in Slavery and Freedom, 1750-1925*, (New York: Pantheon Books, 1976). Eugene D. Genovese's *Roll, Jordan, Roll*, is arguably the most controversial, as its focus is on the paternalistic nature of the master slave relationship, a thesis first addressed in his 1969 work, *The World the Slaveholders Made*. See, Eugene D. Genovese, *The World the Slaveholders Made: Two Essays in Interpretation*, (Hanover, New Hampshire: Wesleyan University Press, 1988). Although one could discover similarities between my thesis, and the paternalism as discussed in *Roll, Jordan, Roll*, this work neither supports the specific theories of his supporters, or his detractors, nor does it contribute to the historiography set down by Genovese. There are two reasons for this. First, there are examples of actions taken by black Southerners in their role as regimental support staff that could be perceived as exhibiting a degree of loyalty, or volunteerism towards white owners, which could be defined as paternalistic. Although, these examples are supported in the source material, the stamp of paternalism does not fit, as there is more to the arguments surrounding slave and free black reasoning, and motivational factors behind their role, and it is these issues that are discussed throughout the thesis. Second, there is no specific discussion on the relationship between slaves and/or free blacks with white soldiers within the regimental infrastructure of the Confederate military. The relationship between whites and blacks within the military cannot be simplified as the same as that experienced on the plantation, as the realities of war set down different criteria from which master-slave relations were conducted. See, Genovese, *Roll, Jordan, Roll*, pp. 99-100, 128-133. In addition, for arguments that discuss the controversy and examine the theory of paternalism as expressed in *Roll, Jordan, Roll*, see, Gutman, *The Black Family in Slavery and Freedom*, pp. 309-322; Peter Kolchin, *Unfree Labor: American Slavery and Russian Serfdom*, (Cambridge, Massachusetts: Harvard University Press, 1987), p 132; Christopher Morris, "The Articulation of Two Worlds: The Master-Slave Relationship Reconsidered." *The Journal of American History*, vol. 85, no. 3, (December 1998), pp. 982-1007; Richard H. King, "Marxism and the Slave South." *American Quarterly*, vol. 29, issue 1, (Spring 1977), pp. 117-131; James D. Anderson, "Aunt Jemima in Dialectics: Genovese on Slave Culture." *The Journal of Negro History*, vol. 61, issue 1, (January 1976), pp. 99-114. It is the intention of this thesis to chart new ground, and as such is placed within the developing historiography on free black roles during the war, Confederate governmental policies in defining a role for black Southerners, and on matters of memory, and lost cause ideology in the post war South. See, Berlin, *Slaves Without Masters*; Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, (Baton Rouge: Louisiana State University Press, 1972); David W. Blight, *Race and Reunion: The Civil War in American Memory*, (Cambridge, Massachusetts: Harvard University Press, 2001); Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South*, (New York: Oxford

against whites, 29 for murder, and 4 for poisoning.<sup>8</sup> How slave violence was dealt with depended on the state, for instance newly admitted states like Louisiana, as well as most urban areas tended to depend on the judicial system to mete out punishment. To varying degrees, most rural slave owners would use the magistrate courts for most minor offences, where deliberations were short, and punishments swift. The state superior courts were used with respect to violent crime, where the ideal of equal justice for both white and black defendants defined the planters' notions of moral legitimacy, and benevolence towards their slaves. In those cases where the act of violence had been committed against whites, the sentence usually meant death, as executions were used as a tool by authorities to maintain order amongst black Southerners. Although in general a majority of whites were aware of instances of slave violence, their perceptions were that black Southerners were mostly thieves. In general, the overall number of cases involving slave violence, which reached the judiciary were few, as the majority of crimes, and the punishments, never left the confines of the plantation.<sup>9</sup>

Slaves managed to develop a cohesive culture and society within the boundaries and restrictions set by the slave owner, but this did not allow for overt resistance in a collective or organized way. They attempted to create conditions that they were willing to tolerate while at the same time maintaining their identity in the face of sustained subjugation and manipulation by the white majority. The slave response to servitude was based on a combination of factors which included accommodation to their situation, and varying degrees of resistance whenever possible. Their acquiescence in the relationship to the master enabled them to assert limited rights, as well as set limits on what they were willing to tolerate, which in turn constituted a tacit rejection of the restrictions imposed by slavery. The smooth functioning of the plantation depended largely on the congenial treatment of the resident slave population, which if handled inappropriately, could result in revolt, or personal violence.

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University Press, 1987).

<sup>8</sup> *Report of the Board of Control of the Louisiana Penitentiary to the General Assembly*, [January, 1860], (Baton Rouge, Louisiana. State Printer, 1860), pp. 39-51.

<sup>9</sup> Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19<sup>th</sup> Century American South*, (New York: Oxford University Press, 1984), pp. 131-137.

Somewhere between inconspicuous laborers and those who took a more violent course were those slaves who ran away. Usually this was prompted by an immediate and specific grievance. While many runaway slaves attempted the journey North, most were captured, or returned on their own, which at times resulted in a tenuous agreement with the owner.<sup>10</sup> Usually such agreements with slaves dealt with the issues of better treatment for them and their families, visitation privileges, avoidance of sale, and general hiring arrangements. Yet, the voluntary return of most slaves was less an acknowledgment that they had concluded successful labor negotiations, than in the belief or reality of a successful escape.<sup>11</sup>

Running away, like mass revolts, was not an option to be undertaken lightly. Many slaves would not leave their families behind, and fleeing with them appreciably lessened the already small chance of success. Other obstructions for potential runaways were the state patrols, pass systems, and a general lack of provisions. In parts of the South, the only routes for even temporary escape led through bayous and swamps made all the more hazardous by the deadly wildlife. Not many slaves could swim, and most times were recaptured at the river's edge. Most runaways tended to remain in the general vicinity of their owners, but those who went further a field did so for reasons that reflected why they left rather than where they fled. Examples are varied, but among their motives was the need to find other family members, to gain better employment, or to take on a different identity by mingling with other slaves or free blacks.<sup>12</sup>

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<sup>10</sup> For a further discussion of slave responses and personalities see Ulrich Bonnell Phillips, *American Negro Slavery: A Survey of the Supply, Employment, and Control of Negro Labor as Determined by the Plantation Regime*, (New York: D. Appleton and Company, 1918, reprinted Baton Rouge: Louisiana State University Press, 1966), pp. 303-304, see also John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South*, (New York: Oxford University Press, 1972), pp. 133-153, 184-216.

<sup>11</sup> John Hope Franklin, and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation*, (New York: Oxford University Press, 1999), pp. 104-108.

<sup>12</sup> *Ibid.*, pp. 109-120; During the Civil War increasing numbers of slaves either ran away to Union controlled areas; were conscripted into Federal work details, or, by 1863, joined the Union army. In this capacity, and when ever the possibility afforded itself these former slaves would attempt to return to their former plantations with the objective of freeing their families. For further reading see Ira Berlin, and Leslie S. Rowland, ed., *Families & Freedom: A Documentary History of African-American Kinship in the Civil War Era*, (New York, The New Press, 1997), selected letters pp. 22-50.

A fundamental problem was where they could go to reach freedom, especially in Deep South states like Louisiana: there was simply no place close enough to offer reasonable hope.<sup>13</sup> Most slaves had seen the results of abortive escape attempts: a whipping or the stocks for the fortunate maiming by dogs or death for the unfortunate. Masters assembled slaves to watch the punishment, for it provided a gory lesson on the futility of flight: the cost of failure discouraged many from even attempting to escape. Essentially the same factors pertained to mass revolts and insurrections. The controls, the isolation, the lack of communication, and the cost of failure made the idea a desperate one. Even if initially successful, few escaped the better-armed and better-mounted white population, for freedom was too far away. Every region had its Nat Turner, either in reality or in folklore, but part of the traditional re-telling included the ultimate failure, the whipping, further imprisonment, or death.<sup>14</sup> Knowledge of the past and an understanding of the system convinced most slaves that running away, like revolt, was usually a futile proposition.<sup>15</sup>

As Federal armies made inroads into the southern states, slaves who left the plantation to meet the invaders were also defined as in revolt. During the war there were also instances of slaves committing murder against their owners,<sup>16</sup> but they were either unwilling or unable to instigate the mass revolt that the Union was hoping for and that the Confederacy feared. Significantly, there is no credible evidence to suggest that either slaves or free blacks working as military laborers, or as regimental support staff, had actually instigated any form of mass insurrection. The response of slaves to the war was varied, as it cannot be readily defined or assumed to follow a specific pattern. There are sufficient examples to suggest black fidelity in

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<sup>13</sup> See for example, Solomon Northrup, *Twelve Years a Slave*, ed. Sue Eakin and Joseph Logsdon (Baton Rouge, Louisiana State University Press, 1968), pp. 99-104, 182-85. This work is a discussion on this subject of running away as explained by a former slave from Louisiana.

<sup>14</sup> *Ibid.*, pp. 188-190.

<sup>15</sup> There is a well developed literature on the subject of slave revolts; for related source material as reflective of some of the better known instances see, Kenneth S. Greenberg, ed., *The Confessions of Nat Turner and Related Documents*, (Boston: Bedford Books, 1996); John, Lofton, *Denmark Vesey's Revolt: The Slave Plot That Lit a Fuse to Fort Sumter*, (Kent, Ohio: Kent State University Press, 1983); Peter H. Wood, *Black Majority: Negroes in Colonial South Carolina from 1670 through the Stono Rebellion*, (New York. Alfred A. Knopf, 1974); See also, Genovese, *Roll, Jordan, Roll*, pp. 587-597.

<sup>16</sup> Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War*, (New York: Vintage Books, 1997) pp. 57-58, 59-60.

the face of opportunity, but at the start of the war, slaves, and free blacks within the military were simply better supervised.

Most states in the antebellum South had a system of patrols to assist in the management of slave populations, which was frequently used to enforce the relationship between master and slave. From the start of the secession crisis through to the first battles, the size, frequency of rounds, and responsibility of the patrols was increased. In some areas patrols had to be revived, in others they were organized for the first time.<sup>17</sup> In any case patrols were needed, claimed one planter, because of “convulsive movements in the country, which breed discontent and [which] will tend inevitably to open revolt in the absence of proper restraints.”<sup>18</sup>

In Louisiana for example, parishes were divided into wards and canvassed by patrols made up of at least five men drawn from the white population between the ages of fifteen and fifty. Participation was compulsory, and captains were authorized to call on all citizens if necessary. In some parishes, directors or captains had to be slave owners or sons of slave owners. During each canvass all slave quarters in the ward were visited if not searched. Refusal by a master or overseer to allow access to the cabins was punishable by fines from fifty to five hundred dollars per offense. In Pointe Coupee parish, all slave cabins were numbered and the number of occupants posted in a conspicuous place to aid the patrol.<sup>19</sup> In the weeks following the outbreak of war, police juries enhanced the patrols’ authority by passing new local ordinances, which supplemented the rights of the slave owner and the *Code Noir* in controlling

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<sup>17</sup> Ibid., pp. 617-619; Iberville Parish Police Jury Minutes, 23 July 1859, 14 January, 2 September 1861; Franklin Parish Police Jury Minutes, 5 June 1861; St. Charles Parish Police Jury Minutes, 19 December 1860, 19 May 1862, material obtained in paper copy from Historic New Orleans Collection, Williams Research Center, New Orleans, LA. See also, *Alexandria Constitutional*, 25 May 1861; *Greensburg Imperial*, 16 February 1861.

<sup>18</sup> Franklin Parish Police Jury Minutes, 3 June 1861; Clara Solomon Diary, 5 July 1861, (paper copy), Louisiana State University, Special Collections, (hereafter cited as LSU); A. Heise to Mr. Bowman, 5 July 1862, in Bowman Family Papers, (paper copy), LSU, Special Collections. See also, Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery*, (New York: Alfred A. Knopf, 1979), pp. 28, 54, 113, 119, 219, 235.

<sup>19</sup> Pointe Coupee Parish Police Jury Minutes, 1 May 1861; West Baton Rouge *Sugar Planter*, 6 July 1861; Bienville Parish Police Jury Minutes, 7 January 1862; Caldwell Parish Police Jury Minutes, 10 January 1861, LSU, Special Collections, Baton Rouge, La. See also, Pointe Coupee *Democrat*, 8 June 1861; Opelousas *Patriot*, 15 June 1861.

slaves.<sup>20</sup> According to these laws, “slaves could not go out without a pass, assemble outside the plantation, hold balls or dances on the plantation unless supervised, gamble, watch gambling, loiter, drink alcohol, own or possess a horse with or without . . . consent, tan leather or make shoes, buy, sell or trade on [their] own account, or own a boat, dog, or weapon of any kind.”<sup>21</sup> Whites and free blacks cooperating with a slave in any violation received fines or prison terms. Offending bondsmen received the lash. In theory and in practice the entire black population was under the control of the patrols. Normally, only in capital cases did they need additional authority to inflict punishment.<sup>22</sup>

While patrols also served as home militias, their major function was to control the slave population. However, despite the strengthening of the slave codes and, for some states, a system of patrols that supplemented the legal and sustaining features of bondage, the Civil War in every respect undermined the institution of slavery. These supportive mechanisms could not offset the social and economic disruption that came about with the war, nor could they handle the necessary impressment and conscription of slave laborers by the Confederate government. The Union occupation of vast areas of the South only served to further the disorder of the slave system through an increase of refugee masters, relocation of slave populations further west, and greater numbers of runaway slaves.

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<sup>20</sup> Although police juries were specific to Louisiana, similar systems were implemented throughout the South during the war to strengthen the role of the patrols. Police juries were organized by the parish magistrates' courts and/or justices of the peace, as a legal authority set aside to deal specifically with slave and free black control. To a large extent the police juries took over the role typically held in the antebellum period by the state and, in turn, relieved the burden of slave code enforcement from the courts. Jenny Bourne Wahl, *The Bondsman's Burden: An Economic Analysis of the Common Law of Southern Slavery*, (New York: Cambridge University Press, 1998), p. 112: Louisiana's *Code Noir* was established in 1724 from previous legislative ordinances as the first comprehensive law code set to govern slaves; up to the Civil War the *Code* was subsequently amended to encompass free blacks and its status as a state within the Federal system. See, Schafer, *Slavery, the Civil Law, and the Supreme Court*, pp. 1-4.

<sup>21</sup> See Joe Gray Taylor, *Negro Slavery in Louisiana*, (Baton Rouge: Louisiana State University Press, 1963), Chapter 9; V. Alton Moody, *Slavery on Louisiana Sugar, Plantations*, (New York: A. M. S. Press, 1976), for information on the use and extension of the *Code Noir* during the Civil War. For information on the proceedings of the police jury system in Louisiana see Lafayette Parish Police Jury Minutes, 3 June, and 22 June 1861; West Feliciana Parish Police Jury Minutes, 5 June 1860; Bienville Parish Police Jury Minutes, 6 June 1864; Caddo Parish Police Jury Minutes, 4 June 1861; Iberville Parish Police Jury Minutes, 4 June 1861; West Baton Rouge Parish Police Jury Minutes, 26 April 1861. Material obtained in paper copy from The Historic New Orleans Collection, Williams Research Center; Pass for Ceazar, 19 April 1863, in Ann E. Spears Papers, LSU, Special Collections, Baton Rouge, La.

<sup>22</sup> “Resolutions of the Executive Committee of Trinity Vigilant Association,” [1861], in Moses and

The emphasis on state policies designed to control slaves created other problems as well. Of necessity, slave code enforcement required men and resources which otherwise would have been used by the Confederate military. As early as 1862, discord arose between the individual state governments, the military, and officials in Richmond over conscription and impressment laws, especially where the laws conflicted with states' rights and the protection of their citizens. The Confederacy as a national and military entity would consistently work against itself when it came to supplying its forces with new recruits. For example, the first Conscription Act of 16 April 1862 contained a provision that exempted masters who owned twenty slaves or more. The passage of the "Twenty Negro" law by the Confederate Congress appeased slave owners, but caused resentment among the majority of non-slave-holding whites.<sup>23</sup> Furthermore, the military had its own internal program of service detail, which took men away from the front and placed them for duties that in many cases would be taken up later by black Southerners.<sup>24</sup> Although the states that formed the Confederacy in 1861 did so in part on the premise of the South as a nation, state governments like those of Georgia and North Carolina wrestled over the issues of states' rights and protecting the common folk while providing more men for military service. State governments saw their role, in part, as a safeguard to the liberties of their citizens. Through their use of service detail, they made available exemptions from conscription for state purposes, such as the states' own slave patrol network.<sup>25</sup> However, the lists were susceptible to corruption and favoritism, and generally favored slave owners, as they held the greater interest in the protection of their property as well as the means for exclusion from the draft. To quell resentment amongst poorer whites, state

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St. John Richardson Liddell Papers, LSU, Special Collections, Baton Rouge, LA.

<sup>23</sup> The first Conscription Act made available for military service all white males between the ages of 18 and 35. The "Twenty Negro" law remained in place throughout the war although it was amended slightly on 1 May 1863 to account for the type of work the slaves did the second Conscription Act of 17 February 1864 would bring the ratio of slaves to overseer down to fifteen. For a detailed assessment on the amended legislation see, Moore, *Conscription and Conflict*, pp. 13-14, 73-74, 228-236; David Williams, *Rich Man's War: Class, Caste, and Confederate Defeat in the Lower Chattahoochee Valley*, (Athens: University of Georgia Press, 1998), pp. 129-130.

<sup>24</sup> Moore, *Conscription and Conflict*, pp. 76-78.

<sup>25</sup> Although further conscription legislation would be enacted on 16 February 1864 this only affected those areas still under direct Confederate military control. See Richard E. Beringer, Herman Hattaway, Archer Jones, and William N. Still, Jr., *Why the South Lost the Civil War*, (Athens: University of Georgia

governments incorporated the patrols into the home guards, or state militias. While their role was the protection of the state, the emphasis continued to be placed on slave code enforcement, which only exacerbated the concerns and resentment of the majority of enlisted men throughout the war.<sup>26</sup>

### State Actions for the Mobilization of Black Southerners

As the Confederate government attempted to deal with the problem of recruitment for the military, it implemented policies designed to use slave and free black laborers as a means of releasing more whites for military duty, while at the same time easing the concerns over their potential use as soldiers.<sup>27</sup> For every black Southerner hired or impressed, a white man could be armed and sent to the front. Slaves built fortifications and worked on railroads, in salt works, coalmines, and in hospitals – in virtually every area of military and industrial activity.<sup>28</sup> The

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Press, 1986), pp. 203-208. Moore, *Conscription and Conflict*, pp. 308, 314-315, 317-318, 328-329, 335.

<sup>26</sup> Wahl, *The Bondsman's Burden*, pp. 112-113; Williams, *Rich Man's War*, pp. 47-48, 134-135, 194-195; Moore, *Conscription and Conflict*, pp. 77, 91, 225, 311, 319, 327.

<sup>27</sup> Concerns over how and where to use black Southerners began as early as 1862 with the Federal capture of New Orleans on 25 April, but at that stage whites were not overtly surprised with their use as military laborers. However, as the war progressed and calls for arming blacks became more pronounced, Southerners who feared that this would lead to slave emancipation soon found themselves in the minority as desperation gave way to necessity. For a further examination of the early debate regarding blacks and military service see Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867, Series II, The Black Military Experience*, (Cambridge: Cambridge University Press, 1982), pp. 279-299; Robert F. Durden, *The Gray and the Black: The Confederate on Emancipation*, (Baton Rouge: Louisiana State University Press, 1972), pp. 29-32; Beringer, *Why the South Lost the Civil War*, pp. 368-369.

<sup>28</sup> E. Surget to George Logan, 21 March 1863, located in George Logan Papers, as part of the John Logan Power and Family Papers, 1800-1958, University North Carolina Library, Manuscripts Department, Chapel Hill, NC; George W. Deitzler to John A. Rawlins, 3 February 1863, *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D. C.: Government Printing Office, 1901), series 1, vol. XXIV, no. 1, p. 15; Walter Guion to Bessie E. Guion, 24 January 1862, in Guion Family Papers, University North Carolina Library, Manuscripts Department, Chapel Hill, NC; A. J. H. Duganne, *Camps and Prisons: Twenty Months in the Department of the Gulf*, (New York, 1865), p. 183; *Shreveport News*, 19 July 1864; Receipt, undated, in William Hale Papers, LSU, Special Collections; see also Joe Gray Taylor, "Slavery in Louisiana During the Civil War," *Louisiana History*, vol. VIII, pp. 27-33. For examples of the use of slaves and free blacks as labor in Confederate service see among other sources, James H. Brewer, *The Confederate Negro: Virginia's Craftsmen and Military Laborers, 1861-1865*, (Durham: Duke University Press, 1969); Charles B. Dew, *Ironmaker to the Confederacy: Joseph R. Anderson and the Tredegar Iron Works*, (Richmond: The Library of Virginia, 1999). Slaves impressed under state laws were used in a variety of ways, but always in some way connected to the areas of state defense and/or the military. For example, in Alabama, slaves were used in the manufacturing and hauling of salt, they were employed in the coal pits, and in the building and repairing of railroads. John B. Jones, an employee of the Confederate war department, had written in his diary that he had observed some 2,500 slaves at work building and repairing the Piedmont Railroad at Richmond. See, Walter L. Fleming, *Civil War and Reconstruction in Alabama*, (New York: Columbia University Press, 1905), p. 206; John B. Jones, *A Rebel War Clerk's Diary*, (Baton Rouge: Louisiana State University Press, 1993), p. 183.

percentage of an owner's slaves eligible for impressment varied, but Confederate military authorities held wide discretionary powers concerning the specifics and particulars of the law. As early as the autumn of 1862, acting Confederate Secretary of War, Gustavus A. Smith, directed the commander at Port Hudson, Louisiana to use all the resources at his command to defend his post. For their part, planters were somewhat reluctant to furnish slaves to build fortifications, but all parties generally believed that owners could be called on "to contribute such a number of their slaves as may be needed for the purpose."<sup>29</sup> Two years later, in the area of Louisiana still held by the Confederacy, Governor Henry W. Allen signed an order that all slaves and free blacks between eighteen and fifty years old were to be registered by the State Bureau of Conscription and subject to be called as laborers. Usually no more than one-seventh to one-fifth of the able bodied hands were summoned, although state law provided that one-half the able bodied males (aged eighteen to fifty) could be either conscripted or impressed.<sup>30</sup>

Considerable competition existed in the Confederacy over the use of slave and free black labor, but the government preferred the use of slaves believing them to be the more reliable. Besides the usual duties consistent with plantation life, slaves were subject to calls for work on state projects. Yet, despite extensive payments to planters, some states still had difficulty hiring a sufficient number of hands.<sup>31</sup> The Engineering Corps, the Quartermaster Department, the Transportation Department, the Ordnance Department, and the Cotton Bureau all wanted slave labor, and all made slave requisitions.<sup>32</sup>

State and Confederate governmental officials all realized the potential value of the slave population, and the reluctance of many political leaders to impress the property of its citizens soon changed as the nation was gripped by a war for survival. The various legislative measures

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<sup>29</sup> *Official Records*, J. A. Campbell to W. N. R. Beall, 23 October 1862, series 1, vol. XV, pp. 841-842.

<sup>30</sup> *Shreveport News*, 2 August 1864; *Acts Passed by the Twenty Seventh Legislature of the State of Louisiana in Extra Session at Opelousas, December, 1862-January, 1863*, (Natchitoches, Louisiana: State Printer, 1864), pp. 10-11.

<sup>31</sup> Franklin Parish Police Jury Minutes, 4 June 1861; Caldwell Parish Police Jury Minutes, 10 January 1861; Pointe Coupee Parish Police Jury Minutes, 4 August 1862; Avoyelles Parish Police Jury Minutes, 1 September 1862, LSU, Special Collections.

<sup>32</sup> See for examples, Logan Papers, University North Carolina Library, Manuscripts Department, Chapel Hill, NC, Thomas D. Miller Papers, (paper copy), LSU, Special Collections; *Shreveport News*, 1

at both the national and state level sought to impress the services of slaves and free blacks to supplement and/or replace existing resources to provide more recruits for military service. However, herein lies the overall weakness of the policy. The state's perceived right to exert authority over its black populations and the Confederate congressional and military prerogatives complicated any organized legislative measures, and served only to pit the national and state governments against each other.

In the opening months of the war both state authorities and private individuals employed black Southerners in the building of fortifications and strengthening coastal defenses, even though none of these activities had been authorized through legislative action.<sup>33</sup> Rather, slave owners either brought or sent their slaves along to state authorities for military service. Like many masters throughout the South, they were swept up in the initial patriotic fervor of war.<sup>34</sup> At this early stage in the conflict, however, statistical evidence of the numbers of slaves involved is virtually nonexistent, and at best only anecdotal sources exist to provide any idea as to how many were employed as military laborers. It should be stressed that these slaves are not body servants or regimental support staff, but laborers, as at this stage in the war the belief that the conflict would be of a short duration was at its strongest. There was no real incentive to keep any records, partly because of the optimism whites felt about the war, and because the use of slaves at this time lacked both legislative authority as well as monetary compensation. However, as the war continued, the slaves were exposed to the same dangers as whites. Many suffered from wounds, or died as a result of enemy engagements; still more died from illness that swept through many of the camps, and the enthusiasm of these owners was overtaken by apprehension about the safety of their property. When owners began demanding compensation for both the services of their slaves and for the value of those who died while employed in the

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July 1864, "Wanted 200 able bodied men to work in Ordinance Department."

<sup>33</sup> Charles Wesley, *The Collapse of the Confederacy*, (New York: Russell and Russell, 1968), pp. 144-145.

<sup>34</sup> *Ibid.*, p. 145; Edward Channing, *A History of the United States*, (New York: Macmillan Press, 1905), vol. VI, p. 428; There are also several examples of slave owners suggesting the use of slaves for the Confederate military see Berlin, et. al. ed., *Freedom, Series II, The Black Military Experience*, pp. 282, 283-286.

state's defense, several Southern State legislatures stepped in to determine the conditions under which slaves should be employed. By early 1862, seven states had established laws for the employment of a slave and free black labor force. Meanwhile Confederate authorities in Richmond sat quietly on the issue of determining a place for black Southerners within the regimental infrastructure, allowing for the continued development of state sponsored policies.

Florida, for example, was one of the first states to enact legislation on slave impressment, and in early 1862 gave Governor John Milton authority to impress slaves for military purposes. However, final authority was left to the supremacy of the Confederate Congress, which indicates that Florida had at least some legislators who supported national primacy in the face of state sovereignty. The measure went further to stipulate that slave owners were to be compensated at the rate of twenty five dollars per month for each slave impressed, and they were required to furnish one good suit of clothes for each slave.<sup>35</sup> Issues of slave impressment would be left unattended until 23 March 1863, when the Congress would effectively address the matter.

In June 1862, as Federal troops were marching on Richmond, a resolution was introduced in the Virginia legislature to authorize Governor John Letcher with, "the power to immediately impress slaves to do work deemed necessary for the protection of Richmond for a period not to exceed thirty days."<sup>36</sup> On 3 October 1862, the state of Virginia mirrored Florida's version of its legislation on the impressment of labor for state purposes. However, a further amendment was added that placed a limit on the use of slaves in Virginia's home defense forces for a period not to exceed two months, and the assurance that it was independent of national government action. Compensation was set at a rate of sixteen dollars a month to be paid directly to the owner. The final version of the measure authorized the Governor to call for up to 10,000 slave laborers between the ages of eighteen and forty-five years at any given time for work on fortifications, and in unspecified regimental positions. Owners would still receive

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<sup>35</sup> Florida, *Acts of the General Assembly*, 1862, (Tallahassee, Florida: State Printer, 1863), p. 138.

<sup>36</sup> Virginia, *Journal of the Senate*, 1862, (Richmond, Virginia: State Printer, 1863), p. 157.

compensation at sixteen dollars a month, and slaves were to receive rations and medical care.<sup>37</sup>

In Alabama, slave impressment was authorized on 31 October 1862. The legislation empowered Governor John G. Shorter to obtain, “for purposes of quelling insurrection and repelling invasion, to impress the labor of all male slaves between eighteen and fifty-five years.”<sup>38</sup> Furthermore all tools, implements, wagons, and any other property deemed necessary to make the slave’s labor effective were likewise subject to impressment. Owners who lost slaves due to accident or illness were to be compensated out of a total fund of one million dollars, which was appropriated for that purpose.<sup>39</sup> However, there is no record explaining how the money was to be distributed, or from where the funds were to be obtained.

For slaves, working for the military was often a more difficult life than laboring on the plantation. Houses for impressed, or conscripted laborers at Fort Beauregard at Harrisburg, Louisiana, were sixty to seventy feet long with no ventilation except one door. There were no sanitation facilities, no opportunities for bathing, no clean clothes, and no medical facilities. An irate military surgeon wrote, “at present each Negro had a space of eleven inches wide and six feet long to his share. If this state of things is continued half of these Negroes will die of camp fever.” The evidence suggests that his warnings were accurate, for each day an average of 10 per cent of the slaves were too ill to work.<sup>40</sup> This example was not unusual, for scores of laborers returning from Port Hudson in that spring of 1863 were reported as, “mostly sick and numbers of them have died of pneumonia.”<sup>41</sup>

Planters complained to both military and governmental officials about the quality and quantity of the food, clothing, sanitary conditions and medical treatment given to their slaves, but their greatest concerns related to the physical abuse of slaves by both enlisted men and

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<sup>37</sup> Virginia, *Acts of the General Assembly*, 1862, (Richmond, Virginia: State Printer, 1863), p. 6

<sup>38</sup> Alabama, *Acts of the General Assembly*, 1862, (Montgomery, Alabama State Printer, 1863), pp 37-40.

<sup>39</sup> *Ibid*, p. 40

<sup>40</sup> Payne Madison to George Logan, 16 March 1862, P. M. McKelvy to George Logan, 23 January 1863, and “Weekly Report of Soldiers, Men, and Negroes Working on Fortification at Harrisburg, Louisiana,” from 15 February 1863, all are located in the Logan Papers, University North Carolina Library, Manuscripts Department, Chapel Hill, NC; For other examples of black treatment in Confederate hospitals see Brewer, *The Confederate Negro*, pp. 114-117, 127, 135-136.

<sup>41</sup> Your Brother to Dear Albert, 17 February 1863, in Cummings-Black Family Papers, Tennessee

officers.<sup>42</sup> Field officers were repeatedly cautioned by superiors not to mistreat black laborers, while soldiers were threatened with “severe penalties” for “maltreating, or beating the slaves.” However, enforcement met with mixed success. Louisiana planters in 1862 refused to supply one third of their eligible laborers unless the military met certain conditions: planters would supply overseers to work the slaves and the military would assign a ward in the hospital for the slaves who would be attended by a planter-supplied doctor. Planters were demanding fair and humane treatment for their slaves, which, according to them had not been received by the state in the past.<sup>43</sup> Shortly after this incident, the Louisiana legislature passed a measure that required the state and/or Confederate military authorities, to provide overseers and insure the owners of impressed slaves that, “all things affecting their [the slaves] health and comfort would be maintained.” At the same time, the legislature appropriated \$500,000 “to pay for the hire or loss of slaves by death or otherwise while employed in the state.”<sup>44</sup>

Civil authorities as well as the military hired, impressed, or conscripted slaves, and some free blacks to build fortifications. In November 1862, several Louisiana parishes had organized themselves and combined their resources in an effort to defend the Red River area from possible invasion. The executive committee in charge of the project was mindful of complaints against the military concerning the treatment of slaves when it assured planters that their property would be well cared for. Transportation, food, shelter, medicine, and doctors were provided, and the committee personally guaranteed, “no slave shall be overtaxed or improperly treated.” The civilians offered owners \$25 per month for each slave, which was \$7 more than the army offered, and they, like the military, promised compensation for slaves lost

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State Library and Archives, Nashville, TN.

<sup>42</sup> Aside from the abuses which ranged from lack of food, clothing, proper medical care, and general overwork the main punishment used on conscripted slaves and free blacks was whipping. Planters and the press were of the same mind in their mutual condemnation of the use of the whip by the Confederate military. Two examples of the whipping of slaves and free blacks can be found in the *Daily Richmond Examiner*, 9 January 1862, 10 February 1863.

<sup>43</sup> General Order No. 3. Fort Beauregard, 25 December 1862, Petition and Resolutions of Planters of Morehouse Parish, 2 March 1863, H. M. Polk to George Logan, 11 March 1863, all in Logan Papers, University North Carolina Library, Manuscripts Department, Chapel Hill, NC.

<sup>44</sup> *Acts Passed by the Sixth Legislature of the State of Louisiana at Its Extra Session Held in the City of Shreveport on the 4th of May, 1863*, (Shreveport, Louisiana: State Printer, 1863), pp. 17-19.

through negligence.<sup>45</sup> On 1 January 1863, Louisiana's legislature authorized the impressment of all slaves currently residing in the state for military purposes.<sup>46</sup>

In Mississippi, the legislature authorized that the number of slaves levied "must not exceed one half of all able-bodied slaves between eighteen and fifty years of age," or so many as deemed necessary by state officials.<sup>47</sup> Officers were required first to notify the owners or overseers in writing of "the number and description of the slaves required, the purpose for which, and the place they are to be employed."<sup>48</sup> Owners received rations, clothing, and commutation for each slave, and compensation equal to that of army privates. Protection of slaves was assured by a provision authorizing owners of thirty or more impressed slaves to select an overseer, who would receive two dollars per day from the state.<sup>49</sup>

In addition to state-level legislation, further labor was obtained through temporary measures and by orders from commanders of the state militias. In this way the Georgia legislature was able to sanction the impressment of 2,600 slaves for a period of sixty days in order to help construct fortifications at Savannah.<sup>50</sup> However, Georgia planters obstructed the enactment of a permanent law because they objected to the taking of labor from agricultural pursuits.<sup>51</sup> Georgia's use of slave labor was limited to the commitment of the slave owners to their state in volunteering their slaves.<sup>52</sup>

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<sup>45</sup> Natchitoches *Union*, 27 November, 4 December 1862; Avoyelles Parish Police Jury Minutes, 24 November, 20 December 1862; Caddo Parish Police Jury Minutes, 5 May 1862; Bienville Parish Police Jury Minutes, January 1863, (Exact Date Unknown), LSU, Special Collections.

<sup>46</sup> See, Louisiana, *Acts of the Legislature, Extra Session, 1862-1863*, (Shreveport, Louisiana: State Printer, 1864).

<sup>47</sup> Mississippi, *Laws of the State, 1862-1863*, (Jackson, Mississippi: State Printer, 1864), p. 81.

<sup>48</sup> *Ibid.*, p. 82.

<sup>49</sup> *Ibid.*, p. 86. Confederate army privates by regulation were paid eleven dollars per month in 1863. The following year this figure would be raised to eighteen dollars per month, but no records exist as to whether the compensation offered to owners was changed to reflect the new pay structure. Boatner, *The Civil War Dictionary*, pp. 624-625.

<sup>50</sup> Allen D. Candler, ed., *The Confederate records of the State of Georgia, Compiled and Published under Authority of the Legislature*, 6 vol., (Atlanta, Georgia: C. P. Byrd, State Printer, 1909-1911), vol. II, p. 374.

<sup>51</sup> Georgia, *Journal of the House of Representatives, 1862*, (Macon, Georgia, State Printer, 1863), p. 11.

<sup>52</sup> Frank Moore, ed., *The Rebellion Record: A Diary of American Events*, (New York: G. P. Putnam, 1861-1863; D. Van Nostrand, 1864-68, rep. 1989), vol. XVI, p. 479.

## The Foundation of a National Policy

Before March 1863, the Confederate government did little to adopt an impressment policy that paralleled those of the several states; government officials realized that the impressment of slaves and free blacks meant accepting certain liabilities that would further burden the national treasury. During the first year of the war, therefore, the government simply encouraged patriotic Southerners to volunteer their slaves. The first Confederate law to officially use slaves and free blacks in the army was enacted on 15 April 1862. Regimental and company officers were authorized to employ "colored persons" as army musicians, and those hired would be entitled to the same pay as their white counterparts.<sup>53</sup> A few days later, on 18 April 1862, commanding officers were allowed to enlist at least four cooks for each company who could either be, "white, slave, or a free person of color, providing that slaves were employed only upon the written consent of their masters."<sup>54</sup> Significantly, the bill stated that company cooks should be defined as enlisted personal and listed on the muster rolls with their pay put between twenty and ten dollars a month.

The arbitrary and unofficial military conscription and/or impressment of slaves and free blacks across the South finally compelled the Confederate government to regulate their use by law. However, planters through their state legislators began clamoring for compensation for the value of slaves who had already been lost to them while employed by the Confederate military

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<sup>53</sup> *Journal of the Congress of the Confederate States of America*, 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, p. 45, James M. Matthews, ed., *Public Laws of the Confederate States of America, Passed at the First Session of the First Congress 1862*, (Richmond: R. M. Smith, Printer to Congress, 1862), 15 April 1862, p. 29; *Official Records*, series IV, vol. I, p. 1059. Pay for musicians in the Confederate army was set at eleven dollars per month, which was the same as a private. However, the rate of pay for soldiers was not standardized. At the national level the government borrowed their military pay structure from the pre-war army system, but early in 1861 most state legislatures also paid their troops at a rate often higher than that offered by the Confederacy. See, *Public Acts of the State of Tennessee Passed at the Extra Session of the Thirty Third General Assembly April, 1861*, (Nashville: J. O. Griffith & Company, Public Printers, 1861), "Chapter 3, An Act to Raise, Organize, and Equip a Provisional Force, and for other purposes," passed 6 May 1861, p.28

<sup>54</sup> Throughout the spring of 1862 Confederate Congressional lawmakers debated the issue of how to use slaves and free blacks at the company and regimental level. The introduction of black southerners as teamsters, cook, ammunition tenders, and in all other areas where their services were most suited soon followed. Under the bill to employ slaves and free blacks in the army the pay for a chief cook was set at twenty dollars per month while assistant cooks would receive ten dollars per month. See *Journal of the Congress Confederate States of America*, 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, pp. 113, 118, 145, 152, 174, vol. V, pp. 54, 79, 141-159, 199, 250, 262.

and demanded limits on slave impressment.<sup>55</sup> The Confederate Senate considered such a measure on 12 March 1863, but some Confederate officials, most noticeably Attorney General Thomas H. Watts, opposed assuming responsibility for escaped or injured slaves because of the burden such a measure would place on the treasury.<sup>56</sup> Despite these protests, on 23 March 1863, the first comprehensive Confederate law regulating the impressment of slaves and free blacks was signed into law.<sup>57</sup>

State sovereignty was recognized by ordering that Confederate officers were permitted to impress slaves only in conformance with impressment laws of the individual states. Moreover, impressment was only permitted when slaves could not be hired or procured by the consent of owners or their agents. Slaves laboring on farms exclusively devoted to the production of grains and provisions were exempt from impressment, except in case of urgent necessity.<sup>58</sup>

On 24 October 1863, the Secretary of War, James A. Seddon, amended the act through General Orders that gave the department commanding general, or the officer of Engineers in charge, the power to decide upon the necessity of impressing any slaves and free blacks.<sup>59</sup> They could obtain slaves regardless of state laws, but were required to consult with state governors in those areas where impressments were to occur. District commanders could not take slaves from plantations or farms where there were not more than three of the specified ages, nor could more

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<sup>55</sup> Virginia, *Acts of the General Assembly*, 1862, p. 153.

<sup>56</sup> "Communication From the Secretary of War and the Attorney General," *Journal of the Congress, Confederate States of America*, 21 March 1863, Amendment to the Journal.

<sup>57</sup> The first comprehensive statute on the impressment of slaves and free blacks was passed on 23 March 1863. Subsequent additions were made to strengthen the Act throughout 1864-1865. The impressment of slaves and free blacks for military labor differed from Confederate legislative measures that targeted specific company and regimental positions for blacks, but in general these legislative measures taken as a whole carried the same intent with regard to purpose. The gradual introduction of slaves and free blacks for all military purposes was done with the intent to place more whites for front line service, and to limit substitutions, exemptions, detail, and any other duties which excluded them from battle. *Journal of the Congress, Confederate States of America*, 23 March 1863, 1<sup>st</sup> Congress, 3<sup>rd</sup> Session, vol. III, p. 191; *Official Records*, series IV, vol. II, pp. 897-898; Wesley, *The Collapse of the Confederacy*, p. 147-151.

<sup>58</sup> *Journal of the Congress, Confederate States of America*, 23 March 1863, 1<sup>st</sup> Congress, 3<sup>rd</sup> Session, vol. III, p. 191.

<sup>59</sup> R. H. P. Robinson, *General Orders from the Adjutant and Inspector General's Office, Confederate States Army, for the year 1863*, General Orders No. 138, 24 October 1863, (Richmond: A. Morris Publisher, 1864), pp. 190-192, Orders authorized by Adjutant General Samuel Cooper; Moore,

than 5 per cent of the slaves from any one county be, impressed. Though the ordinary period of impressment was sixty days, slave owners who delayed in sending their slaves for five days or more without a reasonable excuse would have his slaves held for an additional thirty days. Owners were allowed to appoint overseers to watch their property, but all day-to-day operations would be under the direct control of military commanders. The pay for both slaves and free black laborers was fixed initially at twenty dollars a month, but this later was reduced to fifteen dollars.<sup>60</sup>

State lawmakers were quick to contest the use of General Orders because they perceived that military commanders made labor acquisitions arbitrarily within the counties of a state. Virginia's Governor Letcher for example, argued that, in some cases, "while five per cent of slaves are called for in one county in other counties less than five per cent of the slaves are impressed."<sup>61</sup> An audit of slave and free black impressment in six Virginia counties in 1864 showed that counties containing more slaves had smaller quotas while counties with fewer slaves had the greater burden of supplying military laborers.<sup>62</sup> It was discrepancies like these, which persuaded state governments to enact new legislation to correct them.<sup>63</sup>

Because of problems of enforcement, fairness, and the general fears of planters, both the March and October impressment acts failed to furnish the Confederate military with the slave labor deemed necessary for public defense.<sup>64</sup> On 7 December 1863, President Jefferson Davis in his message to Congress hinted at these defects while requesting further legislation to

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ed., *The Rebellion Record*, vol. VII, pp. 574-575.

<sup>60</sup> Ibid., p. 575; *Official Records*, series IV, vol. II, pp. 897-898. Although the Confederate government made payments directly to free blacks, payment for slave laborers was made to the owner in Confederate scrip. As the war continued another reason why owners and free blacks were reluctant to lend their services to the government was the devaluation of Confederate money.

<sup>61</sup> Message to the Legislature, 3 September 1863, Virginia, *Journal of the Senate, Extra Session*, 1863, (Richmond, Virginia: State Printer, 1864), pp. 12-13.

<sup>62</sup> Virginia, *Journal of the Senate*, 1864, (Richmond, Virginia: State Printer, 1864), pp. 5-7.

<sup>63</sup> There are several examples located in this chapter of state legislative amendments to existing Confederate impressment laws. Others states are Alabama, *Joint Resolutions of the General Assembly of the State of Alabama, in relation to Impressments and the Schedule of Prices Fixed by Confederate Commissioners*, 29 November 1864, South Carolina Historical Society, folder no, CR 491 DKE, Charleston, SC; Virginia, *Resolution, Passed by the General Assembly of the State of Virginia, in Relation to the Confederate Impressment Laws*, 24 February 1865, South Carolina Historical Society, folder no, CR 222, Charleston, SC.

<sup>64</sup> James D. Richardson, ed., *A Compilation of the Messages and Papers of the Confederacy*,

employ more slaves and free blacks as teamsters, cooks, and nurses, and in “any other service for which the Negro may be found competent.”<sup>65</sup> However, the problems continued as both owners and state legislators emphasized that slaves were needed for agriculture, and army service took them away from this necessary role.

On 17 February 1864, President Davis signed an amended act which provided that the Secretary of War would be authorized to employ up to 20,000 slaves and free blacks between the ages of eighteen to fifty for military purposes.<sup>66</sup> The new legislation aimed to improve the efficiency of the army by employing slaves, and/or free blacks in any way in which they could be utilized to their best advantage. Slaves employed under this act earned “such wages as may be agreed upon, and were entitled to proper rations and clothing.”<sup>67</sup> A further provision was made assuring planters compensation for the full value of those slaves who were captured, injured, ran away, were killed in battle, died in the performance of their duties, or contracted disease while employed in Confederate service. Owners were also allowed to keep at least one male slave at home, while an equal quota of slaves from all owners was guaranteed to ensure fairness, with payment in line with that of privates in the ranks.<sup>68</sup>

In an attempt to address weaknesses still persistent in the law, especially in the area of acquisition, the Adjutant General Samuel Cooper issued General Order 86 on 5 December 1864. This order, detailed that where fifty slaves and/or free blacks were present: “discreet men detailed from reserve forces were to escort them to a designated engineer officer who was to organize them into [larger] gangs of 100 men each, (selecting four of the number as foremen), over whom will be placed a manager and two overseers. Every eight gangs will constitute a section, for which a superintendent will be selected. These sections will compose of a force,

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(Nashville: United States Publishing Company, 1906, in 2 vol., reprint 1998), pp. 567-584.

<sup>65</sup> *Ibid.*, pp. 534-535.

<sup>66</sup> *Official Records*, series IV, vol. III, p. 208.

<sup>67</sup> *Ibid.*; *Public Laws of the Confederate States of America Passed by the Fourth Session of the First Congress: 1863-1864*, (Richmond: R. M. Smith, Printer to the Congress, 1864), pp. 235-236.

<sup>68</sup> *Ibid.*; *Official Records*, series IV, vol. III, p. 716. The pay for a Confederate private at this time was set at eleven dollars per month.

over which will be placed a director.”<sup>69</sup> Commanding officers in charge were to be experienced in managing slaves, and were responsible for acquiring any necessary purveyors, clerks, and medical officers as well as providing a cost appraisal for any slave laborer that was deemed a loss to the owner.<sup>70</sup>

This measure proved hardly more helpful than its predecessor because by 1864, the government had neither the money nor the officers “experienced in managing slaves.” In addition, planters remained reluctant to furnish their slaves, and used every means possible to avoid doing so. President Davis admitted the failure with the current legislation, and requested additional measures aimed at employing a further forty thousand slaves and free blacks as army laborers.<sup>71</sup> In anticipation of this new levy, Major General Jeremy Francis Gilmer drew up an elaborate plan for their organization and employment. General Robert E. Lee commended the plan, adding that the chosen overseers should be “men of probity, energy, and intelligence to insure proper and kind treatment to the Negro.”<sup>72</sup> Despite numerous orders by military authorities, the forty thousand slaves could not be levied, mainly because Union invasion forces throughout the South made such an undertaking virtually impossible.<sup>73</sup>

Confederate attempts to secure slaves for the military were far less successful than by the state governments’ efforts to impress laborers for defense and subsistence. Moreover, this single policy evoked more criticism, both internally and externally within the government, and caused more dissatisfaction among the citizenry than any other measure pursued by the Confederacy during the war.

#### **States and Planters Respond: Compensation or Nullification**

By the end of 1864, protests centered on the government’s policy of military impressment and conscription of black Southerners as both legislators and planters believed that it contradicted the basic principles of state’s rights and conflicted with the need for slaves to

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<sup>69</sup> *Official Records*, series IV, vol. III, pp. 897-899.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*, p. 831.

<sup>72</sup> *Ibid.*, p. 839.

<sup>73</sup> *Ibid.*, p. 1138. Under this act (11 March 1865) the monthly earnings of slaves and free blacks were

maintain the agricultural economy and essential food production.<sup>74</sup> General Howell Cobb, commander of Georgia's home guard, vehemently protested the removal of slaves from the land, complaining that General Hugh Weedon Mercer, was:

Impressing Negroes to complete the fortifications at Savannah, [Mercer] is going to the plantations where our planters give up their cotton to raise corn and provisions for the army and country, and he [the slave] goes just at the time when they [planters] are saving their fodder, and all hands are required. Our planters very naturally say that we ought to take Negroes working on railroads accustomed to such work, and besides, the railroads can wait. Corn and fodder cannot wait.<sup>75</sup>

Throughout the war, contradictions over state prerogatives versus those of the government and public sentiment affected the enforcement and procurement of slaves for the military.<sup>76</sup>

In Virginia, William Gordon, Clerk of the House of Delegates, protested in the Governor's name against the proposed acts requisitioning slave laborers: "If carried out," he wrote, "they would seriously interfere with the farming productions of the state."<sup>77</sup> State legislators endorsed the letter, and requested that Governor William "Extra Billy" Smith, ask for the release of the state's slaves so that Virginia's agriculture might be revived. Secretary of War Seddon, in a letter to Smith, dated 20 February 1864, took the position that, "the importance of completing the works for the defense of the Capital [Richmond] is great... The present, too, is believed to be the season of the year when most conveniently and with least sacrifice to the planting interests can slaves be spared. Later, when the planting season commences, and the

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increased from \$11.00 per month to \$60.00.

<sup>74</sup> Wesley, *The Collapse of the Confederacy*, p. 149; Harrison A. Trexler, "The Opposition of Planters to the Employment of Slaves as Laborers by the Confederacy," *The Mississippi Valley Historical Review*, vol. XXVII, no. 2, (September 1940), pp. 211, 218; Channing, *A History of the United States*, vol. VI, p. 428; *Official Records*, series I, vol. IV, p. 636, vol. XXVIII, pt. 2, p. 151, vol. XLII, pt. 2, p. 1260, vol. XLVIII, pt. 2, p. 1264, vol. XXXII, pt. 3, pp. 763-765.

<sup>75</sup> *Official Records*, Howell Cobb to Secretary of War George W. Randolph 15 August 1862, series IV, vol. II, pp. 36, 296.

<sup>76</sup> Examples of both the conflict in needs and opposition to the impressment of slaves and free blacks can be found in Clarence L. Mohr, *On the Threshold of Freedom: Master and Slaves in Civil War Georgia*, (Athens: University of Georgia Press, 1986), pp. 162, 214-216; Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867 Series I Volume 1, The Destruction of Slavery*, (New York: Cambridge University Press, 1985), pp. 760-762, 764-765; Trexler, "The Opposition of Planters to the Employment of Slaves as Laborers by the Confederacy," pp. 211-224. Confederate industries from salt mining to armament manufacturing also sought out slave and free black labor. See Brewer, *The Confederate Negro*, pp. 48-52, 131-164; Dew, *Ironmaker to the Confederacy*, pp. 22-32, 250-264.

laboring slaves are much more needed... [the War Department would] arrange its calls as to liberate most or all the laborers by that more important season."<sup>78</sup> State governments could not grasp that the interests of the nation served the states as well, and despite the Federal army's presence throughout the South, legislatures in North Carolina, Georgia, and Louisiana, for example, believed that their needs superseded those of the nation.

Planters also protested the negligence of Confederate officers concerning their slave property. Frequently, Union forces took in large numbers of slaves because the Confederate commanders failed to remove them to places of safety. In 1864, the Virginia counties of Carolina and Spotsylvania lost approximately one half of their total slave population in this way.<sup>79</sup> Planters believed that they sustained greater losses through this type of negligence than through the destruction of cotton or other kinds of property. Virginia's loss, "at a moderate valuation, equaled approximately \$45,000,000," and such huge losses as these thoroughly impoverished whole communities in some states.<sup>80</sup>

Confederate impressment legislation required owners to yield a certain proportion of their slave property, carried provisions for compensation for the services of such slaves and for the value of those who were lost to their owners.<sup>81</sup> However, actually collecting the authorized compensation was quite a different matter. Conditions in the South, and the Confederate government in particular, hindered the prompt full payment of such claims. Typical was the case of Mary Clark of Alexandria County, Virginia.<sup>82</sup> The claimant petitioned for compensation for a slave impressed under Confederate authority who had died from a disease contracted while under army employ. Affidavits by both the overseer, who accompanied the slave detachment from Alexandria, and the physicians who had attended the slave, attributed the

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<sup>77</sup> *Official Records*, series IV, vol. III, p. 162.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Virginia, Journal of the Senate*, 1862, p. 251.

<sup>80</sup> *Ibid.*, *Virginia, Journal of the Senate, Extra Session*, 1862-1863, (Richmond, Virginia: State Printer, 1864), p. 19.

<sup>81</sup> *Public Laws of the Confederate States of America Passed by the Fourth Session of the First Congress: 1863-1864*, (Richmond: R. M. Smith, Printer to Congress, 1864), pp. 235-236. The Act of 17 February 1864 had set aside \$3,800,00 for compensation to slave owners. See also, *Official Records*, series IV, vol. III, p. 139.

<sup>82</sup> "Congress, Report of the Committee of Claims in the Case of Mary Clark," *Journal of the*

cause of death to the actions of Confederate army officers.<sup>83</sup> The Committee considering the petition had reason to believe: "that there is a large number of claims of this description; and that any attempt to adjust them, on the part of Congress, would necessarily lead to a great embarrassment and confusion, and that the remedy of those aggrieved, is to be sought from state authorities".<sup>84</sup> Thereupon the Committee asked to be, and later was, discharged from further consideration of the petition. Since the government of Virginia held the Confederate government liable for such losses, the claimant was denied compensation from the state. In general, Confederate Congressional reports did not mention by name the officer whose actions led to the death or injury of slaves unless the evidence was so compelling as to bring about court martial proceedings. After 1864, slave abuses perpetrated by the Confederate army became harder to track and prosecute.<sup>85</sup>

Congress realized the danger in establishing a precedent for subsequent claims for the loss of slaves. The Confederate Treasury Department believed that \$500,000 would be needed to meet current and future claims for the loss of slaves impressed in the state of Virginia alone. Based on this and other evaluations a congressional sub-committee estimated that at an average price of \$15 for each slave, a sum of \$3,108,000,000 would be required to meet the claims of all the Southern states.<sup>86</sup>

The state governments supported their citizens in claims against the Confederate government. Louisiana requested its Representatives in the Confederate Congress to "urge upon the Confederate government the necessity of auditing and paying the claims of its citizens."<sup>87</sup> Alabama conceded the right of the central government to impress the property of its citizens, but the right should be exercised with just compensation to the full value of such property.<sup>88</sup>

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*Congress, Confederate States of America*, 17 December 1863, Amendment to Journal.

<sup>83</sup> *Ibid.*, The overseer reported that the slave had been constantly employed in digging ditches, often standing in stagnant water.

<sup>84</sup> *Ibid.*

<sup>85</sup> Trexler, "The Opposition of Planters to the Employment of Slaves as Laborers by the Confederacy," pp. 217-219.

<sup>86</sup> "Communication on the Secretary of War," *Journal of the Congress, Confederate States of America*, 28 January 1864, Amendment to the Journal.

<sup>87</sup> Louisiana, *Acts of the Legislature*, 1864, (Shreveport, Louisiana: State Printer, 1864), p. 34.

<sup>88</sup> See, Alabama, *General Assembly, Joint Resolution, Extra Session*, 1864, (Montgomery, Alabama:

The Alabama General Assembly requested immediate payment of compensation in certificates, which were receivable in payment of public debts.<sup>89</sup>

As early as 1863, Virginia's Governor John Letcher had pointed out the necessity of making immediate payment to those who had lost slaves through the action of Confederate authorities.<sup>90</sup> Many cases of peculiar hardship arose from the loss of slaves in Virginia. Owners protested because they had not received the value as provided for under Confederate legislation, and in many cases the slave lost by the owner was one capable of farm work.<sup>91</sup>

Generally, the claims of planters against the state governments were more readily adjusted than slave-owners had against the Confederate government. For example, the South Carolina legislature passed a resolution on 28 January 1863 granting compensation to petitioners who had lost slaves under the impressment acts of the state.<sup>92</sup> It was the Assembly's opinion that the state government "should compensate the owners of slaves taken by authority of the state for the public service."<sup>93</sup> The resolution covered nineteen separate petitions, which had been presented in the 1862-1863 session. The following year, all claims suspended by the State Auditor were "immediately recommitted and allowed with a fair and just compensation, based upon appraisements made under the laws of the state."<sup>94</sup>

Various states responded to the Confederate government policy on impressment and conscription by refusing to send slaves, and enacting legislation in opposition, or by improving their states own impressment policy. Significant complaints against Confederate military impressment were the ill treatment of slaves and the inequality of apportioning the several levies among the states. Governor Zebulon B. Vance of North Carolina was perhaps the most

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State Printer, 1865).

<sup>89</sup> Ibid.

<sup>90</sup> Message to the Virginia Legislature, 7 September 1863, *Journal of the Senate, Extra Session*, 1863, p. 13.

<sup>91</sup> Ibid.

<sup>92</sup> South Carolina, *Journal of the Senate*, 1862-1863, (Columbia, South Carolina, State Printer, 1863), p. 179

<sup>93</sup> Ibid., p. 180. Throughout this chapter there are several examples of state governments within the Confederacy that took it upon themselves to grant compensation to slave owners whose slaves either died, were injured, or had run away in the service of the state. For an example of this legislation see Alabama, *Joint Resolutions of the General Assembly*, 29 November 1864.

<sup>94</sup> Ibid., General Assembly, Reports and Resolutions, 1864, p. 74.

vehement opponent of the national government. Shortly after the middle of June 1863, Vance refused to furnish the slaves asked for because “he didn’t feel justified in supplying the labor.”<sup>95</sup> He recognized the importance of the labor, but did not feel that North Carolina should be called upon for a further sacrifice of slaves.<sup>96</sup> Furthermore, in 1864 he enacted a resolution against the ill treatment of slaves conscripted for military purposes.<sup>97</sup> Rumors and statements were constantly arriving suggesting that: “the slaves conscripted and assigned to labor on work at or near Wilmington are treated with great cruelty and inhumanity being overworked, almost starved, not half clad, and lodged without shelter.”<sup>98</sup>

Virginia brought in legislation in early 1862, which made unauthorized impressment a misdemeanor and subjected the violator to a fine double the value of the impressed slave.<sup>99</sup> The government of Mississippi was requested to protect the “people of the state from the illegal pressing of slaves by Confederate officers.”<sup>100</sup> In 1863, the Florida legislature prohibited slave impressment by the military without proper authority as it was seen as “oppressive in its result and destructive to the rights of citizens and the Government.”<sup>101</sup> In Louisiana Confederate officers responsible for the impressment of slaves were subject to a fine of one hundred to five thousand dollars, and/or a prison term from thirty days to six months, but few if any were charged.<sup>102</sup>

In November 1863, Governor Milledge L. Bonham, in a message to the South Carolina legislature advised its members to adopt measures geared to provide slave labor for the building of fortifications along the coast.<sup>103</sup> Bonham agreed with both state and Confederate

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<sup>95</sup> *Official Records*, series IV, vol. II, pp. 385-386.

<sup>96</sup> *Ibid.*, series IV, vol. III, p. 993.

<sup>97</sup> North Carolina, *Journal of the Senate, 1864-1865*, (Raleigh, North Carolina, State Printer, 1866), p. 148.

<sup>98</sup> *Ibid.*, p. 994.

<sup>99</sup> Virginia, *Acts of the General Assembly, Extra Session, 1862*, (Richmond, Virginia: State Printer, 1863), p. 14.

<sup>100</sup> Mississippi, *Laws of the State, 1862-1863*, p. 226.

<sup>101</sup> Florida, *Acts of the General Assembly, 1863*, (Tallahassee, Florida: State Printer, 1863), p. 33.

<sup>102</sup> Louisiana, *Acts of the Legislature, 1864*, p. 18.

<sup>103</sup> A state rights moderate, Governor Bonham sought strike a balance between sustaining Confederate authorities and seeing to the proper defense of the state. South Carolina, *Message No. 1 of His Excellency M. L. Bonham, to the Legislature at the Regular Session of November, 1863*, (Columbia, South Carolina: Charles P. Pelham, State Printer, 1863), 23 November 1863, p. 4.; Throughout his

impressment officials that laws imposing penalties to insure its compliance by slave owners would not secure either equality or success. Although believing that the patriotic master would send his slaves, the Governor felt that many would rather pay a fine, if not too heavy, or appeal through the courts, than run the risk of losing their property either through mistreatment or escape.<sup>104</sup> The response of lawmakers was not exactly what Bonham had imagined, as the subsequent legislation only provided for a temporary arrangement, which authorized sheriffs and/or state road commissioners to raise a levy of slaves for a period of thirty days.<sup>105</sup> In the autumn of 1864, the South Carolina legislature amended this law so as to impress only those slaves who might be “difficult to manage at home, where [white] women and children are for the most part, left alone.” However, this achieved little in meeting the labor needs of the state.<sup>106</sup> This failure to enforce slave impressment was not the fault of planters alone, but was also the result of an increasing effort by South Carolina’s lawmakers to defy openly the requirements of the Confederacy in general, and the Davis administration in particular. Although the majority of legislators in the state were also planters, by 1864 their attitude to the Confederacy was far more complicated than resentment over national demands on slave impressment. As the state faced Union invasion from coastal areas, the constant naval bombardment of Charleston, and the threat of General William T. Sherman, they felt the Confederacy was ignoring their concerns.

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administration, Governor Bonham consistently reminded the state legislature of the needs of the Confederacy and the state as they relate to slave and free black labor. See South Carolina, *Message No. 1 of His Excellency M. L. Bonham, to the Legislature at the Extra Session of April, 1863*, (Columbia, South Carolina: Charles P. Pelham, State Printer, 1863), 3 April 1863, p. 6; W. Buck Yearns, ed., *The Confederate Governors*, (Athens: University of Georgia Press, 1985), pp. 175, 177, 179.

<sup>104</sup> *Message No. 1, November 1863*, pp. 4-5 In this messages to the legislature Governor Bonham refers to slave and free black labor as “Road Hands.” He provides no reason for his use of this term nor do any of the state records for the period 1862-1864 offer any further information.

<sup>105</sup> South Carolina, *Statutes at Large*, 1863, (Columbia, South Carolina, State Printer, 1863), p. 108, Although the legislature did act on Governor Bonham’s suggestions, the new law still left loop holes that allowed planters in most cases to hold onto their slaves. Planters claimed that their slaves were being mistreated, and in general the law was not well enforced as public opinion was against it. See *Edgefield Advertiser*, 4 March 1863; *Charleston Mercury*, 12 December 1864.

<sup>106</sup> South Carolina, *Acts of the General Assembly, 1862-1864*, (Columbia, South Carolina, State Printer, 1865), pp 28-29

With the election of Andrew G. Magrath as Governor on 14 December 1864, many in the South Carolina legislature found an ally.<sup>107</sup> By 23 December 1864 they had nullified the Confederate government's impressment policy, and replaced it with a law of their own.<sup>108</sup> Now only one-tenth of the slave and free black population were subject to impressment and they could not be sent out of the state. Their rate of pay would be assessed at eleven dollars per month, and they could be retained for a period of twelve months. However, owners could substitute a slave every three months.<sup>109</sup> Those levied and employed in the state could be withdrawn every four months, but in all instances the state, and not the Confederate government, retained authority over its impressed slave and free black populations.<sup>110</sup> Nevertheless, during the last six months of the war the supply of slave laborers from South Carolina ceased.

In the end, the problems of state sovereignty, the concerns of planters, and the demands of the Confederate government and military for slave and free black labor were counterproductive, contradictory, and immense. The war brought with it sacrifices that planters were unwilling to make without just compensation, even in the face of an increased Union presence. All these factors contributed to the breakdown of the slave system, and benefited neither the government nor the planters. The military used slaves in limited ways as established by the Confederate government; the potential of unlimited usage was never fully realized.

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<sup>107</sup> Governor Magrath was a state's rights advocate who by late 1864 was in complete harmony with the legislature's anti-Confederate attitude. In his inaugural address of 19 December 1864, while declaring the Confederate system to be the political ideal, he stated that if the Confederacy was unable to defend the state then South Carolina must do it for itself. He went further to protest the practice of the Confederate government in the exercise of arbitrary slave impressment. Although the address was apparently deferential to the Confederate Government, it mirrored the determination of the legislature which had elected him to continue the war and to contest the perceived expanding prerogatives assumed by the Davis administration. *Columbia Tri-Weekly South Carolinian*, 20 December 1864; *Charleston Daily Courier*, 21 December 1864; See also, Yearns, ed., *The Confederate Governors*, pp. 180, 182.

<sup>108</sup> *Official Records*, series I, vol. XLIV, pp. 981-984, series IV, vol. III, pp. 963, 979.

<sup>109</sup> South Carolina, *Acts of the General Assembly*, 1862-1864, pp. 244-247.

<sup>110</sup> *Ibid.*; *Official Records*, series IV, vol. III, p. 964. See also, Frank L. Owsley, *King Cotton Diplomacy: Foreign Relations of the Confederate States of America*, (Chicago: University of Chicago Press, 1931), p. 258.

## Free Persons of Color on the Eve of War

As the war approached, another area for concern for white Southerners was the issue of the South's free black populations. Many were apprehensive that these black Southerners would seek equality, or question white domination. Maintenance of Southern institutions, therefore, depended upon the ability of the South to control this population as well as to unleash its potential for the benefit of the Confederate war effort.

According to the 1860 census, the population of free blacks residing in the eleven Southern states, which made up the Confederacy, totaled roughly 182,660.<sup>111</sup> Virginia led with the largest free black population, followed by North Carolina, Louisiana, South Carolina, and Tennessee respectively. However, as with the census data for slaves during the war, fluctuations also occurred in the free black population. The previous decade had witnessed a concerted legislative effort throughout the South to curb this perceived threat to slavery, but during the war the movement of refugees, runaways, and further laws all had a part in the displacement of free black southerners. In Virginia, for example, the free black population increased from 54,030 in 1850 to 58,042 in 1860 representing an increase of 7.43 per cent. However, by the second year of the war, this sector of the population had decreased to 48,626 of which only 9,272 or 19.07 per cent were males over the age of twenty-one.<sup>112</sup> In 1861, the Virginia legislature imposed a poll tax on its free black citizenry as part of its war revenue bill, and of those assessed, 3,328 free blacks were charged with delinquency in payment of the tax, which amounted to \$2,702 dollars in lost state revenue. The figures show that the majority of free blacks were able to pay<sup>113</sup> and in 1862, the state raised the tax from eighty cents to \$1.25, which at the end of the fiscal year amounted to \$11,500 in extra funds to the public treasury.<sup>114</sup> The Southern states

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<sup>111</sup> United States Bureau of the Census, *Eighth Census, Population of the United States in 1860*, (Washington D. C.: Government Printing Office, 1864), pp. 173, 598-604; Berlin, *Slaves Without Masters*, pp. 135-137.

<sup>112</sup> Virginia, *Documents Bearing on Conditions During the Civil War, 1861-1862*, (Richmond, Virginia: State Printer, 1863), p. 75. Such a dramatic decrease was due to a combination of factors which included legislative measures as well as pressure from planters, which discouraged emancipation and/or manumission of slaves.

<sup>113</sup> *Ibid.*

<sup>114</sup> The total is added for the state's 1863 fiscal year report to the legislature. Free blacks in Virginia were required by law to pay all local and state taxes or face being returned to slavery, and by 1861 every

sought to control these people by both intimidation and by legislative measures, which initially varied but were gradually made more uniform.<sup>115</sup> Plantation owners believed that free blacks corrupted the natural order of slavery, giving slaves the impression that there was something beyond bondage. Some states encouraged the formation of “vigilance societies” and the enrollment of “minute men” to repress what few liberties these freed blacks had,<sup>116</sup> they are reported to have enforced the law with a “ferocity worthy of the calmest days of the Reign of Terror.”<sup>117</sup>

Throughout the late 1850s, apprehension in many states over the effectiveness of these suppressive policies resulted in attempts to clear the slave states of their free black populations by re-enslavement. In 1859, Arkansas set a legal precedent that moved other Southern states to debate similar measures for re-enslavement, though not all of these proposals met with the same success.<sup>118</sup> Although this idea continued at the state level into the early war period, the conflict soon changed their priorities. The laws generally provided free black Southerners with the option of leaving their state, or staying while being subject to seizure, hired out, or either selling themselves, or being sold into slavery.<sup>119</sup> Governor Robert C. Wickliffe informed the General Assembly of Louisiana in 1860 that the act “to prevent the migration of free blacks from other states into this State, though zealously enforced, had not accomplished its objective,” and in conclusion recommended additional powers to strengthen existing legislation.<sup>120</sup> The legislature

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state in the Confederacy had a similar taxation law on the books. Virginia, *The Code of Virginia, 2<sup>nd</sup> edition, Including Legislation to the year 1860, Published Pursuant to Law*, (Richmond: William F. Ritchie, Dunnavant & Co., Public Printers, 1860), pp. 508-513; Tipton R. Snavely, *The Taxation of Negroes in Virginia*, (Charlottesville, Virginia: The Michie Company, Printers, 1916), pp. 10-15; Virginia, *Acts of The General Assembly, 1861-1862*, p. 41; Auditors Supplement Report for 1863, in *Acts of the General Assembly, 1863*.

<sup>115</sup> Berlin, *Slaves Without Masters*, p. 317.

<sup>116</sup> Joseph H. Allen, “Africans in America and Their New Guardians,” *Christian Examiner*, vol. LXXIII, (1872), p.103.

<sup>117</sup> *Ibid.*

<sup>118</sup> Michael P. Johnson, and James L. Roark, *Black Masters: A Free Family of Color in the Old South*, (New York: W. W. Norton, 1984), pp. 164-167; Berlin, *Slaves Without Masters*, pp. 372-375; For an example where measures to enslave free blacks failed see Mohr, *On the Threshold of Freedom*, pp. 337-338

<sup>119</sup> J. Arthur Partridge, *The False Nation and Its Bases*, (London: E. Stanford Press, 1864), pp. 20-21.

<sup>120</sup> Message to the General Assembly, January 18, 1860, Louisiana, *Journal of the House of Representatives*, 1860, (Baton Rouge, Louisiana: State Printer, 1860), p. 8.

of South Carolina considered a bill in December 1861 allowing “only those Free Persons of Color to enter the State who had left the State in the service of military companies.”<sup>121</sup> Georgia enacted a law for the same purpose on 11 December 1861.<sup>122</sup> The Louisiana legislature adopted a resolution in 1861 to consider an act to punish free persons of color found in the State in contravention of law, but it was set aside due to more pressing matters within the state.<sup>123</sup>

On 20 December 1861, the Mississippi legislature conferred discretionary powers for the county Boards of Police to issue: “to those free blacks now being in said counties as appear to be of good conduct and in no wise dangerous to the community, licenses to remain in the county limits.”<sup>124</sup> Free blacks found in the counties without licenses were to be sold into slavery. Frequently, the Mississippi State Assembly had to enact special legislation in order to provide individual free blacks the permission to remain in the state.<sup>125</sup> The Virginia Assembly for example, called upon those state legislators throughout the South, who had not already done so, to adopt a similar course and help relieve the Confederacy of this injurious population.<sup>126</sup> Georgia amended their act of 11 December 1861 to authorize free blacks to go into slavery and provided for the removal of those who refused to do so.<sup>127</sup>

Arkansas adopted a policy to clear the state of its free black populations, similar to that of Virginia and Georgia, where its statutes of 1859 were strengthened “to remove the free blacks and mulattos, from this state.” This was further amended to permit any free black to select a master and become a slave in lieu of being expelled from the state.<sup>128</sup> “Blacks or Mulattos selecting masters or mistresses as slaves would thereby be required to remain in the

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<sup>121</sup> South Carolina, *Journal of the Senate*, 1861, (Columbia, South Carolina, State Printer, 1861), pp. 154, 181, 186; South Carolina, *Journal of the House of Representatives*, 1860, (Columbia, South Carolina, State Printer, 1860), p. 8.

<sup>122</sup> Georgia, *Acts of the General Assembly*, 1861, (Macon, Georgia, State Printer, 1861), p. 72.

<sup>123</sup> Louisiana, *Journal of the House of Representatives*, 1861, (Shreveport, Louisiana: State Printer, 1862), pp. 4, 21.

<sup>124</sup> Mississippi, *Journal of the Senate*, 1861, (Jackson, Mississippi: State Printer, 1861), pp. 241, 276.

<sup>125</sup> One such example is the family of Amy Clark of Perry County who were allowed to remain in the state by action of the Mississippi State Assembly, 24 January 1862. Mississippi, *Laws of the State*, 1861-1862, (Jackson, Mississippi: State Printer, 1863), p. 246.

<sup>126</sup> Virginia, *Journal of the House of Delegates*, 1863, (Richmond, Virginia: State Printer, 1864), p. 14.

<sup>127</sup> Georgia, *Journal of the Senate*, 1862, (Macon, Georgia, State Printer, 1862), p. 133.

<sup>128</sup> Arkansas, *Acts of the General Assembly*, 1860-1861, (Little Rock, Arkansas: State Printer, 1862),

state at the discretion of their new master.” In addition to acquiring any property held by the free black, the slave owner also acquired any minor children. The new master in return was required to post “two good securities with the state, to the value of the person or persons re-enslaved, and that he would not permit said Black or Mulatto to hire his time out, to be owner of any stock, or to act for himself.”<sup>129</sup>

Some states considered or enacted measures to hire out certain free blacks and mulattos under conditions, which virtually amounted to enslavement. Early in 1861, the North Carolina Senate was considering a bill “to regulate the free blacks of this state,” by hiring out certain free persons of color.<sup>130</sup>

Georgia required every free person of color within the state to pay a tax of twenty-five dollars per annum.<sup>131</sup> Payment of this exorbitant tax was enforced by a further provision in the following year. In all cases free blacks who were unable, or refused, to pay the tax were subject to incarceration by the sheriff, who was authorized, “upon the written application of the Tax Collectors and Receivers, to arrest and place in the county jail such defaulting free persons of color, until the next county sale day.”<sup>132</sup> The Tax Collectors and Receivers were authorized to hire out these defaulters on sale day for “such a price and length of time as could produce the amount due to the state.”<sup>133</sup>

There is persuasive evidence to show that some states – most noticeably Georgia, North Carolina, South Carolina, and Virginia – considered measures to enslave all free blacks who were convicted of offenses against local laws. Early in 1861, the House of Representatives of South Carolina was considering such a bill, but it failed to pass the Senate.<sup>134</sup> In November of the same year, Georgia authorized the sale of any free blacks who were deemed “idle or

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p. 133.

<sup>129</sup> Ibid.

<sup>130</sup> North Carolina, *Journal of the Senate*, 1860-1861, (Raleigh, North Carolina, State Printer, 1861), pp 100, 146.

<sup>131</sup> Georgia, *Acts of the General Assembly*, 1861, p 88.

<sup>132</sup> Ibid.; Georgia, *Acts of the General Assembly*, 1862, (Macon, Georgia, State Printer, 1863), “Act of 17 December 1861,” p. 62.

<sup>133</sup> Ibid.

<sup>134</sup> South Carolina, *Journal of the House of Representatives*, 1861, (Columbia, South Carolina, State Printer, 1861), p. 20.

vicious.” The state had defined viciousness as someone, “who [was] so situated as to exercise an improper or mischievous influence upon the slave, or slaves in that particular neighborhood.”<sup>135</sup> In the following session another member declared that the law was too lenient and proposed that “all free blacks of African descent in the state of Georgia should be sold into slavery.”<sup>136</sup> A member of the North Carolina Senate proposed a resolution on 3 February 1863 that all free black residents of the state were required to voluntarily sell themselves into slavery by 1 January 1864, for a period of no less than ninety-nine years.<sup>137</sup> However, this resolution was regarded as too stringent and failed to pass. Virginia in 1864 sought to substitute enslavement for confinement in the state penitentiary in all cases where free blacks were convicted of crimes.<sup>138</sup>

By such measures, Confederate state governments sought to reduce the number of free blacks, if not eliminate them entirely. Further attempts were made to prevent additions to the free black population through the use of slave manumission, which were sometimes part of the last will and testament of “benevolent masters.” Although in the antebellum period, states possessed laws to prevent, or limit such attempts at emancipation, the early war period ushered in amended acts, which annulled such wills.<sup>139</sup> Before the war there had been more avenues for slaves to obtain their freedom; now moves towards either manumission or emancipation were to be granted only through the express actions of state legislatures. In these cases, slaves would be freed in return for some loyal service to the state or master. Individual slaves were emancipated for revealing plots against the government, protecting white women, and either defending a wounded master or conveying his corpse home if he died.<sup>140</sup>

Free blacks who were allowed to remain in the South did so only so long as their

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<sup>135</sup> Georgia, *Journal of the Senate*, 1861, (Macon, Georgia, State Printer, 1862), pp. 137-138.

<sup>136</sup> *Ibid.*, Georgia, *Journal of the House of Representatives*, 1862, p. 49.

<sup>137</sup> North Carolina, *Journal of the Senate*, 2<sup>nd</sup> Session 1862, (Raleigh, North Carolina, State Printer, 1862), p. 53.

<sup>138</sup> Virginia, *Journal of the Senate*, 1864, p. 40.

<sup>139</sup> An example of said legislative practice can be found in, North Carolina, *Public Laws*, 1861, (Raleigh, North Carolina, State Printer, 1861), p. 69; Among other works that deal with manumission see, Berlin, *Slaves Without Masters*, pp. 32-33, 144-149.

<sup>140</sup> Mississippi, *Journal of the Senate*, 1861-1863, (Jackson, Mississippi: State Printer, 1863), p. 391; Mississippi, *Laws of the State*, 1862-1863, (Jackson, Mississippi: State Printer, 1863), p. 213; Mississippi,

actions evinced good behavior. Even so, many states placed an abundance of restrictions on their day-to-day activities: all personal liberties, which included movement, the ability to engage in certain occupations, and/or to employ laborers for work related projects, were either suppressed or curtailed. In the opening years of the war, white workers who had not enlisted, or were unable to do so, felt the effects of the competition provided by cheaper free black and slave laborers. Free blacks, especially in the mechanical trades, such as blacksmiths, easily found work at the expense of poorer whites.<sup>141</sup>

Conditions among the latter became so severe in some areas that petitions were presented for redress against the free black workers. In 1861 the white mechanics of Cheraw County, South Carolina successfully petitioned the legislature for a law “prohibiting free blacks and Persons of Color from carrying on mechanical pursuits.”<sup>142</sup> In places where free blacks were successful as mechanics, owners frequently employed both black and white laborers. Some states had forbidden the employment of white labor by free blacks before the war; and now, under the Confederate regime, an attempt was made to prevent free blacks from hiring or controlling slaves.

State-initiated restrictions were aimed at preventing the slaves imbibing ideas about freedom through association with free blacks while it also limited the under-bidding of white mechanics by free blacks, who would employ cheaper slave labor. North Carolina was the first state to try this: a law was enacted on 23 February 1861 forbidding “Free persons of Color to buy, purchase, or hire for any length of time, any slave or slaves bound as apprentice or apprentices to him, her, or them.”<sup>143</sup> Violation was punishable by a fine of one hundred dollars

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*Laws of the State*, 1864, (Jackson, Mississippi: State Printer, 1864), p. 47.

<sup>141</sup> Dew, *Ironmaker to the Confederacy*, pp. 256-258; Charles Nordhoff, *America for the Free Workingman*, (New York: Harper & Company, 1865), p. 7; Another example can be found in the hardships faced by white working class families in Mississippi in 1861. The resulting inability to find work resulted in a great deal of financial and emotional suffering. See, Charles H. Wesley, *Negro Labor in the United States, 1850-1925*, (New York: Vanguard Press, 1926), p. 86.

<sup>142</sup> South Carolina, *Journal of the Senate*, 1861, p. 58; South Carolina, *Journal of the House of Representatives*, 1861, p. 20. Cheraw County in 1861 had as its county seat the town, now city of Cheraw, latter changed to Chesterfield County; See also relevant pages in Brewer, *The Confederate Negro*, for more material related to the problems incurred from competition by slave and free black labor.

<sup>143</sup> North Carolina, *Journal of the Senate*, 1860-1861, p 465; North Carolina, *Public Laws*, 1861, p. 69.

for each offense and indictment. However, the law was not retroactive and therefore did not apply to those free blacks who were the legal owners of slaves at the time the act was passed.<sup>144</sup> By the act of 28 January 1861, Louisiana prohibited the direct employment of slaves and/or free blacks in all public works.<sup>145</sup>

After imposing occupational restrictions upon the free black population, the Southern states, led by Georgia and North Carolina, proceeded to enact measures to restrict their freedom of movement. As early as December 1860 Georgia had forbidden free blacks to establish any house or to live on any lot apart from their guardian.<sup>146</sup> They were not allowed to keep eating-houses, run public tables or “to buy or sell or cause the same to be done or ship or cause to be shipped, traffic in chickens, eggs, butter, ducks, or turkeys.”<sup>147</sup> Violation invoked a fine of fifty dollars for the first offense and one hundred for the second.<sup>148</sup> Inability to pay the fine after conviction permitted the free black to be hired out until the sum could be paid. In early 1861, South Carolina considered a bill to keep free blacks out of public carriages and other vehicles kept for hire.<sup>149</sup> Governor, Henry T. Clark, of North Carolina, attempted to introduce a legislative package akin to a “Black Code” in May 1862. “He was vigilant in the rendition of fugitives, the suppression of black schools, and the expulsion of free black citizens who remonstrated against his course.”<sup>150</sup> However, it is important to understand that although many state politicians held such views, and framed legislation to limit the actions, resources, and population of free blacks, many of these proposals failed because they could not carry the necessary votes. In cities like New Orleans, free blacks had established an economic community with strong links to the white-dominated city infrastructure.

Furthermore, free blacks had no legal means of protecting either life or property.

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<sup>144</sup> Ibid. See also David O. Whitten, *Andrew Durnford: A Black Sugar Planter in Antebellum Louisiana*, (Natchitoches, Louisiana: Northwestern State University Press, 1981); Larry Koger, *Black Slaveowners: Free Black Slave Masters in South Carolina, 1790-1860*, (Columbia: University of South Carolina Press, 1995).

<sup>145</sup> Louisiana, *Journal of the House of Representatives*, 1861, p. 42.

<sup>146</sup> Georgia, *Acts of the General Assembly*, 1860, (Macon, Georgia, State Printer, 1860), pp. 92-93.

<sup>147</sup> Ibid., p. 93.

<sup>148</sup> Ibid.

<sup>149</sup> South Carolina, *Journal of the House of Representatives*, 1861, (Columbia, South Carolina, State Printer, 1863), p. 20.

Outrages against them were most often allowed to go unchecked, and in general even ordinary police protection was denied them. Where white persons were involved, free blacks were forbidden to give testimony even in their own defense.<sup>151</sup> Late in 1860, the Louisiana legislature had considered a measure, “to prevent colored persons who had been set free from causing the arrest of white persons.”<sup>152</sup> In the following year, a law was enacted which prohibited free blacks from testifying in prosecution against whites.<sup>153</sup>

Free blacks in many Southern communities were regarded with suspicion by whites and especially planters who saw them as a bad influence on their slaves. Before the war, slaves, and free blacks, for reasons ranging from acquiring food to managing a team of horses carried some type of weapon. However, those blacks who carried any kind of weapon or instrument, which was deemed or defined as capable of inflicting a wound, was considered dangerous to public safety. Some states had already forbidden free blacks to carry weapons without cause, but with the threat of war on the horizon, other states began to adopt similar policies.<sup>154</sup> Late in December 1860, Georgia state officials forbade free blacks to purchase any weapon “that might be used in either offense or defense.”<sup>155</sup> The following year free blacks in South Carolina were not allowed to carry firearms under any circumstances.<sup>156</sup> North Carolina forbade its free black population to “carry, wear about their person, or keep in their houses any shot gun, musket, rifle, pistol, powder or shot.”<sup>157</sup> Those who violated these rules were guilty of a misdemeanor and fined not less than fifty dollars.<sup>158</sup>

Forbidden to carry arms or weapons for defense, the free black community was at the mercy of poorer whites or any other person who wished to abuse them. Bands of desperadoes

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<sup>150</sup> Allen, “Africans in America and Their New Guardians,” p. 105.

<sup>151</sup> Berlin, *Slaves Without Masters*, pp. 65, 96, 317, 334-338, 370-378; Schafer, *Slavery, the Civil Law, and the Supreme Court*, p. 222; Johnson, and Roark, *Black Masters*, p. 55; Bernard E. Powers Jr., *Black Charlestonians A Social History, 1822-1885*, (Fayetteville: The University of Arkansas Press, 1994), pp. 55-56.

<sup>152</sup> Louisiana, *Journal of the House of Representatives*, 1860, pp. 39, 54.

<sup>153</sup> *Ibid.*, pp. 55, 62; Louisiana, *Journal of the House of Representatives*, 1861, p. 23.

<sup>154</sup> Johnson, and Roark, *Black Masters*, p. 50; Mohr, *On the Threshold of Freedom*, p. 46.

<sup>155</sup> Georgia, *Journal of the House of Representatives*, 1861, (Macon, Georgia, State Printer, 1861), p. 75; Georgia, *Acts of the General Assembly*, 1860, p. 56.

<sup>156</sup> South Carolina, *Journal of the House of Representatives*, 1861.

<sup>157</sup> North Carolina, *Public Laws*, 1861, p. 68.

composed of ignorant poor whites and Army deserters attacked and persecuted the free black at will.<sup>159</sup> A correspondent for the *Tuscaloosa Independent Monitor* observed two drunken men accost two free blacks in Montgomery, Alabama, in 1861. After tearing up their passes, the drunkards beat one severely with a cudgel and attempted to kill the other with a knife. The men had no reason for attacking these men except that they were drunk. It was further reported that “no arrest had yet been made.”<sup>160</sup>

The status of free black Southerners under the Confederate regime was hardly enviable. The term “free person of color” was derisory for he was in no sense free. His speech and movement were restricted. He was subject to attack and abuse without provocation, and he was denied protection or redress under the laws of the state. Moreover, occupational restrictions prevented him from selling or hiring out his labor. In many ways, the plight of the slave, with certain protections, was preferable to that of the freedman.

In the early years of the war, it became increasingly difficult for many free blacks to earn a livelihood, which resulted with some petitioning their state legislatures for permission to sell themselves back into servitude. On 28 February 1861, four free blacks of Buckingham County, petitioned the Virginia legislature to allow: “George, Shed, Sam, and Sukey, who were manumitted by the last will and testament of Archibald F. Gordon, to select masters and take on the conditions of slaves.” Three weeks later, “John Payne, Mary Fletch, and Glives of Fanquier County, and Fanny Mathews of Page County, all of whom are free persons of color, were authorized to do likewise.”<sup>161</sup> Petitions became so burdensome on the legislative calendar, that a law was enacted allowing those free blacks that so desired “to appear before the Circuit court of any county where he had resided for at least twelve months and make an application to select a master and become a slave.” The new owner was obliged to pay all the debts and liabilities

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<sup>158</sup> Ibid.

<sup>159</sup> Nathaniel W Stephenson, *The Day of the Confederacy: A Chronicle of the Embattled South*, (New Haven: Yale University Press, 1920), p. 167.

<sup>160</sup> *Tuscaloosa, Independent Monitor*, 5 April 1861.

<sup>161</sup> *Virginia, Acts of the General Assembly*, 1861, (Richmond, Virginia: State Printer, 1861), pp. 252, 254.

that existed before enslavement, and take custody and control of the applicant's children.<sup>162</sup> The report of the Virginia State Auditor in 1861 revealed that \$902.50, or one half of the value of the transactions, which fell under the state's free black enslavement policy went into the state treasury.<sup>163</sup>

In Georgia where treatment was at its most severe, the legislature considered no less than eight separate petitions between 10 November and 15 December 1861 from free blacks who wished to become slaves. Virginia provided the means for free blacks to sell themselves into slavery through a measure enacted on 14 November 1861, although individual petitions continued to be presented throughout 1862 and 1863. A board of three people were placed: "to appraise such individuals at a modest cash value, not less than two-thirds of the real worth of said free Negro." The purchaser was required to pay this "appraisal amount" to the county treasury where the free black resided; it was to be used for the "relief of the indigent families of the volunteers now in the service of the state of the Confederate States."<sup>164</sup> Those free blacks who sold themselves back into slavery were made a slave for life, and subjected to all the conditions of slavery, while the new owner was obliged only to feed, clothe, and protect their acquired property.

In North Carolina, the question of enslaving free blacks took an unprecedented turn. The state Senate considered the first bill of this type on 21 January 1861. It "authorized certain free persons of color to become a slave," but on consideration in committee, the bill received an unfavorable report.<sup>165</sup> Five days later, several petitions from free blacks were placed before the General Assembly, "praying that they may be permitted to select masters and become slaves." A Select Committee was then instructed to draft a second enslavement bill,<sup>166</sup> but the following month, a review of the proposed legislation by the Judiciary Committee reported that:

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<sup>162</sup> Ibid., pp 52-53, 60.

<sup>163</sup> Virginia, *Journal of the House of Delegates*, 1861, (Richmond, Virginia: State Printer, 1861), Doc. No. 5, p 652.

<sup>164</sup> Georgia, *Journal of the Senate*, 1861, p. 207; Georgia, *Acts of the General Assembly*, 1861, p. 122.

<sup>165</sup> North Carolina, *Journal of the Senate*, 1860-1861, p. 209

<sup>166</sup> Ibid., p 216.

According to, the decision of our Supreme court, the Constitution recognizes free persons of color as citizens of this state, and being citizens, the law must protect them in the enjoyment of life, liberty, and property, except when they have forfeited the same for crime. Under our Constitution, therefore, as interpreted by the courts, no free persons either colored or white, can be enslaved by legislative enactment even by their own consent. Such an enactment could not confer upon any one citizen the power to exercise that absolute dominion over the person of any other citizen, much less over his property, as masters now exercise over the persons of his slaves.<sup>167</sup>

The result was that only by constitutional amendment could the policy be maintained. The following year, when several free blacks petitioned the legislature again for the purpose to sell themselves into slavery, they were told that the General Assembly did not have the power to grant it.<sup>168</sup> Both South Carolina and Louisiana considered similar legislation in 1862, but these measures apparently did not have the needed legislative backing to be enacted into law.<sup>169</sup>

### Free Blacks and the Confederacy

In the days following the fall of Fort Sumter, southerners had conquered their prejudices enough to accept free blacks for service as support staff in much the same way that slaves were being used. In rare instances this service extended to a defensive role as part of the Home Guard units, or in the state militias.<sup>170</sup> Either through state laws or purely by local action, free blacks were being organized for military service while Confederate authorities overall were reluctant to express an "official view," and in general looked the other way.<sup>171</sup> As the first year of the war ended, sizeable numbers had volunteered, were coerced, or conscripted into units comprised either fully or partially of free blacks and mulattos, but when received by operational commanders, were usually reorganized into state laboring units, or were placed into regimental supportive roles.<sup>172</sup>

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<sup>167</sup> Ibid., p. 274.

<sup>168</sup> Ibid., North Carolina, *Journal of the Senate*, 1862-1863, (Raleigh, North Carolina, State Printer, 1864), p. 80.

<sup>169</sup> South Carolina, *Journal of the House of Representatives*, 1861, pp. 78, 203; Louisiana, *Journal of the House of Representatives*, 1861, pp. 32, 34, 81.

<sup>170</sup> Horace Greeley, *The American Conflict; a History of the Great Rebellion in the United States of America, 1860-1864*, (New York: Negro Universities Press, 1969), vol. II, p. 522. The role of free blacks within the military infrastructure of the states, and to a degree the Confederate army will be discussed further in chapter 2, and include a broader use of the sources.

<sup>171</sup> Charles H. Wesley, "The Employment of Negroes as Soldiers in the Confederate Army," *Journal of Negro History*, vol. IV, no. 3, (July 1919), p. 243.

<sup>172</sup> Examples of the role as portrayed by free black Southerners is discussed in greater detail in

By the close of the first year of hostilities, at least five of the Confederate states were accepting all able-bodied free blacks into the state militias. One hundred and fifty free black men of Charleston offered their services on 3 January 1861 in throwing up redoubts wherever necessary for the protection of the coast.<sup>173</sup> Three months later, the *Charleston Mercury* reported that several companies of free blacks from Memphis were observed passing through the city.<sup>174</sup> The *Memphis Avalanche*, on 9 May 1861 contained the following:

Attention; Volunteers: Resolved by the Committee of Safety that C. Deloach, D. R. Cook, and William B. Greenlaw be authorized to organize a volunteer company, composed of our patriotic free men of color, of the city of Memphis, for the service of our common defense. All who have not enrolled their names will call at the office of W. B. Greenlaw and Company.<sup>175</sup>

On 28 June 1861, Tennessee passed a measure recommended by Governor Isham G. Harris "to receive all free male persons of color between fifteen and fifty years of age into the military service of the state."<sup>176</sup> They were to receive eight dollars per month as pay, one ration a day, and a yearly allowance for clothing.<sup>177</sup> The county sheriff held the authority of enforcement, organization, and delivery, and had to report to the Governor the numbers, conditions, and the names of free blacks subject to the law. It was reported that, "several hundred of the free blacks thus raised marched through the streets of Memphis carrying shovels, axes, and blankets. They were evidently quite happy, for they shouted for Jefferson Davis and sang war songs."<sup>178</sup> Two weeks later, on 17 September 1861, *Memphis Avalanche*, reported

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chapter 2 of this thesis. See, James G Hollandsworth, *The Louisiana Native Guards: The Black Military Experience During the Civil War*, (Baton Rouge: Louisiana State University Press, 1995). With regard to the issue of coercion instigated by whites against free blacks, while I am sure that this did occur there is nothing from the sources to support that this was true in all instances. In general the occurrence of coercion has neither been substantiated or properly cited, see for example, Caryn Cossé Bell, *Revolution, romanticism, and the Afro-Creole protest tradition in Louisiana, 1718-1868*, (Baton Rouge: Louisiana State University Press, 1997).

<sup>173</sup> Charleston, *Mercury*, 3 January 1861.

<sup>174</sup> *Ibid.*, 30 April 1861.

<sup>175</sup> Memphis, *Avalanche*, 9 May 1861, further quoted in George W. Williams, *History of the Negro Race in America*, 2 vol. (New York: G. P. Putman & Sons, 1863), vol. 2, p. 277.

<sup>176</sup> *Official Records*, series 1, vol. IV, p. 409.

<sup>177</sup> *Ibid.*, series 1, vol. IV, p. 409; *Public Acts of the State of Tennessee, Extra Session April, 1861*, (Nashville: J. O. Griffith & Company, Public Printers, 1861), "Chapter 24, An Act for the Relief of Volunteers," passed 28 June 1861, p 49-50.

<sup>178</sup> Memphis, *Avalanche*, 3 September 1861; Wesley, *The Collapse of the Confederacy*, p. 141.

that, “more than a thousand blacks, likewise organized under the act, left the city armed with spades and pick axes, their destination was reported unknown.”<sup>179</sup>

In Louisiana, in late April 1861, the *New Orleans Picayune* reported, “a meeting of ten thousand men, representing the flower of the free colored population of New Orleans, and that this meeting resulted in the organization and enrollment of the Louisiana Native Guards.” In November under the overall command of Major General Mansfield Lovell, the Guards Regiment, along with their white counterparts marched in review, and it is estimated that there were more than fourteen hundred blacks in the line of advance.<sup>180</sup> In 1862, a regiment of free mulattos was also organized for the defense of New Orleans, and the following year they were taken into the Confederate service as heavy artillery.<sup>181</sup> The state’s Governor Thomas O. Moore praised the free blacks of the state for their patriotism and requested that their military organization be maintained for the duration of the war.<sup>182</sup>

As the war developed into a lengthy struggle, authorities in Louisiana made increasing use of its free black residents. On 11 February 1864, a law authorized Governor Henry W. Allen to enlist “all Free Men of Color between sixteen and fifty five years into the service of the state.”<sup>183</sup> Free blacks called into service received the same pay and were subject to the same regulations as whites within the same branch of the service. Possible transfer to Confederate service was also authorized, based on consultation and evidence of need.<sup>184</sup> On 29 October 1864, Governor Allen issued a General Order which further specified that, “all Free Colored Persons, between eighteen and forty five years of age, and former resident in New Orleans, were required to report at the district enrolling office to be enrolled.”<sup>185</sup>

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<sup>179</sup> Memphis, *Avalanche*, 17 September 1861.

<sup>180</sup> New Orleans, *Daily Picayune*, 24 November 1861, and 9 February 1862.

<sup>181</sup> *Afro-American*, 2 February 1935.

<sup>182</sup> *Official Records*, series 1, vol. IV, no. 1, p. 1020.

<sup>183</sup> Louisiana, *Acts of the Legislature*, 1864, p. 65; See also, Sarah A. Dorsey, *Recollections of Henry Watkins Allen: Brigadier General Confederate States Army, Ex-Governor of Louisiana*, (New York: M. Doolady Publishers, 1866), p. 382.

<sup>184</sup> Louisiana, *Acts of the Legislature*, 1864, p. 65. This law also included assignment of shops and manufacturers.

<sup>185</sup> New Orleans, *Daily True Delta*, 1 November 1864.

However, Tennessee and Louisiana were exceptional examples. Several of the Confederate states, most notably Virginia and Alabama made no effort at all to use free blacks for defense until late in the war, though some individuals and town leaders did. In the opening days of the war town leaders in Lynchburg, Virginia, enrolled seventy free black volunteers.<sup>186</sup> However, the records fail to reveal what part, if any, they played in defending the town or the state. The Virginia legislature first considered a bill to enroll all free black men in the service of the state as soldiers in early February 1862, but though it was favorably considered, no action was taken, and the measure was not taken up again until 1864.<sup>187</sup> In Alabama, G. Huggins Cleveland of Mobile, sought permission to employ a regiment of mixed blooded Creoles.<sup>188</sup> They were described as “property holders owning slaves, and a peaceable and orderly class and capable of doing good service.” The legislature authorized the enrollment “of such male Creoles of Mobile County between eighteen and fifty years as desired to be enrolled.”<sup>189</sup> They were divided into separate companies and commanded by “discreet white men.” In Savannah, the *Daily Morning News*, carried the following comment: “An officer now here and who was in the recent fight near New Market bridge will make affidavit that fifty armed blacks, flanked by whites, formed the center, and they fought better than their fellow soldiers.”<sup>190</sup>

In several states and towns throughout the South the conscription and/or impressment of free blacks for purposes of labor and support predated, and was effected with greater ease than, similar legislative measures set aside for slaves. Whenever the services of free blacks were required, and a sufficient number did not volunteer, attempts were made to impress them. Early in 1862, Virginia impressed free blacks between the ages of eighteen and fifty years.<sup>191</sup> They received fifty cents a day as compensation, as well as rations and quarters, and could be retained

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<sup>186</sup> William W. Brown, *History of the Negro Race in America*, (Boston: J. Redpath Publishers, 1864), p. 338.

<sup>187</sup> *American Annual Cyclopedia*, 1864, (New York: D. Appleton, 1863-1875), p. 282; Virginia’s legislature would resurrect this bill in 1864 under the leadership of Governor William “Extra Billy” Smith, and would target primarily slaves, but would include free blacks as well. Further reference to this change in Virginia’s policy is discussed in chapter 3.

<sup>188</sup> *Official Records*, series 1, vol. IV, part V, no. 1, p. 1088.

<sup>189</sup> Alabama, *Acts of the General Assembly*, 1862, p. 162.

<sup>190</sup> Savannah, *Daily Morning News*, 25 January 1862.

<sup>191</sup> Virginia, *Acts of the General Assembly*, 1862, p. 61.

for no more than 180 days without their consent.<sup>192</sup> Later efforts were made to impress the services of free black convicts for the public benefit.<sup>193</sup> Georgia, South Carolina, and Mississippi also enacted laws impressing the services of free blacks Southerners for work on the fortifications or as regimental support staff, and in most instances, some form of compensation was provided for their services.<sup>194</sup>

### Conclusion

This chapter covered two central themes: first, the use of slaves and free blacks by state and Confederate authorities as laborers, regimental support, and in the role of defense, second, the contentious relationship that developed between planters, state legislatures, and government officials, over their use by and for the military. However, despite initiatives taken in several states to use slaves and free blacks, there was no consensus among them as to the extent or direction of that use. Planters' concerns for their property, together with the sensitive issue of states' rights, robbed them of their intended effects. The national government honestly believed that the states and citizens of the newly formed Confederacy would understand that sacrifices would have to be made, but conflict erupted over the framing and interpretation of conscription and impressment legislation. For the slave owner, economic factors, compensation, and the proper treatment of their property were the priority: through their lobbying and legislative efforts they fostered policies that were counterproductive to national emergency even in the face of invading Federal forces.

The Confederacy's defeat at Gettysburg, 1-3 July 1863, and the surrender of Vicksburg, 4 July 1863 signaled to many that action had to be taken to address the shortage of white male recruits for front line duty, as well as slaves and free blacks for labor and support.

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<sup>192</sup> Ibid.

<sup>193</sup> Virginia, *Journal of the Senate, Extra Session*, 1863, pp. 130, 135, 243.

<sup>194</sup> South Carolina, *Acts of the General Assembly*, 1863, (Columbia, South Carolina, State Printer, 1863), p. 176; Georgia, *Journal of the House of Representatives*, 1862, p. 256.



## **Chapter Two** **In Defense of Community: Black Southerners, and State Governments**

This chapter addresses the legislative development and implementation of state defense policies, which to some degree, included slaves and free blacks. The ways in which the state governments organized for their defense, functioned in a state of war, and their confusion in actively utilizing black Southerners in the face of Union encroachment, are issues that will be examined. Just as the Confederate government set up a military infrastructure to protect the new nation, the states needed to develop a cohesive policy of their own in the face of unfulfilled promises and policies enacted by legislators in Richmond. The area that created the greatest tension between state and military officials was the conscription and impressment policies, which siphoned off the state's available manpower and resources. As a result, many state governments, and especially slave owners, believed that the Confederate government was ignoring their concerns about their defense and the economy. Inevitably for some, the only answer was to lobby their own state legislators and to enact their own laws.

Early in the war states prepared to use all available resources at their disposal, including their slave and free black populations. Authorities at the national level understood that placing slaves and free blacks in areas of regimental support and for use as military labor was not the same as arming them. However, 'free persons of color,' especially, understood what was happening in the country, just as many whites did. Like their white counterparts, free blacks fell into the same beliefs and fallacies concerning the depredations of the Union. They may not have harbored strong feelings of loyalty towards the Confederacy, but many felt a sense of devotion to their state, their community, and to their family. This was particularly evident in the free black communities of Louisiana in general, and New Orleans specifically where their place in the society was based on a long tradition of service.

The reasoning and motivational factors of free blacks to actively take up arms in defense of their homes, community, and state is another objective of this chapter. How and why free blacks participated in state defense for the Confederacy are questions of relevance to the

broader issues slave and free black reasoning behind their participation in the military. The actions taken by black Southerners were largely not done out of blind loyalty for the Confederacy, but reflected the same motivational factors as the majority of yeomen: a desire to protect their homes, family, community, and state as well as their own sense of pride and dignity. The main focus is on Louisiana, because while other governors - such as Governor Isham Harris of Tennessee - did call for the use of blacks for state defense, only in Louisiana did its free black population participate significantly and organize for military purposes. The actions of the free black population of New Orleans in particular, and the rest of Louisiana, and the South in general, are significant, as they provide insight and awareness into the conditions, and involvement of black Southerners within the broader context of the war.

#### **The Process, and Conflict Over State Defense**

In the antebellum period state governments within the Union made provision for the organization of either a state militia, or home guard units, or allowed private individuals to do so. Many of the privately organized militias, particularly those in the urban areas of the South, could have been defined better as men's social clubs, where card playing rather than proper military training was the norm. At the outbreak of war, these state militias became the basis for organizing the volunteer regiments that made up the bulk of both the Union and Confederate forces. As early as 1861, the threat of Federal invasion in several states brought demands for the creation of local defense units. To varying degrees, state governments called upon all of their residents, white, slave, and free black to take up a role in the home guard or militia units. Although this role was not in all ways consistent with the duties of true soldiers, it did, at least until 1863, strike a chord with those "residents," black and white, who were loyal to their community and state.

Following Southern secession state authorities had brought most of the Federal forts and arsenals under their control. The secession of Texas, and later Arkansas, left western frontiers bereft of Federal safeguards against "hostile" Indians. Furthermore, the Confederacy sprawled over roughly seven hundred and fifty thousand square miles, leaving the states with a long and

inadequately defended border and coast, which virtually invited Union invasion. The states also had to confront the possibility of revolt by over four million slaves and free blacks.<sup>1</sup>

Southerners manifested great zeal in 1861 for service in volunteer defense forces: by March, South Carolina could boast 104 companies organized into ten regiments, four brigades, and one division.<sup>2</sup> The volunteer army in Mississippi swelled in May to two hundred companies over and above those requisitioned by Confederate President Jefferson Davis.<sup>3</sup> The secession convention in Alabama set up machinery for both three-year regulars and for volunteers to serve for not less than one year. Departments of the adjutant general and quartermaster general in the regular and volunteer armies were distinct from corresponding departments in the militia.<sup>4</sup> Georgia earlier had established the offices of adjutant and inspector general with specific duties affecting militia and volunteer units and had prepared for possible war by outlining the framework for a volunteer army of ten thousand.<sup>5</sup>

North Carolina's legislature authorized a force of ten thousand to serve the state during the war.<sup>6</sup> Questioning the wisdom of maintaining such an expensive force, the convention ordered the discharge of all volunteers not requisitioned by the President.<sup>7</sup> When the legislature met again in August 1861 it suspended the convention ordinance and permitted the governor to accept as many as eleven thousand volunteers for the war.<sup>8</sup> Tennessee laws regarding volunteer

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<sup>1</sup> Frank Lawrence Owsley, "Local Defense and the Overthrow of the Confederacy: A Study in States Rights," *Mississippi Valley Historical Review*, vol. XI, (1925), pp. 490-525.

<sup>2</sup> Charles Edward Cauthen, *South Carolina Goes to War 1860-1865*, (Chapel Hill: University of North Carolina Press, 1950), p. 115.

<sup>3</sup> John K. Bettersworth, *Confederate Mississippi, The People and Policies of a Cotton State in Wartime*, (Baton Rouge: Louisiana State University Press, 1943), p. 28.

<sup>4</sup> Alabama, *Ordinances and Constitution of Alabama*, (Montgomery, Alabama: State Printer, 1861), pp. 9-13.

<sup>5</sup> Georgia, *Acts of the State of Georgia, November and December 1860*, (Milledgeville, Georgia: State Printer, 1861), pp. 50-52.

<sup>6</sup> North Carolina, *Public Laws, First Extra Session, 1861*, (Raleigh, North Carolina: State Printer, 1861), pp. 95-98.

<sup>7</sup> *Journal of the North Carolina Convention, First Session, 1861*, (Raleigh, North Carolina: State Printer, 1861), pp. 8-10; *Raleigh Standard*, 24 August 1861.

<sup>8</sup> North Carolina, *Public Laws, Second Extra Session of 1861*, (Raleigh, North Carolina: State Printer, 1861), pp. 52-53.

forces were more optimistic about manpower resources than those of neighboring North Carolina. The legislature in May 1861 created, on paper, an army of fifty five thousand.<sup>9</sup>

Confederate requisitions for state troops in 1861, and Confederate conscription the following year, and in 1864, decimated state forces. South Carolina had no army at all by early 1863 except for the Combahe Rangers and two cavalry companies.<sup>10</sup> When Charles Clark became governor of Mississippi in 1863, he demanded that the Confederacy leave him the one state brigade then unattached to the Confederate army.<sup>11</sup> The Florida convention disbanded those state forces, which were not transferred to Confederate service and entrusted its safety to the central government.<sup>12</sup> Louisiana, on the other hand, sought to entice volunteers into state units by offering a \$50 bounty for each private and noncommissioned officer and an eighty-acre grant of land at the end of the war.<sup>13</sup>

The growing presence of Union forces throughout the South resulted in an increased demand for state defense and brought the issue to the forefront of state legislative agenda. In late 1862 and early 1863 the North Carolina legislature caused considerable controversy with the passage of a ten-regiment bill. One proposal would have permitted the governor to raise troops using men between the ages of eighteen to forty five who would thus be exempt from the Confederate draft. Another empowered the governor to accept volunteers subject to national conscription but not already in Confederate service. However, two of the state's leading papers, the *Raleigh Register* and the *Wilmington Journal*, opposed the measure because of the potential conflict with the Confederate administration.<sup>14</sup> They were still loyal to the national government, and were critical at state-led efforts to disrupt Confederate military policy.

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<sup>9</sup> Tennessee, *Public Acts of the State of Tennessee, [Second] Extra Session, April 1861*, (Nashville: Griffith, Camp & Company, 1861), pp. 21-32.

<sup>10</sup> South Carolina, *Journal of the House of Representatives, 1862*, (Columbia: Charles P. Pelham Printers, 1863), p. 5.

<sup>11</sup> Bettersworth, *Confederate Mississippi*, pp. 56, 71-72.

<sup>12</sup> William Watson Davis, *The Civil War and Reconstruction in Florida*, (New York: Columbia University Press, 1913), pp. 143-144.

<sup>13</sup> Louisiana, *Acts of the Legislature, Extra Session, 1862-1863*, (Shreveport, Louisiana: State Printer, 1864), pp. 18-20.

<sup>14</sup> *Raleigh Register*, 3 January 1863; *Wilmington Journal*, 1 January 1863.

As the Confederate army swallowed up the volunteers, states began a substantial revision of their militia systems. North Carolina altered its militia laws in September 1861 after a coastal invasion.<sup>15</sup> South Carolina in the same year required that all males, sixteen to sixty, do patrol duty and provided for their rapid mobilization into state service if necessary.<sup>16</sup> The Alabama legislature contented itself with ordering more frequent district and county musters, and Texas took steps to create thirty-three militia brigades.<sup>17</sup> The Virginia militia regulations of 1861 were perhaps the most realistic as they provided for an active core composed of men from twenty one to thirty one years of age, and a reserve militia.<sup>18</sup>

Tennessee and Louisiana were somewhat slower. Louisiana militia legislation of 1862 was moderate, subjecting men from eighteen to forty-five to active service for three months or, in cases of urgent necessity, for as long as six months.<sup>19</sup> With Tennessee on the very brink of disaster in March 1862, the general assembly ordered the organization of men between eighteen and forty-five into reserve military corps. Men between forty-five and fifty-five were subject to call only after the younger group had been deployed, and this older group could not be detailed, transferred, or drafted into Confederate service.<sup>20</sup>

Voices were heard occasionally urging adequate training for local state defense and condemning legislatures for their lack of foresight. The *Richmond Daily Examiner*, for instance, questioned the ability of the general assembly to enact such a measure and described it

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<sup>15</sup> North Carolina, *Public Laws, Second Extra Session*, 1861, pp. 18-46. For an account of the militia in action, see John G. Barrett, *The Civil War in North Carolina*, (Chapel Hill: University of North Carolina Press, 1963), pp. 100-102.

<sup>16</sup> South Carolina, *Acts of the General Assembly, December 1861*, (Columbia, South Carolina: State Printer, 1862), pp. 11-14.

<sup>17</sup> Alabama, *Acts of the Alabama General Assembly, Second Called and Regular Sessions*, 1861, (Montgomery, Alabama: State Printer, 1861), pp. 86-87, Texas, *General Laws of the Texas Legislature, Regular Session*, 1861, (Austin, Texas: State Printer, 1861), pp. 11-21.

<sup>18</sup> Virginia, *Acts of the General Assembly*, 1861-1862, (Richmond, Virginia: State Printer, 1862), pp. 4-8.

<sup>19</sup> Louisiana, *Acts of the State of Louisiana*, 1861, (Baton Rouge, Louisiana: State Printer, 1862), pp. 61-62.

<sup>20</sup> Tennessee, *Public Acts of the State of Tennessee, First Session 1861*, (Nashville: State Printer, 1862), pp. 20-26.

as a “body of county courts and cross roads electioneers” now called upon to devise a “measure distasteful to influential citizens of the country and necessarily unpopular.”<sup>21</sup>

Confederate requisitions for supplies, the conscription of men, and the impressment of slaves, in time forced legislatures to recognize the problems endemic to state defense. The South Carolina executive council salvaged for militia duty those men aged sixteen to sixty not in the Confederate army.<sup>22</sup> Later the legislature gave the governor authority to appoint enrolling officers in each judicial district to list for duty all men between eighteen and forty-five.<sup>23</sup> In addition, the governor could order the militia to other states provided it remained under his control.<sup>24</sup>

The invasion of Mississippi prompted the legislature in December 1863 to lower the age limit for militia to seventeen and to subject to militia service men exempted or discharged by Confederate authorities. Further alterations in the law revised the age limits downward to sixteen and upward to fifty-five.<sup>25</sup>

Walter L. Fleming, referring to conditions in the militia in Alabama in 1862, concluded: “the fact was, there was no longer any militia; the officers and men had gone, or were preparing to go, into the Confederate service.”<sup>26</sup> Although letters in the Alabama governors’ papers indicate that musters still occurred regularly in some areas, need for reform was obvious.<sup>27</sup> In August 1863, Governor John Gill Shorter was able to persuade the Alabama legislature to strengthen the militia law. This new system divided men into two categories. Those under

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<sup>21</sup> *Richmond Examiner*, 8 February 1862.

<sup>22</sup> Cauthen, *South Carolina Goes to War*, p. 146.

<sup>23</sup> South Carolina, *Acts of the General Assembly, September and December 1863*, (Columbia, 1864), pp. 171-173.

<sup>24</sup> South Carolina, *Acts of the General Assembly, 1864-1865*, (Columbia, South Carolina: State Printer, 1866), p. 249.

<sup>25</sup> Mississippi, *Laws of the State of Mississippi Passed, December 1862, and November 1863*, (Selma, Alabama, State Printer, 1864), pp. 101-108. After the Union occupation of Jackson Mississippi on 14 May 1863 the state government moved to Alabama for a short period of time; Mississippi, *Laws of the State of Mississippi, Called Session, August 1864*, (Meridian, Mississippi: State Printer, 1864), pp. 16-18.

<sup>26</sup> Walter L. Fleming, *Civil War and Reconstruction in Alabama*, (Cleveland, Ohio: Arthur H. Clark Publishers, 1911), p. 89.

<sup>27</sup> Petition to Governor John Gill Shorter, 3 March 1862; James Montgomery to Governor Shorter, 5 April 1862; James M. Pearson to Governor Shorter, 12 April 1862, Confederate War Governors’ Papers, folder no., U-120-125, G11-1, Library and Archives of the Museum of the Confederacy, Richmond, VA.

seventeen and over forty-five formed the first class militia and served only in their home counties. The second-class militia included men between seventeen and forty-five who had been exempted by Confederate authorities. According to some accounts, this militia was effective only for “local defense and for executing the state laws in particular localities.”<sup>28</sup>

The North Carolina, Louisiana, and Georgia legislatures attempted to work out more adequate militia laws in 1863. Governor Zebulon Vance of North Carolina received authority to call for local and temporary service all males between eighteen and forty-five.<sup>29</sup> The legislature later created a home guard from members of the eighteen to fifty groups not currently in Confederate service, but subject to the same exemptions as those provided by militia regulations and acts of the Confederate Congress.<sup>30</sup>

Louisiana laws embraced men from seventeen to fifty for service of six months or as long as necessary.<sup>31</sup> The measures were extremely unpopular. In May, Adjutant General Charles le D. Elgee resigned his position with the state, giving as one of his reasons that the law was “universally execrated,” and that the adjutant general “can do but little good.”<sup>32</sup> When Henry Watkins Allen became Governor in January 1864 he asked for and received a new militia law. In his opinion the old legislation failed for want of enforcement provisions, and because it excluded the use of slaves and free blacks.<sup>33</sup>

Overall the Southern states limited militia efficiency by generous exemption policies. The tendency to increase exemptions from militia duty was less the result of pressure from special interest groups, but were more an attempt to keep open, as far as possible, avenues of trade, transport and communication, and to maintain business as usual under war-time conditions.

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<sup>28</sup> Fleming, *Civil War and Reconstruction in Alabama*, pp. 90-91.

<sup>29</sup> North Carolina, *Public Laws, Adjourned Session, 1862-1863*, (Raleigh, North Carolina: State Printer, 1863), pp. 16-18.

<sup>30</sup> North Carolina, *Public Laws, Called Session, 1863*, (Raleigh, North Carolina: State Printer, 1863), pp. 8-10; Barrett, *The Civil War in North Carolina*, p. 20.

<sup>31</sup> Louisiana, *Acts of the Legislature, Extra Session, 1862-1863*, pp. 36-40

<sup>32</sup> Charles le D. Elgee to Governor Thomas O. Moore, 1 May 1863, in Thomas O. Moore Papers, folder no. 1, MSS 5, Williams Research Center, New Orleans, LA.

<sup>33</sup> Louisiana, *Journal of the House of Representatives, First Session, 1864*, (Shreveport, Louisiana: State Printer, 1864), p. 31; Jefferson Davis Bragg, *Louisiana in the Confederacy*, (Baton Rose. Louisiana

In the first two years of war, legislatures in South Carolina, Mississippi, Alabama, Louisiana, and Virginia began to exempt men in certain professions and trades involving war production from militia service.<sup>34</sup> In 1863, there was a substantial increase in the numbers and categories of exemptions, which reflected a continuing effort to husband labor for essential production.<sup>35</sup> However, inequities persisted. Family physicians tended to be lax in certifying physical infirmities. The burden of militia duty fell heavily on the farming population. Combined with the fact that scores of state and county officials escaped service, this tended to breed distrust of the system among many people in all the states.<sup>36</sup>

Not only did the outdated militia laws in the South in 1861 give evidence of lack of preparedness but their autonomous status also caught the seceding states deficient in material for war. Virginia was typical of conditions elsewhere. As one legislator put it:

She is as defenseless as a helpless child .... The State has no arms of modern structure & none to meet a formidable enemy such as we may anticipate in the event of collision. It will take several months, perhaps 6 or more to purchase & get at home the arms we are obliged to have even to commence warfare.<sup>37</sup>

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State University Press, 1943), pp. 162-163.

<sup>34</sup> South Carolina, *Acts of the General Assembly*, 1861, (Columbia, South Carolina, State Printer, 1861), pp. 11-14; Mississippi, *Laws of the State*, 1861-1862, (Jackson, Mississippi: State Printer, 1863), pp. 193-196; Alabama, *Acts of the Called Session of the General Assembly of Alabama, January 1861*, (Montgomery, Alabama: State Printer, 1861), p. 55; Alabama, *Acts of the General Assembly, Second Called and Regular Sessions*, 1861, (Montgomery, Alabama: State Printer, 1861), p. 73; Alabama, *Acts of the Called Session, 1862, and of the Second Annual Session of the General Assembly of Alabama, 1862*, (Montgomery, Alabama: State Printer, 1863), p. 64; Louisiana, *Acts of the Legislature, First Session*, 1861, (Shreveport, Louisiana: State Printer, 1861), pp. 61-72; Virginia, *Acts of the General Assembly, Extra Session*, 1862, (Richmond, Virginia: State Printer, 1863), pp. 149-151.

<sup>35</sup> Alabama, *Acts of the Called Session, 1863, and of the Third Annual Session of the General Assembly of Alabama, 1863*, (Montgomery, Alabama: State Printer, 1863), pp. 96-97; Louisiana, *Acts of the Legislature, Extra Session*, 1862-1863, pp. 36-40; Louisiana, *Acts of the State of Louisiana, Extra Session*, 1863, (Shreveport, Louisiana: State Printer, 1863), pp. 42-48; Mississippi, *Laws of the Mississippi Legislature, Called Session, 1862- Regular Session, 1863*, (Jackson, Mississippi: State Printer, 1864), pp. 101-106; North Carolina, *Public Laws, Adjourned Session*, 1862-1863, pp. 16-18; Mississippi, *Laws of the Mississippi Legislature, Called Session, August, 1864*, (Jackson, Mississippi: State Printer, 1865), pp. 16-18; South Carolina, *Acts of the South Carolina General Assembly, September and December Sessions, 1863*, pp. 188-190.

<sup>36</sup> Mississippi, *Journal of the Senate of Mississippi, Called Session, at Macon, August, 1864*, (Meridian, Mississippi: State Printer, 1864), pp. 83-84; Governor's Message to the General Assembly, Virginia, 25 March 1862, Executive Papers, Richmond: Virginia State Library and Archives. John Letcher was the Governor of the State of Virginia at this time, from 1860-1864.

<sup>37</sup> Edward Callohill Burks to Rowland D Buford, 20 January 1861, in Edward Callohill Burks Letters, Virginia State Library and Archives, Richmond, VA.

In South Carolina and Virginia, Boards of Ordnance for a time took over responsibility for purchasing supplies, allocating arms, and if necessary supervising the manufacture of material.<sup>38</sup>

During the Texas convention, a Committee of Public Safety began to accumulate arms and ammunition.<sup>39</sup> Its duties were transferred later to a military board. Mississippi, North Carolina, Arkansas, Louisiana, and Tennessee divided the burdens of supply for the armies in 1861 between governors and military boards and in some instances ordnance departments and special commissions.<sup>40</sup> Florida, Georgia, and Alabama relied largely on their governors to procure necessary arms, ammunition, and provisions.

Equipping troops for state volunteer armies and for the Confederacy produced severe shortages in the South. The stockpiles hastily acquired by purchase, by seizure of Federal forts and arsenals, and by contributions from enthusiastic Southerners had dwindled alarmingly by the late summer and early fall of 1861. State governors were beginning to feel a need to reserve remaining stores for local defense.<sup>41</sup>

The South Carolina convention sought to solve the dilemma of the lack of leadership from Governor Francis W. Pickens by creating an Executive Council with powers that included the acquisition of war supplies. The Council included Pickens, General James Chesnut, Jr. as chief of state forces, Lieutenant Governor William W. Harlee as Attorney General, Isaac W. Hayne as head of the treasury, and William H. Gist as head of finance. Despite internal and external criticism, the Council worked rapidly, dispatching agents throughout the state to buy

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<sup>38</sup> South Carolina, *Acts of the General Assembly of South Carolina, November and December 1860, and January 1861*, (Columbia, South Carolina: State Printer, 1861), pp. 356-58; Virginia, *Acts of the General Assembly, Extra Session, 1861*, (Richmond, Virginia: State Printer, 1861), pp. 27-28.

<sup>39</sup> Texas, *Report of the Committee on Public Safety to the Texas Convention, 1861*, (Austin, Texas: State Printer, 1861) pp 5-11.

<sup>40</sup> Mississippi, *Journal of the Mississippi Convention, January Session, 1861*, (Jackson, Mississippi: State Printer, 1861), p. 64; Mississippi, *Laws of the State, January 1861*, (Jackson, Mississippi: State Printer, 1861), p. 37; Mississippi, *Laws of the State, 1861-1862*, p. 67; North Carolina, *Public Laws, 1860-1861*, (Raleigh, North Carolina: State Printer, 1861), pp. 53-54, Tennessee, *Public Acts of the State of Tennessee, Second Extra Session, 1861*, (Nashville: Griffith, Camp & Company, 1861), pp. 49-50; Tennessee, *Public Acts of the State of Tennessee, First Session, 1861-1862*, (Nashville: State Printer, 1862) pp. 65-71; Bragg, *Louisiana in the Confederacy*, p. 52.

<sup>41</sup> *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D. C.: Government Printing Office, 1901), series IV, vol. I, pp. 404-405, 422, 582, 575-576, 658.

cotton for shipment abroad and sending agents to Europe to bargain there for supplies.<sup>42</sup> A separate Department of Construction and Manufacture under the supervision of William Gist established a state armory at Greenville. Major W. G. Eason of the State Ordnance Bureau wrote to Governor Pickens in November 1862 that workmen were busy repairing and altering old weapons gathered throughout the state. He predicted that it would be some months before machinery would be ready for production.<sup>43</sup>

Throughout the South, state legislatures authorized the purchase of arms from individuals, the collection of weapons belonging to the state or the Confederacy in the hands of persons not in service, and the repair and reconditioning of worn-out and discarded guns.<sup>44</sup> Institutions such as penitentiaries and schools for defectives became production centers for ammunition, uniforms, tents, and other equipment.<sup>45</sup>

Had fortune permitted the Confederacy to develop its machinery of government under peaceful conditions, the efforts of Southern states to muster and supply forces for local defense might have followed the pattern of inertia, which characterized many antebellum militias. However, the persistence of the war had enormously complicated the problems of initial organization and finance. State authorities had cause to question the ability of the Confederacy to deploy strong units for frontier and border defense and to ensure safety from slave insurrections, and there were doubts about the soundness of the new government's credit in the market places of Europe. In these circumstances, individual state leaders and governors felt keenly the need to mobilize, maintain, and supply state forces, whether volunteer or regular state armies or militia. The desire to give citizens such armed protection as the states could provide would, in time, dig into Confederate manpower and material potential. It is true that in the wild

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<sup>42</sup> W. W. Harlee and W. H. Gist to James M. Shackelford, 17 March 1862, in Executive Papers, South Carolina Department of Archives and History, Columbia, SC; John B. Edmunds, Jr., *Francis W. Pickens and the Politics of Destruction*, (Chapel Hill: University of North Carolina Press, 1986), pp. 167-172.

<sup>43</sup> W. G. Eason to Governor Francis W. Pickens, 5 November 1862, in Legislative Papers, South Carolina Department of Archives and History, Columbia, SC.

<sup>44</sup> Virginia, *Acts of the Virginia General Assembly*, 1861-1862, pp. 55-56; Mississippi, *Laws of the State*, 1861-1862, pp. 232-234, Tennessee, *Public Acts of the State of Tennessee, First Session*, 1861-1862, p. 30.

<sup>45</sup> Betterworth, *Confederate Mississippi*, p. 23; Governor Edward Clark to Thomas P. Carothers, 29

enthusiasm of early 1861 for secession, confederation, and war, Southern state authorities surrendered men and supplies to the Confederacy in a spirited way. Even then, however, they evinced a reluctance to strip their states of resources, and this would later harden some Southern leaders into the obstruction of Confederate military policies.

Defense measures, Confederate–state relations, and economic problems ranked high on the agenda of the individual states. However, both governors and legislators recognized the importance of maintaining, insofar as possible, normal political and social conditions. One of these was the use of slave labor, as this was something more than a factor of production, for the presence of several million slaves had profoundly influenced the mores of the region. Slavery, under fire for decades, now faced threat of extinction by force of arms; and the outbreak of hostilities greatly intensified fear of black insurrection. The degree of anxiety varied with time and place, but letters and diaries of the period indicate that this dread hung like an ominous cloud over the Southern mind throughout the long conflict. As early as the spring of 1861 small-scale slave insurrections aggravated the fears of many Southerners who believed that “servile insurrection” should be expected, “with Yankees in front and Negroes in the rear.”<sup>46</sup>

The outbreak of war brought a general tightening of slave codes. Florida, for example, in 1861 strengthened regulations on patrols, included the patrolling of plantation areas to see that slave codes were enforced, making the militia subject to patrol duty, and requiring weekly rounds. Laws in other states empowered county courts or justices of the peace to appoint or organize patrol detachments. In most instances, the revised codes required patrols to make their rounds more frequently, usually once a week and members of these patrols faced stiff penalties for failure to perform prescribed duties.<sup>47</sup>

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August 1861, in Executive Record Book, no. 80, Texas State Library and Archives, Austin, TX.

<sup>46</sup> There are several places in Mary Chesnut’s diary where she addresses the issue of slave insurrections, but nowhere does this fear become more prominent than when she discovered that her cousin had been killed by her own servants. See C. Vann Woodward, ed., *Mary Chesnut’s Civil War*, (New Haven: Yale University Press, 1981), pp. 44, 153, 198-199, 234.; Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War*, (New York: Vintage Books, 1997) p. 58.

<sup>47</sup> Florida, *Acts of the General Assembly*, 1861, (Tallahassee, Florida: State Printer, 1861), pp. 38-43; Texas, *General Laws of the Texas Legislature*, 1862, (Austin, Texas: State Printer, 1862), p. 54; Arkansas, *Ordinances of the Arkansas Convention*, May, 1861, (Little Rock, Arkansas: State Printer,

The Virginia legislature created a county police force to arrest persons suspected of inciting slaves to rebellion or escape, and in Tennessee “five credible persons” could bring before the court anyone suspected of insurrectionary activity. It became a capital offense to instigate incendiary activity among North Carolina slaves.<sup>48</sup>

State legislatures revamped measures relating to resident supervision of the farm slaves. Some states refused to permit owners to place slaves over fellow laborers in units separated from the home place and required the presence of a white man wherever slaves were located.<sup>49</sup> As runaway slaves grew more numerous during war, state legislatures enacted or amended laws to facilitate capture and return of the fugitives. Georgia’s law of 1865 stationed mounted pickets at strategic points to apprehend runaways, indicating the seriousness of the problem.<sup>50</sup>

Concern over lawlessness among free black and slave populations led to a tightening of the old slave codes and a tendency to increase punishment for crimes of arson, larceny, and burglary perpetrated by black Southerners.

The unsettled times also led to attempts to tighten existing restrictions on slaves’ economic activity. Georgia, Texas, and Mississippi statutes forbade slaves to deal in or to own certain property. Slave owners in Texas risked a fine for permitting a slave to have any “pretended ownership or control over horses, cattle, sheep, or hogs.” In Mississippi, a master

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1861), pp. 66-68, Arkansas, *Acts of the General Assembly, Special Session*, 1862, (Little Rock, Arkansas: State Printer, 1862), p. 13; Arkansas, *Acts of the General Assembly, Regular Session*, 1862, (Little Rock, Arkansas: State Printer, 1862), p. 39; North Carolina, *Public Laws, First Extra Session*, 1861, pp. 103-104, Louisiana, *Acts of the Legislature, First Session*, 1861, pp. 99-100, Louisiana, *Acts of the Legislature, Second Session*, 1861, (Shreveport, Louisiana: State Printer, 1861), p. 64, On the issue of the slave patrol enforcement system see David Williams, *Rich Man's War: Class, Caste, and Confederate Defeat in the Lower Chattahoochee Valley*, (Athens: University of Georgia Press, 1998), pp. 158-159; Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South*, (New York: Pantheon, 1974), pp. 268-269.

<sup>48</sup> Virginia, *Ordinances of the Virginia Convention*, April-July Session, 1861, (Richmond, Virginia: State Printer, 1861), pp. 23-24, Tennessee, *Public Acts of the State of Tennessee, Second Extra Session*, 1861, p. 38, North Carolina, *Public Laws*, 1860-1861, pp. 39-40, Louisiana, *Acts of the State of Louisiana, Extra Session*, 1863, pp. 31-532; Mississippi, *Laws of the State, July 1861*, (Jackson, Mississippi: State Printer, 1861), pp. 67-68, Texas, *General Laws of the Texas Legislature, Extra Session*, 1863, (Austin, Texas: State Printer, 1863), pp. 20-22

<sup>49</sup> Texas, *General Laws of the Texas Legislature, Regular Session*, 1861, p. 40; Arkansas, *Acts of the General Assembly, Special Session*, 1861, (Little Rock, Arkansas: State Printer, 1861), p. 60; Mississippi, *Laws of the State*, 1861-1862, (Jackson, Mississippi: State Printer, 1863), p. 82; Louisiana, *Acts of the Legislature, Second Session*, 1861, p. 168.

<sup>50</sup> Georgia, *Acts of the Georgia General Assembly, Extra Session*, 1865, (Milledgeville, Georgia:

convicted of permitting a slave to “go at large and trade as a free man” faced a fine of \$500 and imprisonment for sixty days. Free blacks were also circumscribed in their business activity. A Virginia law forbade all black Southerners to transport farm goods on a master’s boat for purpose of sale, and in North Carolina free blacks could not buy or hire slaves.<sup>51</sup>

Not all the new laws affecting blacks in the South were as stringent. Reform movements had gained momentum in some areas and led to legislative policies intended to ameliorate the lot of the slave. The Alabama legislature ordered masters to provide counsel when slaves were indicted for any offense.<sup>52</sup> At the instigation of the governor and other citizens, the Georgia legislature repealed earlier laws forbidding the licensing of slaves, or preaching by free blacks.<sup>53</sup> Texas constitutional amendments guaranteed trial by jury to slaves indicted for crimes of a “higher grade than petit larceny” and gave to the legislature power to enact laws enforcing humane treatment of slaves.<sup>54</sup> State legislator James A. Lyon of Mississippi entered in his journal that he had drafted “an act regulating the marriage and parental relations existing between slaves.” The state Senate judiciary committee reported favorably on it, but held that time was not propitious for such a change. Lyon lamented to the civilized world the reluctance of lawmakers and concluded: “Perhaps God’s intentions are to bring the institution to an absolute end.”<sup>55</sup> However, these concessions helped state officials to persuade slaves and free blacks to cooperate in state defense in exchange for continued reforms.

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State Printer, 1865), p. 92.

<sup>51</sup> Georgia, *Acts of the Georgia General Assembly, Extra Session, 1863-1864*, (Milledgeville, Georgia: State Printer, 1865), p. 46, Texas, *General Laws of the Texas Legislature, Called Session, 1864*, (Austin, Texas: State Printer, 1864), pp. 4-5; Mississippi, *Laws of the Mississippi Legislature, Called Session, 1862; Regular Session, 1863*, pp. 147-148; Virginia, *Acts of the General Assembly, Regular Session, 1863-1864*, (Richmond, Virginia: State Printer, 1864), pp. 39-40; North Carolina, *Public Laws, 1860-1861*, p. 69.

<sup>52</sup> Alabama, *Acts of the Alabama General Assembly, Called and Regular Sessions, 1863*, (Montgomery, Alabama: State Printer, 1863), pp. 61-62.

<sup>53</sup> *Journal of the House of Representatives of Georgia*, 25 March 1863, (Milledgeville, 1863), pp. 11-12; Edmund Cody Burnett, ed., “Some Confederate Letters: Alabama, Georgia, and Tennessee,” *Georgia Historical Quarterly*, vol. XXI (1937), pp. 195-197; *Acts of the Georgia General Assembly, 1862*, (Extra Session, 1863), p. 137.

<sup>54</sup> *Ordinances of the Texas Convention*, (1861), p. 35.

<sup>55</sup> Typescript, *Journal of Reverend James A. Lyon of Columbus, Mississippi*, (Montgomery: Mississippi State Department of Archives and History), pp. 112-113.

Already, at the start of the war, a group of free blacks from Charleston and Columbia had sent messages to public officials, including Governor Pickens, stating,

We are by birth citizens of South Carolina. In our veins flows the blood of the white race, in some half, in others much more than half white blood. Our attachments are with you, our hopes of safety & protection from you. Our allegiance is to South Carolina and in her defense, we are willing to offer up our lives, and all that is dear to us.<sup>56</sup>

As discussed in the previous chapter, some South Carolinians bristled at the slave impressment policies dictated by Confederate officials, and efforts made late in the war enabled the state to nullify those laws that were deemed counterproductive. Until the summer of 1862 those few slaves and free blacks who offered their services to South Carolina were usually sent to work on fortifications in and around Charleston. However, on 18 July 1862 the Executive Council passed a resolution entitled “Negro Labor for Military Defense.” It was no more than a written form of the existing informal policy on the state government’s use of slave labor, but it also requested the impressment of two per cent of the slave population for internal military purposes.<sup>57</sup> Although the resolution courted controversy from planters, it was not intended to legitimize or organize the state’s black population along the same lines as Louisiana had done.

### The Native Guards of New Orleans

By 1852, the people of Louisiana had so convinced themselves of the positive good of slavery that it was made impossible to emancipate slaves in the state. Six years later the legislature responded so strongly to the pro-slavery argument that a statute was adopted which permitted free blacks to select masters and voluntarily become slaves. In the spring of 1860, prime field hands in New Orleans were selling as high as \$2,000.<sup>58</sup>

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<sup>56</sup> Michael P. Johnson, and James L. Roark, *Black Masters: A Free Family of Color in the Old South*, (New York: W. W. Norton & Company, 1984), pp. 293-294.

<sup>57</sup> South Carolina, *Report and Resolutions on Furnishing Negro Labor for Military Defense*, 18 July 1862, The South Carolina Library, Columbia, SC.

<sup>58</sup> Johnson, and Roark, *Black Masters*, pp. 164-167; Berlin, *Slaves Without Masters*, pp. 372-375; Slave prices increased steadily during the antebellum period, for one example of this price structure see Brenda E. Stevenson, *Life in Black & White: Family and Community in the Slave South*, (New York: Oxford University Press, 1996), pp. 180-181; For an example of the New Orleans slave trade during the years leading to the war see Robert William Fogel, and Stanley L. Engerman, *Time on the Cross: The Economics of American Negro Slavery*, (New York: W. W. Norton, 1989), pp. 49-53.

In Louisiana, the course of the war carried Federal armies through the very regions where the slave population was densest, along the Mississippi from the Gulf to Baton Rouge, down Bayou Lafourche, and along the Teche River. From 1862 to 1864, the Union army heavily traversed these regions, especially in 1863 by Generals Nathaniel Banks and Ulysses S. Grant as they combined their operations on Alexandria, Louisiana, and Vicksburg, Mississippi. In 1864, Banks would cover the remaining plantation region of the Red River Valley in his objective of placing the remainder of the state under Union control.

An almost immediate effect of the approach of Union troops was a slackening in work. A cotton planter complained that, as the Northern armies drew near, his slaves became impudent and worked less and less. On one sugar plantation, where the normal custom of delaying the Christmas holidays into January for the completion of grinding was observed, the slaves refused to work on 25 December 1862 saying that they had decided to keep Christmas while they had a chance. A month earlier a sugar plantation overseer had fervently wished that "every Negro would leave the place, as they will do only what pleases them."<sup>59</sup> After the war, Federal authorities attempted to get former slaves back into the fields. They succeeded to some extent but most planters would have denied vigorously that these efforts worked.

Although some slaves did return to their plantations, many of them never went back. When one considers the large amount of paper and ink devoted to the pro-slavery argument and the contention that the carefree denizens of Southern plantations were the happiest people on earth, one might conclude that the planters should have taught their slaves to read. The slaves did run away during the war; they ran away by ones and twos, by tens and twenties, and sometimes by the hundreds. It is impossible to say how many chose the Union army's contraband camps over the "comparative safety" of the slave quarter, but the number was not

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<sup>59</sup> Bell Irvin Wiley, *Southern Negroes, 1861-1865*, (New Haven: Yale University Press, 1938), p. 74; John Q. Anderson, ed., *Brokenburn: The Journal of Kate Stone, 1861-1868*, (Baton Rouge, Louisiana State University Press, 1955), p. 175; G. P. Whittington, ed., "Concerning the Loyalty of Slaves in North Louisiana in 1863: Letters from John H. Ransdell to Governor Thomas O. Moore, dated 1863," *Louisiana Historical Quarterly*, vol. XIV, no. 4, (October, 1931), pp. 487-502; Charles Roland, *Louisiana Sugar Plantations During the American Civil War*, (Leiden: E. J. Brill Publishers, 1957), passim.

fewer than thirty thousand and perhaps as great as seventy five thousand. Some of these runaways eventually returned to their masters as paid laborers under the policy followed first by Union General Benjamin F. Butler, and then by Banks, but this seems to have been effective only along the Mississippi below Baton Rouge and along Bayou Lafourche.<sup>60</sup>

It would appear that Federal troops in Louisiana seldom had trouble in locating horses, sugar, or cotton hidden on a plantation. Almost always, some slave would reveal the hiding places. Somewhere between Donaldsonville and Houma, in early 1863, a Union soldier noted: "At every plantation . . . swarms of Negroes came out and welcomed us with rapturous demonstrations of joy."<sup>61</sup> At Washington, later in the same year, "the Negroes lined the streets . . . as they do at every village and plantation, grinning with delight to see us . . . offering water, corn cake, and other things to the troops."<sup>62</sup> A Union officer reported, "The Negroes were our informers . . . . While the whites on the plantation . . . [told] us all sorts of stories to confuse us; the darkies would gather round and, every once in a while, give vent to their surprise at their masters' mendacity by the most ludicrous rolling up of the eyes, and by clasping their hands with the ejaculation, 'O Lord! What is white folks coming to?'"<sup>63</sup> This officer asked one slave, who had volunteered to point out where his master's horses were hidden, if he did not love his master. The slave answered, "When my master begin to lub me, den it'll be time enough for me to lub him."<sup>64</sup>

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<sup>60</sup> Wiley, *Southern Negroes*, pp. 19, 65; Mrs. Richard Pugh to Richard Pugh, 9 November 1862, Pugh (Richard L.) Papers, 1844-1896, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge, LA; Record Book: LeBlanc Family Papers, 1859-1866, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge LA; George M. Hepworth, *The Whip, Hoe, and Sword: Or the Gulf Department in 1863*, (Boston, Massachusetts: n. p., 1864), p. 151; John M. Stanyan, *A History of the Eighth Regiment of New Hampshire Volunteers*, (Concord, N. H., I. C. Evans Printer, 1892), pp. 130, 437-438, George N. Carpenter, *History of the Eighth Regiment Vermont Volunteers, 1861-1865*, (Boston: Press of Deland & Barta, 1886), pp. 41, 76, Bragg, *Louisiana in the Confederacy*, pp. 150, 210, 215, 217, 301, Roland, *Louisiana Sugar Plantations*, pp. 92-95; J. F. Moors, *History of the Fifty Second Regiment Massachusetts Volunteers*, (Boston, Massachusetts: n. p., 1893), pp. 33-34, 48, 157-58, Anderson, *Brokenburn: The Journal of Kate Stone*, pp. 126-127, 128, 173, 176.

<sup>61</sup> *Ibid.*, p. 99

<sup>62</sup> Henry A. Willis, *The Fifty-Third Regiment Massachusetts Volunteers: Comprising also a History of the Siege of Port Hudson*, (Fitchburg: n. p., 1889), pp. 101-102.

<sup>63</sup> Hepworth, *Whip, Hoe, and Sword*, pp. 259.

<sup>64</sup> *Ibid.*, pp. 144-145.

The coming of the war brought with it a sort of hypocrisy in Southern legislatures concerning the states' free black populations. Many Southern State governments had tightened the restrictions on both slaves and free blacks in the antebellum period, only to slacken such controls later as priorities focused on survival and defense. State governments, and planters to a degree, grew to resent the conscription of their citizens, and the impressment of their slaves for purposes outside their control. In various ways, state governments moved to utilize whatever resources they had at their disposal for state defense, and when necessary this included slaves and free blacks. In parts of Louisiana, New Orleans particularly, some free blacks, and their slaves<sup>65</sup> took it upon themselves to organize a regiment for the defense of their state against Union invasion. These black Southerners did what they did despite the restrictions of the law, for reasons as simple as those expressed by whites. They joined to protect their families and community as well as to enhance their status in the event that the Confederacy won its independence.

Like their white neighbors, a minority of Louisiana's free black population became caught up in the war fever that swept through the South following the election of Abraham Lincoln and the secession of South Carolina. New Orleans was home to one of "the most sophisticated and exclusive free colored community in antebellum America,"<sup>66</sup> and it was here that they first began to organize for defense.

News of South Carolina's secession from the Union reached New Orleans on 21 December 1860 and it resulted in raucous celebrations over the next several days.<sup>67</sup> In this atmosphere, a number of free blacks sent a letter to the editor of the *Daily Delta* expressing their support for their native state:

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<sup>65</sup> For information on free blacks as slave owners see, Berlin, *Slaves Without Masters*, pp. 272, 273-275; See also, Larry Koger, *Black Slave Owners: Free Black Slave Masters in South Carolina, 1790-1860*, (Columbia: University of South Carolina Press, 1985).

<sup>66</sup> David C. Rankin, "The Politics of Caste. Free Colored Leadership in New Orleans During the Civil War," *Louisiana's Black Heritage*, Robert R. MacDonald, John R. Kemp, and Edward F. Haas, ed., (New Orleans: Louisiana State Museum, 1979), p. 125; In 1860 the free black population of New Orleans totaled 10,939, or six per cent of an urban population of 144,601 whites and 14,484 slaves. See Manuscript Census Returns, United States Bureau of the Census, Eighth Census of the United States, *Population of the United States in 1860*, (Washington D. C.: Government Printing Office, 1864), New Orleans, Louisiana, Baton Rouge: Louisiana State Archives, (hereafter cited as LSA).

The free colored population (native)... love their home, their property, their own slaves, and they are dearly attached to their native land, and they recognize no other country than Louisiana, and care for no other than Louisiana, and they are ready to shed their blood for her defense. They have no sympathy for Abolitionism; no love for the North, but they have plenty for Louisiana; and let the hour come, and they will be worthy sons of Louisiana. They will fight for her in 1861 as they fought in 1814-1815.

They said that they had not yet made any demonstrations “because they have no right to meddle with politics.” They asked only that they be given a chance to prove themselves as “worthy sons of Louisiana.” In response, the editor wrote, “The native free colored people of Louisiana have never given grounds for any suspicion, or distrust, and they have frequently manifested their fidelity in a manner quite as striking and earnest as the white citizens.”<sup>68</sup>

On 7 January 1861 Louisiana elected delegates to a secession convention that was to begin meeting on 23 January. Three days after the election, Governor Thomas O. Moore ordered state militia troops to seize the Baton Rouge Arsenal and Forts Jackson and St. Philip on the Mississippi River below New Orleans. Military companies began forming all over the state throughout January.<sup>69</sup> “A. L. M.,” who signed himself a “Creole of Louisiana,” wrote to Moore on 20 January. He complained about the mistrust of free blacks he had seen from some whites, and expressed sentiments of loyalty similar to those sent to the editor of the *Daily Delta*. Much of the letter outlined the unique position of free blacks in New Orleans, pointing out that they were well educated and had amongst their number artists, physicians, craftsmen, mechanics and other businessmen.<sup>70</sup> “A. L. M.” assured the governor that the free black populations of Louisiana “own property, slaves, have all their interest here, and are able to appreciate the

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<sup>67</sup> Bragg, *Louisiana in the Confederacy*, p. 24.

<sup>68</sup> New Orleans, *Daily Delta*, 28 December 1860.

<sup>69</sup> Bragg, *Louisiana in the Confederacy*, pp. 49, 51, 226-227.

<sup>70</sup> “A. L. M.” to Thomas O. Moore, 20 January 1861, Letters Received by the Executive, 1860-1865, LSA, Baton Rouge, LA; Certainly, Louisiana’s Creole population had a distinctiveness of its own that was separate from the black community. However, they were not isolated. Over time Creole, free black, and slave populations experienced both racial as well as cultural integration, in much the same way as mulattos in the south can trace their origins. Berlin, *Slaves Without Masters*, pp. 108, 111, 121-122, 131; Mary Gehman, *The Free People of Color of New Orleans: An Introduction*, (New Orleans: Margaret Media, 1994), pp. 42, 82; For related evidence of the connection between blacks and Creoles in Confederate service, see the statements quoted by Benjamin F. Butler in his appearance before the American Freedman’s Inquiry Commission 1 May 1863 in Manoj K. Joshi and Joseph P. Reid, “‘To Come Forward and Aid in Putting Down This Unholy Rebellion’: The Officers of Louisiana’s Free Black Native Guard During the Civil War Era,” *Southern Studies*, vol. XXI (Fall 1982), p. 328 n 4.

benefit of slavery, very few of them have ever been slaves, they never associate with Negroes, their education and good breeding preventing it, they have no sympathy for Abolitionists, knowing that the Abolitionists are the greatest enemies they have.” He decried the lack of loyalty to Louisiana of the foreigners and Northerners in the city, saying, “the French, Germans, Dutch, and Spaniards will not help us.” This “Creole” then stated that “the old colored veterans of 1814-1815” had begun talking to prominent white citizens about organizing “companies for the defense of Louisiana.” All they hoped for when these units were formed was that all the company officers come from their own ranks.<sup>71</sup> In this letter, and a similar one published in the *Daily Delta*, one finds early indications that the New Orleans free blacks were not only able but also anxious to support the actions of their state, though the government at this point did not take advantage of these offers.

The government’s attitude changed quickly after the rapid developments of mid-April. Fort Sumter fell, and on 15 April Lincoln called for volunteers to put down the “insurrection.” The next day, the new Confederate government made its own call for troops. Governor Moore issued pleas on 17 and 21 April for a total of 8,000 troops to defend against an invasion of the South.<sup>72</sup> On 21 April, a committee of ten prominent free blacks of New Orleans called a meeting for the following night at the Catholic Institute. These men expressed themselves ready “as soon as a call is made to them by the Governor of this State... to take arms and form themselves into companies for the defense of their homes.”<sup>73</sup> Approximately two thousand people attended the meeting, listened to exhortations by several men, and unanimously adopted the resolutions offering their services to the governor. Lists were opened, and fifteen hundred men signed up.<sup>74</sup>

Several New Orleans newspapers applauded this action by the free blacks. The *Daily Picayune* referred to the gathering as “representing the flower of the free colored population of

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<sup>71</sup> “A. L. M.” to Thomas O. Moore, 20 January 1861, *Letters Received by the Executive, 1860-1865*, LSA, Baton Rouge, LA.

<sup>72</sup> Bragg, *Louisiana in the Confederacy*, p. 56.

<sup>73</sup> New Orleans, *Daily Picayune*, 21 April 1861.

<sup>74</sup> *Ibid.*, 23 April 1861.

New Orleans” and asked, “What will the Northerners have to say to this?”<sup>75</sup> The *Daily Crescent* reported that the governor had accepted the services of these men as part of the state militia. Jordan B. Noble, known as the “Drummer Boy of Chalmette” for his service under Andrew Jackson in the Battle of New Orleans, was raising a company, and another was in the process of organizing in Jefferson City, a suburb of New Orleans. “Should their services be needed, they will be among our hardest and best fighters,” the *Daily Crescent*’s story read. “When the down town free colored men form their regiment (and it will be a rousing one,) they will make a show as pleasing to all, as it will be surprising to many of our population.”<sup>76</sup>

Jordan was one of the first to succeed in forming a company. It took the nickname Plauche Guards for Major Jean Baptiste Plauche, who had commanded the Orleans Battalion at the Battle of New Orleans. They were organized by 22 May 1861 and held company drill on Wednesday and Friday afternoons at their headquarters at the corner of Baronne and Perdido streets. On 29 May Governor Moore appointed Felix Labatut and Henry D. Ogden as colonel and lieutenant colonel, respectively, of the new regiment of free blacks. The next day, Moore appointed S. St. Cyr as the regiment’s major. Commissions were issued to the officers of five companies, including Noble’s, on 31 May. In keeping with the request made in January, all of these company officers were free blacks. On 4 June 1861, free blacks of the Barthelemy Settlement in nearby Plaquemines Parish were reported to have formed a company led by white officers, but it is unclear whether or not these men joined the New Orleans regiment.<sup>77</sup>

Over the next several months, the companies drilled and tried to obtain uniforms and equipment. A parade scheduled for late September had to be cancelled because some of the men were not yet equipped, although the Plauche Guards apparently did turn out for the commander of the state militia, Major General John L. Lewis. Their orders, and those of two other free black companies, were to attach themselves to the escort for some Union soldiers

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<sup>75</sup> Ibid.

<sup>76</sup> New Orleans *Daily Crescent*, 27 April 1861.

<sup>77</sup> New Orleans, *Daily Picayune*, 22 May 1861, Miscellaneous Register of Officers, Louisiana Militia, 1856-1862, pp. 103, 138, 171, LSA, Baton Rouge, LA; Order Book, Adjutant General’s Office, Louisiana State Troops, 1862-1864, LSA, Baton Rouge, LA, pp. 164, 165, New Orleans, *Daily Crescent*,

captured at the battle of First Manassas who were being sent to New Orleans for imprisonment. The first group was expected to arrive on 25 September but unexpected events delayed the arrival of the Federal forces. Major General David E. Twiggs, Confederate commander in New Orleans, then decided not to use the free blacks in the escort when the prisoners finally did reach the city. He asked Lewis to convey this news to the men and said, "He [Twiggs] thanks them for the promptness with which they answered the call, and is assured that they will be equally ready upon a more important occasion."<sup>78</sup>

Other companies continued to form, and on 1 October 1861 the state of Louisiana issued commissions to officers of three new units. Another company joined the regiment on 14 November. Nine days later, the regiment, or parts of it, participated in a grand parade through the streets of New Orleans. A newspaper report placed the regiment's strength at 750 men. The account described Captain St. Albin Sauvignet's company as "a fine corps of 82 men, very well uniformed, and which may be relied upon in case of danger."<sup>79</sup> An undated muster roll for this company, which was probably prepared at the time of this parade, states that the men had only ten muskets among them, and "no other arms whatever."<sup>80</sup> Since the Native Guards, as they called themselves, had been organized only for defense of New Orleans, they had little chance of obtaining any of the limited number of weapons being distributed by state authorities. Indeed white militia companies were encountering the same problems of supply.<sup>81</sup>

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29 May 1861.

<sup>78</sup> New Orleans, *Daily Picayune*, 25 September 1861; Major General John L. Lewis to Major General David E. Twiggs, 24 September 1861, Letters Sent Book, Louisiana State Troops, 1861-1862, LSA, Baton Rouge, LA, p. 21; *Official Records*, series I, vol. LIII, p. 746. The first battle of Manassas or Bull Run was on 18-22 July 1861. It is not clear why General Twiggs issued this change in orders, but further investigation indicates that Twiggs, being from the old Federal Regular Army was concerned for the prisoners, and did not want to add further insult to their predicament by flouting the loyalty of black Southerners

<sup>79</sup> New Orleans, *Daily Picayune*, 24 November 1861; Order Book, Adjutant General's Office, Louisiana State Troops, 1862-1864, pp 185, 213, LSA, Baton Rouge, LA; Compiled Service Records of Confederate Soldiers Who Served in Volunteer Organizations from Louisiana, Microcopy No. 320, Roll 94, 412, LSA, Baton Rouge, LA.

<sup>80</sup> Compiled Service Records of Confederate Soldiers, Microcopy No. 320, Roll 94.

<sup>81</sup> Very little work has been done specifically on the Native Guards while in Confederate Service as the literature tends to look at their role while under Union command. By August 1862 those blacks that were part of the Federal army occupying southern Louisiana were now volunteering for the Corps d' Afrique, United States Colored Troop. However, there are some examples. See James G. Hollandsworth, *The Louisiana Native Guards: The Black Military Experience During the Civil War*, (Baton Rouge:

On the night of 7 December, a young woman from the free black section of the city presented the Beauregard Native Guards, which probably had just been organized, with “a fine silk flag.” Unfortunately, no description of the flag has survived, so it is impossible to state whether it was the state flag of Louisiana, or a Confederate battle flag. The next day, one of the older companies turned out and was accompanied by a brass band. A newspaper account of both ceremonies stated that these men “are of opinion, just as companies of white men, they can as well have a lively time until the enemy invade our soil.” The reporter went on to say, “In both cases, a pleasant collation [light meal] followed the military manifestation.”<sup>82</sup>

The Regiment of Native Guards again participated in a grand parade and review on 8 January 1862 in celebration of Jackson’s victory over the British on that date in 1815. They received compliments in a description of the event in the *Daily Picayune*. The paper stated that the men were well drilled and uniformed: most of them had used their own resources to obtain weapons, “without regard to cost and trouble.” Just prior to the parade, Noble’s Plauche Guards had received “a fine war flag, of the new style,” in a ceremony at Mr. Cushing’s store on Camp Street. Noble reportedly gave “one of his most felicitous speeches” after receiving the banner.<sup>83</sup> From this brief description, the flag was undoubtedly one of the Confederate battle flags, which had been designed in part by Louisiana native, General Pierre Gustave Toutant Beauregard.

A regimental morning report for 10 January 1862 indicates that three companies, some 200 men, of the regiment had not participated in the parade or in the muster that day because they still lacked their complete uniforms. This report placed the regiment’s strength at 1,022 rank and file. As a result of the unit’s obvious deficiencies in equipment, General Lewis on 17 January ordered his quartermaster general to issue knapsacks, haversacks, and canteens to each of the company commanders. Several days later, Lewis made the same provisions for Noble’s

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Louisiana State University Press, 1995); Donald E. Everett, “Ben Butler and the Louisiana Native Guards, 1861-1862,” *Journal of Southern History*, vol. XXIV, (May 1958), pp. 202-204.

<sup>82</sup> New Orleans, *Daily Picayune*, 9 December 1861.

<sup>83</sup> *Ibid.*, 10 January 1862.

company, which seems to have severed its formal relationship to the regiment and acted as an independent unit.<sup>84</sup>

Based upon these orders, surviving regimental muster sheets, and subsequent Confederate military reports, the composition of the 1st Louisiana Regiment of Native Guards in January 1862, was as follows:

Native Guards	Captain St. Albin Sauvinet, 85 men;
Savary Native Guards	Captain Joseph Joly, 85 men;
Beauregard Native Guards	Captain Louis Golis, 52 men;
Young Creole Native Guards	Captain Ludger B. Boquille, 76 men;
Labatut Native Guards	Captain Edgar C. Davis, 110 men;
Mississippi Native Guards	Captain Marcelle Dupart, 64 men;
Economy Native Guards	Captain Hewn Louis Rey, 100 men;
Meschacebe Native Guards	Captain Armand Lanusse, 90 men;
Order Native Guards	Captain Charles Sentmanat, 90 men;
Crescent [City?] Native Guards	Captain Virgil Bonseigneur, 63 men;
Perseverance Native Guards	Captain Noel Bacchus, 60 men;
Louisiana Native Guards	Captain Louis Lainez, 75 men;
Ogden [or Turcos] Native Guards	Captain Alcide Lewis, 85 men;
Plauche Guards	Captain Jordan Noble, 100 men. <sup>85</sup>

On 15 February 1862, Governor Moore renewed the commissions of the Native Guards' regimental officers as well as those of the Plauche Guards. The fall of Forts Henry and Donelson in the winter of 1862 resulted in a call for reinforcements to support the Confederate army in Tennessee.<sup>86</sup> Major General Mansfield Lovell at New Orleans responded by ordering away all of his volunteer regiments and several ninety-day units. In early March, he asked the Governor to provide 10,000 volunteers to defend the various entrenchments around the city. The Native Guards Regiment was one of the units that offered its services, but they were never called out. On 25 April 1862, Flag Officer David G. Farragut's Union naval squadron arrived

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<sup>84</sup> Compiled Service Records of Confederate Soldiers, Microcopy No. 320, Roll 94; General Orders No. 30, Headquarters Louisiana Militia, Adjutant General's Office, 17 January 1862, *Order Book, Adjutant General's Office, Louisiana State Troops, 1862*, pp.101-102, LSA, Baton Rouge, LA, General Orders No. 61, Headquarters Louisiana Militia, Adjutant General's Office, 31 January 1862, p. 113.

<sup>85</sup> Compiled Service Records of Confederate Soldiers, Microcopy No. 320, Roll 94-95, 412. The total recruitment for the regiment stood at 1,135 men.

<sup>86</sup> Following the fall of Fort Henry, on 6 February 1862, and Fort Donelson, on 12-16 February 1862, Confederate forces in Tennessee had gradually fell back through Nashville. Despite the army's concentration in the area of Shiloh Church, which is located in south central Tennessee, Confederate forces were also present at Memphis, Tullahoma, Murfreesboro, Chattanooga, and Knoxville. See, Thomas Lawrence Connelly, *Army of the Heartland: Army of the Tennessee, 1861-1862*, (Baton Rouge. Louisiana State University Press, 1967); Peter Cozzens, *The Civil War in the West: From Stones River to the Chattanooga Campaign*, (Urbana: University of Illinois Press, 1996).

to force the surrender of New Orleans, having steamed past the strongholds of Fort Jackson and St. Philip. Lovell then attempted to get the militiamen to report at Camp Moore near Tangipahoa, but the majority of them, including the Native Guards, chose to remain in New Orleans. With the capture of the city the regiment disbanded without surrendering, but by the late summer many of its members reorganized as the 1<sup>st</sup> Louisiana Native Guards, United States Colored Troop.<sup>87</sup>

This shift of allegiance by the free black community was less opportunist than pragmatic. They had joined the Native Guards out of a sense of pride and loyalty to their families and community. They saw no point in taking their involvement with the Confederacy any further. As discussed later (in chapter six), many historians assume that the Guards regiment was formed by coercion by urban whites and, to an extent, Congressional testimony in the postwar era supports this view. However, when free black leaders met with General Butler in May 1862, there was no mention of white pressure, or fear of retaliation, as their immediate concern was to assert their loyalty to the Union.<sup>88</sup> Indeed, whatever the reasons for free black support for the state in 1861, they had the approval of the state government, even though they might lack the supplies to put up an adequate defense.

#### **Further Examples: Louisiana's Free Black Communities**

Though not as well documented as the New Orleans regiments, companies of free blacks were active in several other areas of Louisiana. The Baton Rouge *Weekly Gazette & Comet* reported in April 1861 that Captain Henry B. Favrot, a prominent white citizen, had begun to enroll a company of free blacks from the town's populace. At that time, he already had enlisted thirty men. The paper's editor praised Favrot's efforts, wished him success, and stated that he would count on the company "as a host in any emergency . . . in this perilous

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<sup>87</sup> *Miscellaneous Register of Officers, Louisiana State Troops, 1861-1862*, pp. 13, 79, 98, 120, 130, 139, 146, 160, 161, 175, LSA, Baton Rouge LA; *Official Records*, series I, vol. XV, p. 557; Napier Bartlett, *Military Record of Louisiana: Including Biographical and Historical Papers Relating to the Military Organizations of the State*, (Baton Rouge. Louisiana State University Press, 1875, 1964), pp. 255-256.

<sup>88</sup> Details of this meeting were included in a letter from Benjamin F. Butler to Secretary of War Edwin M. Stanton, 25 May 1862. *Official Records*, series I, vol. XV, p. 442

hour.” By early October 1861, the company was complete, and had been armed. There is no record of how many men Favrot was finally able to enlist in his company, which became known as the Baton Rouge Guards. The men drilled throughout the fall and winter, becoming quite proficient by early April of 1862. In that month, the men turned their Mississippi rifles over to a white militia company that had only a few substandard weapons, and rearmed themselves with shotguns.<sup>89</sup>

This company of free blacks apparently disbanded the following month when Union forces occupied Baton Rouge on 12 May 1862. One unidentified member of the company was reported to have fought with Major General John C. Breckinridge’s Confederate forces in his attempt to recapture Baton Rouge on 5 August 1862. After the battle, a reporter noted that one of “the most conspicuous of the rebels involved in the attack on the position of the 14<sup>th</sup> Maine Infantry Regiment was a huge Negro.” This man was “well armed and equipped with knapsack, musket and uniform, he helped lead the attack, but eventually was killed in the fight.” The Confederates in this area of the battlefield were from Kentucky, and it seems likely that Breckinridge and his subordinates would have welcomed the assistance of a former militiaman in guiding their units through unfamiliar terrain toward the enemy positions. In his report of the battle, Breckinridge stated “armed citizens of the area had joined his army and aided him in its attack on Baton Rouge.”<sup>90</sup>

Free blacks in Pointe Coupee Parish, northwest of Baton Rouge, also offered their assistance to the state. In early May, a number of them assembled at the courthouse and obtained from the police jury permission to organize a militia company. Initial reports stated that they had chosen two white men, Ferdinand L. Claiborne, and Ovide Lejeune, as their captain and first lieutenant respectively. A newspaper article in early June stated that the company had completed its organization and had 92 members. They elected Louis H. Trudeau as captain and three other whites as company officers. The editor of a Baton Rouge paper roundly criticized the free blacks for “displacing” the highly esteemed Claiborne, calling their

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<sup>89</sup> Baton Rouge, *Weekly Gazette & Comet*, 27 April, 5 October, 1861, 5 April 1862.

action “insulting and impudent.” Nothing else is known of this company except that it was still drilling with the white militia of the parish as late as November 1861. Appointments for the officers of the Pointe Coupee Light Infantry were made on 15 February 1862, and commissions issued on March 13 (both effective 15 June 1861), so it appears the company was still in service in the spring of 1862.<sup>91</sup>

As early as May 1861, free blacks in the fertile strip of alluvial land near Natchitoches known as Isle Brevelle had begun forming two militia companies. The first to organize was a cavalry company nicknamed the Augustin Guards (in tribute to the colony’s revered patriarch, Augustin Metoyer); an infantry company called the Monet’s Guards quickly followed. Although supervised by white planters, the officers of the units appear to have come from the free black community. The cavalymen furnished their own uniforms, weapons, equipment, and horses. One historian has estimated that approximately 150 men served in the two companies. Dr. Jean N. Burdin, a French born white man was in charge of drilling both units. The men offered their services for the defense of New Orleans to Governor Moore, but though both they and local officials expected them to go to New Orleans in early 1862, Union forces captured the city before the companies could leave the parish. Both companies continued to drill occasionally, but their only official duty was to form part of the honor guard at the funeral of a white soldier who had died of disease in Arkansas.<sup>92</sup> Union soldiers passed through the area during the Red River Campaign of 1864, but by that time the companies had become largely disorganized and ceased to exist afterwards.<sup>93</sup>

The *gens de couleur libre* of Isle Brevelle had proved themselves worthy citizens long before the civil conflict divided friends and neighbors. Descended from a family of slaves who

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<sup>90</sup> New Orleans, *Daily Delta*, 7 August 1862; *Official Records*, series I, vol. XV, p. 79.

<sup>91</sup> Baton Rouge, *Weekly Gazette & Comet*, 11 May 1861; *Pointe Coupee Democrat*, 8 June, 2 November, 1861; Baton Rouge, *Daily Advocate*, 12 June 1861; Miscellaneous Register of Officers, Louisiana Militia, 1856-1862, pp. 139-161, LSA, Baton Rouge, LA.

<sup>92</sup> *Natchitoches Union*, 6 March 1862; In March 1862 the body of their white neighbor Felix Chaler, a regimental standard bearer who died of typhoid fever while in Confederate service was returned home for burial.

<sup>93</sup> New Orleans, *Daily Picayune*, 22 May 1861; Gary B. Mills, *The Forgotten People: Cane River's Creoles of Color*, (Baton Rouge: Louisiana State University Press, 1977), pp. 233-36.

had earned its freedom in the Spanish colonial period, this colony of freedmen had accumulated some 15,000 acres of “the most productive cotton growing land in the State.”<sup>94</sup> By 1860 they were themselves the owners of 379 slaves and held property that was conservatively estimated at \$770,545.<sup>95</sup>

Stately homes graced the plantations of these rural *Creoles de couleur*, and private tutors educated their youth.<sup>96</sup> The first generation of the colony’s freedmen had established its own Catholic chapel in an era when the area’s whites had no convenient house of worship. Those whites – many of them possessing wealth and prominence – not only received the sacraments in the colony’s church, but took a back seat during services to the non-white family who built the chapel.<sup>97</sup> Residents and visitors alike commented on the “gentlemanly manner” and “domestic and social happiness” of the free black population and described them as “honest, and industrious, and good citizens, in all respects.”<sup>98</sup>

In the immediate prewar years, the position of all free blacks in Louisiana became increasingly tenuous. As H. E. Sterkx explains, “free Negroes were physical reminders to slaves that they too could and should be free.”<sup>99</sup> Moreover, there existed a fundamental doubt as to the allegiance of the free non-white: did his sympathies lie with the whites who allowed his freedom or with the bondsmen who shared his former oppression? The question of racial affinity undoubtedly caused inner conflict for many of Louisiana’s *gens de couleur libre*. As another authority points out: “Problems of racial relations are exceedingly complex, but there can be no

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<sup>94</sup> For a study of the origins of this family see Gary B. Mills “Coincoin: An Eighteenth Century Liberated Woman,” *The Journal of Southern History*, vol. XLII (1976), pp. 205-222.

<sup>95</sup> See Manuscript Census Returns, Eighth Census of the United States, Natchitoches Parish, Louisiana, Schedule One, Free Black Population, National Archives Microfilm Series No. M-633, Roll 414, and Schedule Two, Slave Population, Series No. M-653, Roll 429, LSA, Baton Rouge, LA; Granted this example of wealth among Louisiana’s free black community was the exception and not the rule as this population had within it a minority elite. Berlin, *Slaves Without Masters*, pp. 150-152, 171-172, 381-395.

<sup>96</sup> Frederick Law Olmsted, *A Journey in the Seaboard Slave States in the Years 1853-1854, With Remarks on their Economy*, (New York: G. P. Putnam’s Sons, 1904, reprint 1968), p. 633; J. J. Callahan, *The History of St. Augustine’s Parish, Isle Brevelle, Natchez, Louisiana: 1803-1953, 1829-1954, 1856-1956*, (Natchitoches, Louisiana: n. p. 1954), p. 31.

<sup>97</sup> J. A. Baumgartner, “Isle Brevelle,” quoted in Annie Lee West Stahl, “The Free Negro in Ante-Bellum Louisiana,” *Louisiana Historical Quarterly*, vol. XXV (1942), p. 362.

<sup>98</sup> Olmsted, *A Journey in the Seaboard Slave States*, p. 634.

<sup>99</sup> H. E. Sterkx, *The Free Negro in Ante Bellum Louisiana*, (Rutherford, New Jersey: Fairleigh Dickinson University Press, 1972), p. 304; Robert C. Reinders, “The Free Negro in the New Orleans

more intricate problem than that of the relation of the mulatto to the two races whose blood, in varying proportions, united in his veins.”<sup>100</sup>

For the Isle Brevelle colony, as for many of their counterparts in Louisiana, the conflict was not only one of race but of class as well. Occupation, income, education, and even religion were crucial factors in determining each man’s personal allegiance. These factors, for several generations, had served as effective barriers between the free black population on the Isle and any ideological affiliation with other blacks or slaves.<sup>101</sup> They believed that if Federal forces were successful in retaking the state it would most assuredly eliminate their unique status as freedmen, as well as result in the destruction of their agricultural-based economy. Thus, the bulk of the Isle Brevelle colony fell into the general category of “free blacks and mulattos who showed little, if any, interest in abolition and ...even actively opposed the end of slavery.”<sup>102</sup> Yet, on the other hand, these free blacks were acutely aware of their relegation to second-class citizenship, and Union promises of social and political equality appeared enticing.<sup>103</sup>

Although this “allegiance to the Confederacy” encompassed a relatively small percentage of the Isle’s population, when questioned, even at a time when professed loyalty to the Federal cause presented a means of economic survival, the colony publicly favored the Confederacy throughout the conflict. They provided no support, open or covert, to the Union cause, and in all accounts deprived themselves, and their families to help maintain Confederate forces. Indeed, their area of the parish was frequently called upon to provide forage for

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Economy, 1850-1860,” *Louisiana History*, vol. VI (1965), p. 285.

<sup>100</sup> James Hugo Johnston, *Race Relations in Virginia and Miscegenation in the South, 1776-1860*, (Amherst: University of Massachusetts Press, 1970), p. 298; Berlin, *Slaves Without Masters*, pp. 195-197; Johnson, and Roark, *Black Masters*, pp. 141-142.

<sup>101</sup> Callahan, *The History of St. Augustine’s Parish*, p. 27; Frances Jerome Woods, *Marginality and Identity: A Colored Creole Family through Ten Generations*, (Baton Rouge. Louisiana State University Press, 1972), pp. 46, 53-54.

<sup>102</sup> Carl N. Degler, *Neither Black nor White: Slavery and Race Relations in Brazil and the United States*, (New York: Macmillan Press, 1971), p. 84.

<sup>103</sup> In later claims for damages inflicted upon them by Federal forces, six residents of the isle and their witnesses clearly stated their expectations that a Union victory would result in improved civil, social, and economic rights, although they failed to prove that they had aided the Union cause. See *Suzette A. Morm deceased, v. The United States*, Claim, 13678; *Emilie Kirkland v. The United States*, Claim, 41317; *Jean Conant, v. The United States*, Claim, 43565; *Jean Conant, Tutor, for Annie Metoyer and Others v. The United States*, Claim, 43576; and *Jerome Sarpy v. The United States*, Claim, 43582, Records of the Southern Claims Commission, Tennessee State Library and Archives, Nashville, TN.

Southern troops.<sup>104</sup> When the parish was ordered to furnish three hundred male slaves to build defenses on Red River, 25 per cent of the known slave owners who volunteered hands were members of the Isle Brevelle community. Four of the free black youths from the colony personally labored on these defenses.<sup>105</sup>

It was in the area of military service, however, that the *hommes de couleur libre* responded most enthusiastically to the Confederate cause, but it was a response more in line to protect their economic concerns than from active support for the government. Reverberations of the shots fired at Fort Sumter had hardly subsided before the colony's men organized their first militia unit, the squadron of cavalry called the Augustin's Guards.<sup>106</sup> Like its counterpart in New Orleans, this Isle Brevelle regiment supplied its own horses, uniforms, arms, and ammunition. In compliance with Confederate regulations, officers were selected from the ranks of whites, and the volunteers quietly accepted the prevailing opinion that non-whites "were considered fit only to serve in the enlisted ranks. Social delicacy alone foredoomed the commissioning of Negro officers."<sup>107</sup>

Shortly after the formation of the Augustin's Guards, another regiment was formed on the isle. An infantry company, this second unit adopted the name Monet's Guards in recognition of another prominent local family. This unit, likewise, was officered by whites, but the volunteers in the enlisted ranks, along with the volunteers of the Augustin's Guards, were publicly recognized as members of a "people who are serving the country loyally and usefully." They drew sincere praise for being "inspired with the same sentiments which aroused their forefathers in 1814 and 1815."<sup>108</sup>

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<sup>104</sup> *Official Records*, series I, vol. XXXIV, pp. 505,561; Richard Taylor, *Destruction and Reconstruction, Personal Experiences of the Late War*, (Nashville: J. S. Sanders and Company, 1879, reprint ed., 1998), p. 181; Edward C. Bearss, ed., *A Louisiana Confederate: Diary of Felix Pierre Poché*, (Natchitoches, Louisiana: Louisiana Studies Institute, Northwestern State University, 1972), p. 101.

<sup>105</sup> *Natchitoches Union*, 27 November, 11 December 1862; Claim 13678. Records of the Southern Claims Commission, Tennessee State Library and Archives, Nashville, TN.

<sup>106</sup> *Natchitoches Union*, 26 December 1861.

<sup>107</sup> John D. Winters, *The Civil War in Louisiana*, (Baton Rouge: Louisiana State University Press, 1963), p. 35.

<sup>108</sup> *Natchitoches Union*, 26 December 1861, 1 May 1862.

The exact strength of the two contingents of non-white militia on the isle, and the identities of the members of each, are not known. A news item early in 1862 indicated that the ranks of the newer company, the Monet's Guards, had been "completed" and its force totaled seventy-six men.<sup>109</sup> The older company presumably comprised a force of equal size, in which case their combined strength may be estimated at some 150 men. According to statistics provided by the 1860 Federal census, this represents the colony's entire male population that was fourteen or over when hostilities began.<sup>110</sup>

In December 1861, the *Natchitoches Union* reported its observations on a drill conducted by two units of free black militia:<sup>111</sup>

The squadron of cavalry, so skillfully trained by Dr. Burdin, their uniformity, and precision were admirable. The firm commands and good cadence of the captain, also that of the officers; the intelligent enthusiasm produced by all the soldiers; the excellent horsemanship by the squadron; all contributed to amaze the public who had come to attend these maneuvers. For us who have often attended cavalry drills in Europe, we wonder how, in so little time, these men have been able to attain this degree of perfection. The company of infantry, newly formed, has need of practice, but we are convinced that having a little, their drills will be executed with as much precision as in the cavalry.<sup>112</sup>

Apparently earnest in their endeavor to achieve the standards expected of them, these units ordered a copy of one of the most up to date military manuals, *Casey's Infantry Tactics for the Instruction, Exercise, and Maneuvers*.<sup>113</sup>

Soon after the war began, the Augustin's Guards had offered their services to the Confederacy, "with a request that they be permitted to take up arms against any Federal units that may invade the state." Just as the services of the New Orleans Native Guards had been rejected initially, their offer was likewise refused, "because the company was composed of free

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<sup>109</sup> Ibid., 1 May 1862.

<sup>110</sup> Manuscript Census Returns, Eighth Census of the United States, Natchitoches Parish, Louisiana, 1860, Schedule One, Free Black Population, Series No. M-653, Roll 414, LSA, Baton Rouge, LA.

<sup>111</sup> *Natchitoches Union*, 26 December 1861.

<sup>112</sup> Dr. Jean Napoleon Burdin was born 1812 at Dolaconafery, Department of Jura, France. In 1860 he settled in Isle Brevelle, one mile from the colony's church, where he farmed and practiced medicine until his death in 1864; The author of this article *Union*, editor Ernest Le Gendre, was qualified to assess the drill performance of the Guards. Le Gendre came to Louisiana as a political exile, a direct result of his active participation in the French Revolution of 1848. Obituary of Ernest Le Gendre, *Natchitoches Union*, 20 February 1862.

<sup>113</sup> Silas V. Casey, *Casey's Infantry Tactics for the Instruction, Exercise, and Maneuvers*, (New York: United States Military Academy, 1862). This manual contained the hand written year, 1862, and the

men of color.”<sup>114</sup> Still the companies continued to drill. As the Federal occupation of New Orleans became imminent, hopes were revived in Natchitoches Parish that its organized *hommes de couleur libre* might be called to active service in the state’s defense. The *Union*, in December 1861, editorialized that; “the cavalry and infantry will make excellent patrols at the coast, and contribute to maintaining the public tranquility. This editor congratulates these two companies on their useful organization.”<sup>115</sup>

Three months later the *Union* reported that, “the police jury of the parish had appropriated the sum of \$600 to defray the expenses of the volunteers and families of the Isle Brevelle militia, whenever the companies should leave the parish for New Orleans to participate in the defense of that city.” The appropriation was to be paid to their white officers who would expend or dole out the funds themselves after the volunteers were mustered into regular Confederate service. Moreover, a bounty of \$25, exactly half the amount of bounty established for white volunteers, would be paid by the president of the police jury to each non-white volunteer as he was mustered in as a regular.<sup>116</sup>

However, the surrender of New Orleans in April 1862 provided an alternative course of action for the state’s free black companies who had been spurned by Confederate leaders. Avowing that they had allied with the Confederacy only because they hoped “to advance nearer to equality with the whites, and had longed to throw the weight of their class with the Union forces,” the Native Guards of New Orleans readily accepted General Butler’s invitation to join the Federal ranks.<sup>117</sup> The three companies of Native Guards subsequently formed by Butler did not restrict their membership to the former Confederate guardsmen of New Orleans, but

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signature of Sévère Dupre on the inside front cover.

<sup>114</sup> Testimony of Clemire Metoyer and Joseph E. Dupre, *Le Normand v. The United States*.

<sup>115</sup> *Natchitoches Union*, 26 December 1861. Still another editorial appraising the “Native Guards” of Natchitoches was presented in the *Union* by Le Gendre’s successor on 6 March 1862.

<sup>116</sup> *Ibid.*, 27 March 1862.

<sup>117</sup> Wesley, “The Employment of Negroes,” pp. 243-244; Volunteers from the free black community of New Orleans and the surrounding area started to form regiments in the Union army by late August, early September 1862. See Chester G. Hearn, *When the Devil Came Down to Dixie: Ben Butler in New Orleans*, (Baton Rouge: Louisiana State University Press, 1997), pp. 210-211; Following General Butler’s call to arms on 22 August 1862, slaves and free blacks from Louisiana filled the first of three regiments of one thousand men each. James Parton, *General Butler in New Orleans: History of the Administration of the Department of the Gulf in the Year 1862*, (New York: Mason Brothers, 1864), p.

recruited new volunteers statewide from the slave as well as free population. The promised bounty of one hundred dollars or 160 acres of land upon enlistment, the idea of regular wages of thirteen dollars a month, and the promise of food supplies for their families were undoubtedly tempting to many war-impooverished families.<sup>118</sup>

During this period, Union sympathies rapidly mushroomed in central Louisiana. The fall of New Orleans and the other military reverses of 1862 “lowered the morale of the people and encouraged disaffection and disloyalty,” and Natchitoches Parish soon achieved a reputation as one of the hotbeds of seditious activities.<sup>119</sup> Still the determination of the Isle Brevelle guardsmen to serve the Confederate cause did not dissolve, and there is no hint of their participation in any pro-Union activities.

Early in 1864, death claimed the life of the white “supervisor” of the Isle Brevelle Guards leaving no qualified replacement among the diminished ranks of white men left in the parish. The Guards’ drillmaster, Dr. Burdin, took over as captain, however the men did not accept his leadership despite his fervor for the “cause.” Subsequent events indicated that he enjoyed little rapport with his men, and that a lack of respect existed on both sides. Unable, under Confederate regulations, to continue without white leadership the Guards then disbanded.<sup>120</sup>

However, the disbanding of the unit could not have come at a more inopportune moment. By March 1864 a Union force of some 45,000 men, representing all branches of service, had gathered in and around Alexandria, Louisiana, with plans to march up the Red River as soon as spring rains swelled the river enough to make it navigable.<sup>121</sup> As the Union forces pushed northward into and through Natchitoches Parish in late March and early April, the army’s line of march took them through the heart of Isle Brevelle.

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<sup>118</sup> Dorothea O. McCants, ed., *They Came to Louisiana: Letters of a Catholic Mission, 1854-1882*, (Baton Rouge: Louisiana State University Press, 1970), pp. 168-169.

<sup>119</sup> Ethel Taylor, “Discontent in Confederate Louisiana,” *Louisiana History*, vol. II (1961), pp. 411, 413.

<sup>120</sup> Testimony of Clemire Metoyer and Joseph E. Dupre, *Le Normand v. The United States*.

<sup>121</sup> Harris H. Beecher, *Record of the 114<sup>th</sup> Regiment, New York State Volunteers*, (Norwich, New

Disorganized and unable to reorganize militarily without satisfactory white leadership, the non-white residents of the Isle had no defense. Nor could they expect any significant degree of military or moral support from their white neighbors, countless of whom had fled before the Federal invaders.<sup>122</sup> The Natchitoches home guard was already defunct. The Cloutierville home guard – as that at Natchitoches – was composed of many Union sympathizers and foreign neutrals whose only purpose in organization was to provide police protection to the area and to satisfy the personal military obligation imposed on them by the Confederacy.<sup>123</sup>

Union forces camped in the midst of the Isle on the night of 31 March 1864. For the Federals, the experience was an amusing one. For the *gens de couleur*, it represented disaster. One Union surgeon recalled in his memoirs where he had spent the night “upon the fields of a wealthy planter,” and observed:

That it was difficult to draw them into conversation, for they were so thoroughly frightened at the advent of the Yankee savages, that they were almost speechless. The boys took great delight in witnessing the pallor they had created among thus ignorant people.<sup>124</sup>

If the *gens de couleur libre* entertained any hopes of receiving special treatment from the Union forces because of the color of their skin, they were disappointed. The invaders quickly recognized that “the inhabitants in this section are nearly all of French extraction,” and inflicted upon them the same punitive measures that they imposed upon the white owned plantations in the area.<sup>125</sup> Livestock, food, crops, household furnishings, and especially arms, were

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York: J. F. Hubbard, 1866), p 300.

<sup>122</sup> Henry A. Shorey, *The Story of the Maine Fifteenth*, (Bridgeton, Maine: Press of Bridgeton News, 1890), p. 77; Robert A. Tyson diary, 1863-1864, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge, LA. Tyson, a Union private, recorded in his diary while encamped on the isle: “Massa rund aha! Niggas staid at Home.”

<sup>123</sup> Testimony of Edward Royerson Brownell, *E. R. Brownell v. The United States*, Claim 43564, Records of the Southern Claims Commission, Tennessee State Library and Archives, Nashville, TN.

<sup>124</sup> Beecher, *Record of the 114<sup>th</sup> Regiment*, p. 304.

<sup>125</sup> *Ibid.*, In reviewing the treatment of free blacks by the Union army, Governor Henry W. Allen later reported that “in many instances [they] have been made the special objects of brutal treatment by the enemy.” Sarah A. Dorsey, *Recollections of Henry Watkins Allen: Brigadier General Confederate States Army, Ex-Governor of Louisiana*, (New York: M. Doolady Publishers, 1866), p. 382.

appropriated or destroyed. In general, those valuables preserved by the colony were those that had been buried by its more foresighted or forewarned members.<sup>126</sup>

The worst blow to the Isle Brevelle community, and the deathblow to the disorganized Guards, occurred upon the Federal retreat down Cane River after the Southern victories at the battles of Mansfield and Pleasant Hill in 1864. In vengeance, retreating Union forces destroyed almost every plantation they passed.<sup>127</sup> With the onslaught approaching, a frenzied Dr. Burdin hastily attempted an ambush. His failure clearly illustrated the unsound judgment on his part, which apparently had caused the guardsmen to reject him as their captain. The ardent drillmaster was not skilled as a military strategist or as a leader of men.

The reluctance of the guard to take part in any operation against Union forces stemmed not so much from cowardice, as from an awareness of the folly of Burdin's ill-timed and potentially suicidal plan. The families of Isle Brevelle had been left devoid of their weapons and horses, which had been confiscated by the Union on its previous incursion. Sévère Dupre inquired "with what are we intended to defend ourselves with, since the Yankees in passing up the River had deprived us of our arms." The doctor's retort to this obvious fact was an aggravated, "Hush up, take axes, hoes, and sticks."<sup>128</sup> Burdin wanted his men to march but they were hesitant, and a meeting, held at the church rectory, was designed to try and reason with him. However, as the meeting degenerated into a heated argument, an infuriated Burdin proceeded to fire his pistol at one of the guardsmen, wounding him. Gunfire was instantly returned, resulting in the Doctor's death.

Along with Dr. Burdin were buried the last remnants of the fervent patriotism that had motivated these *hommes de couleur libre* to organize in support of the Confederacy. No further attempt was made by the Isle Brevelle men to reorganize and again offer their services to what

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<sup>126</sup> Claims 13678, 41317, 43565, 43566, 43576, and 43582, Records of the Southern Claims Commission, Tennessee State Library and Archives, Nashville, TN; Callahan, *History of St. Augustine's Parish*, p. 27.

<sup>127</sup> Dorsey, *Recollections of Henry Watkins Allen*, pp. 279-280; Winters, *The Civil War in Louisiana*, pp. 365-366; Taylor, *Destruction and Reconstruction*, p. 193; Robert L. Kerby, *Kirby Smith's Confederacy: The Trans Mississippi South, 1863-1865*, (New York: Columbia University Press, 1972), pp. 315, 318.

was an obviously dying Rebel regime; but nor did these men retaliate by joining the Union forces that invaded their parish as their New Orleans counterparts and cousins had done.<sup>129</sup> The New Orleans Native Guards ended their loyalty to the new Confederate state with the Union occupation, and for the majority of the regiment this was the logical response. Not until after General Butler's installation as military governor did the Guards shift their loyalties to the Union. This pragmatic response fits well into their revised understanding of the situation, as the "enemy" was no longer the external threat of Union invasion, but an internal one based on principles of self-determination. The Isle Brevelle Guards understood the military situation and disbanded for similar reasons. While they were not inclined to join the Union, they realized that even with proper weapons, their ability to stop Union encroachment in the area was minimal.

Professor John D. Winters has estimated that nearly three thousand free blacks had volunteered for militia duty in Louisiana by early 1862, but that figure may be too high. There were probably no more than 2,000 free blacks and slaves who organized companies for the purpose of state defense.<sup>130</sup> Whatever the exact total may have been, it should be considered that with so many black Southerners within the state militia, it would seem likely that a few individuals would have seen combat at some level. There are also examples of "mulattos" who were involved in mixed white and free black home guards companies within the state.

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<sup>128</sup> Callahan, *History of St. Augustine's Parish*, pp. 20-21.

<sup>129</sup> Records of the Adjutant General's Office, National Archives Microfilm Series T-823, Nashville: Tennessee State Library and Archives.

<sup>130</sup> Winters, *The Civil War in Louisiana*, p. 21; There are other examples of free black participation in state defense service, which are separate from those of slaves and free blacks who were placed in regular regiments of the Confederate military. Free blacks in the Opelousas area of Louisiana had attempted to offer their services to either state or Confederate authorities. In a suit filed thirty years after the war against the Federal government for damages sustained at the hands of Federal troops, there was testimony that one of the aggrieved parties had offered to form a company of free black recruits. William C. Johnson, formerly a lieutenant and enrolling officer, stated that Auguste Donato Jr., a "free person of color" told Confederate officers in 1864 that he had proposed raising a company but was turned down. This claim was made when Donato was about to be conscripted as a laborer, and this may have been an attempt to escape that duty. Another person testified in the same case that he did not know if Donato had made such an offer. The fact that several free blacks from this area did enlist in regular Confederate units may lend some support to the idea that their friends and relatives attempted to organize a militia unit. See Cornelius Donato, Administrator, for *August Donato, deceased, v. the United States*, #9570, U. S. Court of Claims, Congressional Jurisdiction, Record Group 125, Tennessee State Library and Archives, Nashville, TN.

Two such men who saw service in the home guards were Evariste Guillory, Sr., and Evariste Guillory, Jr. Father and son were free mulattos living on Bayou Mallet west of Opelousas when the war began. They joined Captain M. McDavitt's Company I, 2<sup>nd</sup> Louisiana Reserve Corps. No information exists on when they enlisted, but the regiment did not form until July of 1864. The Reserve Corps consisted primarily of men who were over or under draft age or who were in some manner ineligible for regular service, such as discharged or disabled former soldiers. The men of the Reserve Corps saw practically no fighting with the enemy, but Confederate authorities called them out to chase Jayhawkers and deserters when needed for such service. They sometimes acted as drovers gathering cattle for the army in the field. Both of the Guillorys surrendered to Federal authorities and received their paroles at Washington, Louisiana, on 17 June 1865.<sup>131</sup>

Jacques Esclavon, a forty-year old free mulatto farmer from Calcasieu Parish, saw service in a Texas military unit late in the war. On 11 September 1864, he enlisted in Company A, Ragsdale's Battalion of Texas Cavalry. This unit had moved into southwestern Louisiana to perform guard and picket duty around the Calcasieu and Mermentau rivers and had enlisted several dozen men there. It is possible that the Texans did not know that Esclavon was black, but existing battalion records showing his assignment to menial duties such as teamster and company cook suggests they knew his status. Official records show Esclavon in service until at least March 1865. He may have remained on duty until his command broke up and dispersed to their homes at the end of the war.<sup>132</sup>

#### **Motivational Factors: State Loyalty, and Black Pragmatism**

Unfortunately, the historical record of the black Southerners discussed here is limited as none of them left any letters, diaries, or memoirs that might be used to elaborate their wartime

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<sup>131</sup> Population Schedules, Eighth Census of the United States, St. Landry Parish, Louisiana, 1860, Baton Rouge: LSA; *Opelousas Courier*, 9 July 1864; Compiled Service Records of Confederate Soldiers, Microcopy No. 320, Roll 114.

<sup>132</sup> Population Schedules, Eighth Census of the United States, Calcasieu Parish, Louisiana, 1860, Baton Rouge: LSA, Compiled Service Records of Confederate Soldiers Who Served in Volunteer Organizations from Texas, Baton Rouge: LSA, Microcopy No. 323, Roll 210; Donald J. Hebert, *Southwest Louisiana Records*, 31 vols. (Cecilia, Louisiana: privately published, 1974-1983), vol. III, pp.

activities, or to explain why they chose to enlist in either state or Confederate forces. This opens to speculation their motives in risking their lives for a cause many people would not expect them to espouse. Some of this small minority of slaves and free blacks who participated in Confederate forces did so, in part, for the same impulses that led many whites to form state and regular army units. In assessing the actions of New Orleans free blacks, David C. Rankin emphasizes the historical "state-patriotism" these men felt as well as their long tradition of service in the militia, combined with a sense of pride, dignity, and fidelity to family and community.<sup>133</sup> General studies of the roles played by free blacks elsewhere in the South, whether in labor or militia units, center on their state loyalty. As Benjamin Quarles noted, "Negro volunteers placed the cause of their respective commonwealth above every other public duty."<sup>134</sup>

The issue of loyalty to one's state or community as reasons for black Southerners to support the Confederacy has a strong foundation in both the economy and in the limited status that many free black Southerners enjoyed in Louisiana before war. The historian H. E. Sterkx conducted a state-wide study of Louisiana's free black population, and observed that "many well-to-do colored freemen prized their distinctive economic positions so strongly that they deplored any prospect that would endanger it. Equally feared by this group of colored planters was the prospect of a general emancipation, which would submerge them in the great black mass of Negroes."<sup>135</sup>

Another factor, which is related to this view of their place in society, is evident among the free blacks of Natchitoches, and other parts of the state outside of New Orleans. These men

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686, 691, vol. IX, p. 14

<sup>133</sup> David C. Rankin, "The Forgotten People: Free People of Color in New Orleans, 1850-1870," (Ph.D. dissertation, Johns Hopkins University, 1976), pp. 166-167; See also, Obatala, "The Unlikely Story," passim; Roland C. McConnell, *Negro Troops in Antebellum Louisiana: A History of the Battalion of Free Men of Color*, (Baton Rouge: Louisiana State University Press, 1968).

<sup>134</sup> Benjamin Quarles, *The Negro in the Civil War*, (New York: Da Capo Press, 1953, reprint 1989) p. 38; James M. McPherson, *The Negro's Civil War: How American Blacks Felt and Acted During the War for the Union*, (New York: Ballantine Books, 1991) p. 24.

<sup>135</sup> Mills, *The Forgotten People*, pp. 230, 244; Claude Oubre, "St. Landry's Gens de Couleur Libre: The Impact of War and Reconstruction," in Vaughan B. Baker and Jean T. Creamer, *Louisiana Tapestry: The Ethnic Weave of St. Landry Parish*, (Lafayette: Center for Louisiana Studies, 1982), p. 82; H. E. Sterkx, *The Free Negro in Antebellum Louisiana*, p. 213.

faced a choice by the late summer or early fall of 1864 of enlisting in combat units or waiting for conscription as laborers. A Natchitoches free black wrote from one labor camp, "We are in a way slaves." He described the squalor of the camp and told his wife, "The Negroes [slaves] are treated better than we are. We are obliged to do the hardest kind of work and the Negro looks on."<sup>136</sup> To avoid, what was for them, the degrading conditions and work of the labor camps, places where free blacks suffered the same treatment as given to slaves, these men in many instances chose to either escape, or take up roles in other areas of the state or military infrastructure. Certainly there are issues of class involved, where free blacks saw themselves as a separate and distinctive group within Southern society, but also the reason for their harsh treatment may lie in the more restrictive policies of the antebellum period.<sup>137</sup>

Questions remain about the sincerity of those free blacks who either joined or organized home guard units in the state. Historians have argued that those men did so out of fear or under pressure from whites. They also point accurately to the fact that the Native Guards Regiment disbanded when New Orleans fell into Union hands in April 1862, and that most of these men later joined the Union army.<sup>138</sup> As with the majority of slave support staff, fear and/or coercion do not appear to have been motives for the majority of these men, rather, they were moved by pragmatism. A study of that area states, "the *Opelousas Patriot* was the most virulently anti-Free Negro journal in the whole of Louisiana." Many residents of the parish advocated the expulsion of mulattos from the state, and in fact, some eighty-one free blacks left St. Landry for Haiti in 1860.<sup>139</sup>

The concept of slave and free black soldiers in the state militia was not unusual in Louisiana, although it would have been everywhere else in the Confederacy. Armed slaves and

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<sup>136</sup> Alexander S. Dupre to wife, 29 September, 2 October, 1864, Melrose Collection, Archives Division, Northwestern State University Library, Natchitoches, LA.

<sup>137</sup> Berlin, *Slaves Without Masters*, pp. 269-273.

<sup>138</sup> Rankin, "The Forgotten People," p. 168; James T. Wilson, *The Black Phalanx: African American Soldiers in The War of Independence, The War of 1812, and The Civil War*, (New York: Da Capo Press, 1887, reprint 1994), pp. 483-84; Quarles, *The Negro in the Civil War*, pp. 38-39; McPherson, *The Negro's Civil War*, p. 24.

<sup>139</sup> Geraldine Mary McTigue, "Forms of Radical Interaction in Louisiana, 1860-1880" (Ph.D. dissertation, Yale University, 1975), pp. 173-174.

free blacks had joined the French in 1727 to fight against the Choctaw Indians. Eight years later, forty-five black men served alongside French colonial troops in New Orleans. The Spanish continued the French practice of using black soldiers after the Louisiana Territory was ceded to Spain in 1762. More than eighty free blacks helped the Spanish army capture the English forts at Natchez and Baton Rouge in September 1779. Even larger numbers of black soldiers, both slave and free, participated in the capture of Mobile and Pensacola six months later. When the Louisiana Territory became part of the United States in 1803, black men continued to serve in the militia. In 1811, they helped the territorial governor suppress a slave insurrection. Four years later, slaves, and free blacks had fought with Andrew Jackson at the Battle of New Orleans. As the *Daily True Delta* reminded its readers in 1861, among the current volunteers were men “whose fathers and friends fought in defense of New Orleans on the plains of Chalmette.”<sup>140</sup>

To some extent, free blacks joined the Louisiana militia out of economic self-interest. The defenders of Louisiana were men of property and intelligence, representatives of a free black community in New Orleans that was both prosperous and well educated.<sup>141</sup> There were several slave owners among its ranks. Not even New York City could boast of having more black “doctors, dentists . . . silversmiths, portrait-painters, architects, brick-layers, plasterers,

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<sup>140</sup> Roland C. McConnell, “Louisiana’s Black Military History,” in *Louisiana’s Black Heritage*, Robert R. MacDonald, John R. Kemp, and Edward F. Haas, ed., (New Orleans: Louisiana State Museum, 1979), pp. 3-4; John Walton Caughcy, *Bernardo de Galvez in Louisiana, 1776-1783*, (Gretna, Louisiana: Pelican Publishing Company, 1934, reprint 1972.), p. 175; McConnell, *Negro Troops of Antebellum Louisiana*, pp. 108-111; William C. Nell, *The Colored Patriots of the American Revolution*, (Boston: R. F. Wallcut, 1855), pp. 295-296, *New Orleans Daily True Delta*, 23 April 1861. Jordan Noble placed a notice in the *Daily True Delta*, on 27 April 1861 calling for free men of color to serve as a guard. Noble was a free black who had served as a drummer boy in the Battle of New Orleans, and under the command of then General Andrew Jackson.

<sup>141</sup> One of the “Defenders,” Louis Golhis, was a forty-seven-year-old cigar manufacturer who owned real estate in the city’s seventh ward, see Manuscript Census Returns, Ninth Census of the United States, *Population of the United States in 1870*, (Washington D. C.: Government Printing Office, 1875), New Orleans, Louisiana, 7<sup>th</sup> Ward, p. 586, Baton Rouge: LSA; Armand Lanusse was a poet and leader of the city’s black intellectual elite, see John W. Blassingame, *Black New Orleans, 1860-1880*, (Chicago: University of Chicago Press, 1973), pp. 13, 135; Rodolphe L. Desdunes, *Our People and Our History*, (Baton Rouge: Louisiana State University Press, 1973) pp. 13-17, David W. Moore, “Armand Lanusse,” in Glenn R. Conrad, ed., *A Dictionary of Louisiana Biography*, (New Orleans: Louisiana Historical Association, 1988), vol. I, p. 483; Robert C. Reinders, *End of an Era*, (New Orleans, Pelican Publishing Company, 1964), pp. 139, 219, Arnold Bertonneau and Florville Gonzales operated coffee houses, and Joseph Lavigne was a grocer, see Charles Gardner, *Gardner & Wharton’s New Orleans Directory, for the*

carpenters, tailors, cigar-makers, etc.”<sup>142</sup> Furthermore, the *hommes de couleur libre*, as they were called in New Orleans, enjoyed privileges not afforded blacks elsewhere in the South, allowing them by 1860 to accumulate more than two million dollars worth of property. It was not surprising, therefore, that free blacks were eager to defend their holdings. “At this period in our history,” a black Creole wrote many years later, “people were most cautious in their criticisms of existing institutions. The pursuit of personal satisfaction or the persistent acquisition of material things of life occupied them.”<sup>143</sup>

However, economic self-interest was not the only reason why free blacks supported Confederate Louisiana. There was also the issue of self-identity. More than 80 per cent of the free black population in New Orleans in 1860 had European blood in their veins. In contrast, fewer than 10 per cent of slaves in Louisiana gave evidence of white ancestry.<sup>144</sup> Because skin color and free status were highly correlated, many free blacks identified more closely with Southern whites than with African blacks. “They [free blacks] love their home, their property, they own slaves, and they are dearly attached to their native land,” read an open letter published at the time of South Carolina’s secession. “The free colored population (native) of Louisiana have no sympathy for Abolitionism; no love for the North but they have plenty for Louisiana; and let the hour come, and they will be worthy Sons of Louisiana.”<sup>145</sup>

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*year 1861*, (New Orleans: E. C. Wharton, 1861); McConnell, “Louisiana’s Black Military History,” p. 48.

<sup>142</sup> Letter from Robert H. Isabelle to the *Weekly Anglo-African*, 25 February 1863, reprinted in Edwin S. Redkey, ed., *A Grand Army of Black Men: Letters from African-American Soldiers in the Union Army, 1861-1865*, (New York: Cambridge University Press, 1992), p. 252, also Arthié Agnes Anthony, “The Negro Creole Community in New Orleans, 1880-1920. An Oral History” (Ph.D. dissertation, University of California, Irvine, 1978), p. 28; Reinders, *End of an Era*, p. 23. The comparison with New York City comes from Ulrich B. Phillips, *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation Regime*, (Baton Rouge: Louisiana State University Press, 1966), pp. 438-439.

<sup>143</sup> Joshi and Reid, “To Come Forward and Aid in Putting Down This Unholy Rebellion,” p. 327; Desdunes, *Our People and Our History*, pp. 19-20; see also New Orleans *L’Union*, 5 May 1863. For insight regarding the hopes amid aspirations of the free black community from the time of colonial Louisiana to the present day see Arnold R. Hirsch and Joseph Logsdon, *Creole New Orleans: Race and Americanization*, (Baton Rouge: Louisiana State University Press, 1992).

<sup>144</sup> Joe Gray Taylor, *Negro Slavery in Louisiana*, (New York: Negro Universities Press, 1963, reprint 1969), p. 162.

<sup>145</sup> David C. Rankin, “The Impact of the Civil War on the Free Colored Community of New Orleans.” in *Perspectives in American History*, Donald Fleming ed., (Cambridge, Massachusetts: Harvard University Press, 1978), vol. XI, p. 381; Blassingame, *Black New Orleans*, p. 21; Reinders, *End of an Era*, p. 23; Wesley, “The Employment of Negroes,” p. 241; For an extended discussion of the free black

An 1859 editorial in the *Daily Picayune* attempted to explain why free blacks identified with the white community.

Our free colored population forms a distinct class from those elsewhere in the United States. Far from being antipathetic to the whites, they have followed in their footsteps, and progressed with them, with a commendable spirit of emulation, in the various branches of industry most adopted to their sphere. Some of our best mechanics and artisans are to be found among the free colored men. They form the great majority of our regular, settled masons, bricklayers, builders, carpenters, tailors, shoemakers, ... whilst we count among them in no small numbers, excellent musicians, jewelers, goldsmiths, tradesmen and merchants. As a general rule, the free colored people of Louisiana, and especially of New Orleans the "Creole colored people," as they style themselves – are a sober, industrious and moral class, far advanced in education and civilization.<sup>146</sup>

The degree of assimilation of free black recruits into the white community was such that General Butler commented; "In color, nay, also in conduct, they had much more the appearance of white gentlemen than some of those who have favored me with their presence claiming to be the chivalry of the South."<sup>147</sup> Undoubtedly, free blacks who supported Confederate Louisiana expected better treatment as a result, to move "a little nearer to equality with whites," as one writer put it.<sup>148</sup> This hope was expressed on the day after Christmas 1861, when Captain Henry Louis Rey rose before the staff and officers of the Native Guards to give a toast. Holding his glass high, Rey saluted "the Revolution, which broke the chains of Young America, which shook off the yoke of the Mother Country, and permitted her to take rank among the first nations of the world!" Then Rey toasted "the present Revolution" and "all Revolutions – for they give birth to the progress of man, and lead him on the way to true fraternity!"<sup>149</sup>

### Conclusion

This chapter examined the role played by slave and free black Southerners in the areas of support, and their direct involvement and impact in state defense during the war through their

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Southerners in Louisiana with regard to a rejection of their African heritage see Rankin, "The Politics of Caste," pp. 107-146. For a point of view that rejects the importance of skin color as a factor in determining racial identity see Hirsch and Logsdon, *Creole New Orleans*, pp. 193-194; New Orleans *Daily Delta*, 21 December 1860.

<sup>146</sup> "Hayti and Immigration Thither," *New Orleans Daily Picayune*, 16 July 1859.

<sup>147</sup> Butler to Stanton, 25 May 1862, in *Official Records*, series I, vol. XV, p. 442.

<sup>148</sup> Parton, *General Butler in New Orleans*, pp. 516-517; see also William F. Messner, "The Federal Army and Blacks in the Department of the Gulf, 1862-1865" (Ph.D. dissertation, University of Wisconsin, 1972), pp. 62-63; Rankin, "The Forgotten People," pp. 296-299.

<sup>149</sup> *New York Times*, 5 November 1862, translated and reprinted from the New Orleans, *L'Union*, 15

participation in militias and home guard units. The state militias were in constant flux throughout the war due to the changing requirements of the Confederate government and the availability of resources. Louisiana was examined specifically because it was the only state where a well-established history of black participation in the military already existed, where the level of autonomy within this community was at its greatest, and where source materials are most plentiful.

Although Louisiana held prominence in this chapter, the main objective was to present the legislative process of state defense through the dual policies of slave and free black conscription and impressment in the implementation of a defensive strategy, while attempting to maintain political, and economic cohesiveness. The next chapter will examine the Confederate government's redefinition of the role and place of slaves and free blacks in national defense following the military reverses of 1863. State antagonism continued over this issue, but the military situation provided no recourse except for the expansion of slave and free black impressment and conscription policies. However, with the continuance of the war, the attentions of the national government turned not only to the extended use of black Southerners as labor and regimental support, but also to questions over their use as combat soldiers.



**Chapter Three**  
**A Sacrifice Upon the Altar of Southern Nationalism:**  
**Confederate Authorities and an Expanded Role for Black Southerners**

Here I return to the examination of the conflicting motives of state and national policies in the use of slaves and free blacks from 1864-1865, and the ensuing debate on the question of arming black Southerners for the war. Confederate military successes against the Union at Fredericksburg, on 13 December 1862, and at Chancellorsville, 2- 4 May 1863, elated authorities, and convinced war weary citizens that despite the deprivations suffered elsewhere the South might still gain its independence. However, the reversals of Gettysburg, 1-3 July 1863, and the surrender of Vicksburg on 4 July 1863, created losses in men and material that could not be easily recouped. Confederate officials were left with very few options leading to a reassessment of policies on conscription, exemption, and military detail in an attempt to repair the army. The situation also brought about a broader discussion at both the state and national level about broadening the use of slaves and free blacks through tougher impressment and conscription legislation. The ensuing debate brought many in the government and military closer to the realization that the role and place of black Southerners, especially those in supportive regimental positions, would have to be redefined to include their use in combat.

In general, historians have relegated the Confederate government's actions to arm slaves, and the role of President Jefferson Davis as policy maker, to a secondary position, seeing it only as a last effort to establish the Confederacy as a political entity. Confederate authorities debated the unthinkable as they "attempted to force the south to face the desperate alternative sacrificing one of its war aims - the preservation of slavery - in order to make a last ditch effort to achieve the other - an independent southern nation."<sup>1</sup> The significance of this reversal in national philosophy and legislative policy was, to a degree, a process that had started as early as 1861 with the use of slaves and free blacks as 'critical combat support staff.' Four years later some officials were talking of expanding that role.

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<sup>1</sup> Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, (Baton Rouge: Louisiana State University Press, 1972), p. vii.

The first choice of the Confederate government was to strengthen the Conscription Act of 1862. The issue of incorporating blacks as soldiers in the Confederate military had been voiced since 1861 and, although by 1863 slave and free black support personnel were an element of every Confederate regiment in the field, the government stayed clear of the contentious issue of their formal enlistment. Confederate officials saw the military use of black Southerners as a means of freeing up whites for front line duty while blacks took over the supportive positions in the regiment. The conscription policies of the Confederate government had been developed to avoid using blacks as combat soldiers and to bring back into the military draft dodgers, deserters, those on the exemption and detail lists, and members of the public previously not eligible for service.

The role played by the Davis administration, the Confederate Congress, and others in defining a purpose for black Southerners in the Confederate military had culminated in the development of a more comprehensive role for slaves and free blacks, one that was inclusive of their enlistment as combat soldiers. In return for that service questions of emancipation also had to be addressed if not directly answered.

### **Confederate Conscription**

During the winter of 1863-1864, it became increasingly apparent that the Confederacy could not hold its own against what appeared to be the Union's endless supply of recruits and material. Since reaching its zenith in the spring of 1863, casualties, desertions, the halt in prisoner exchange, and falling morale, had brought about a sharp decline in the Confederate Armies' numerical strength.<sup>2</sup> Field commanders, most notably General Robert E. Lee, had been requesting more men for his depleted ranks for over a year, by lobbying for new measures to

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<sup>2</sup> The 31 December 1862 official Confederate returns listed 233,374 men in the army and present for duty out of a total enlistment of 449,439. The returns of 31 December 1863, however, listed only 213,860 present for duty of a total enlistment of 464,646. *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D. C.: Government Printing Office, 1901), series IV, vol. II, pp. 278, 1073. The enlisted men not present for duty included the ill, those on furlough, and deserters. In the last year of the war, there were over 100,000 deserters. Two of the better studies on desertion in the Confederacy are Ella Lonn, *Desertion During the Civil War* (Lincoln: University of Nebraska Press, 1928 reprint 1998), and Georgia Lee Tatum, *Disloyalty in the Confederacy* (Chapel Hill: University of North Carolina Press, 1934 reprint 1970).

strengthen the army. These included the end of all class exemptions, the streamlining of military detail, and a generally improved use of the available manpower. In the western theater of operations, Confederate General William J. Hardee among others, proposed changes to the government's enlistment policy that would place all men, including black Southerners, between the ages of 15 and 60 at the complete disposition of the military. While he did not advocate the direct use of slaves and free blacks as soldiers, he wanted to increase their role as military support staff. However, at this point the concerns of the War Department were geared towards the recruitment of whites, and not to increasing the numbers of blacks at the regimental level.<sup>3</sup> Confederate President Jefferson Davis, in his final message for the 1863 legislative term, stated that Congress must "add largely to our effective forces as promptly as possible." He advised Congress to substitute the current system of class exemption with one of executive detail, and to extend the draft age beyond forty-five, with the older men detailed as replacements for those recruits performing inactive duties, but who were fit for combat service.<sup>4</sup> Davis also addressed the issue of using more slaves and free blacks, in an expanded supportive role within the company and regimental level. His objective was to "place in the ranks such of the able-bodied men now employed as teamsters, nurses, cooks, and other employees as are doing service for which the Negroes may be found competent."<sup>5</sup>

From as early as 1861, slaves and free blacks were taking an active, and to a degree unwilling role in the war effort. In 1863, Davis was attempting to redefine Confederate

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<sup>3</sup> *Montgomery Monthly Advertiser*, 6 January 1864. This call upon the government by General Hardee and his colleagues, to place all men, black and white, at the complete disposition of the military did not equate the arming of black Southerners. However, this letter was issued only four days after hearing General Patrick Cleburne's statement on the need to enlist the slaves as soldiers. Both men were officers in the Army of Tennessee, but in this instance it was rank that counted as Hardee was a Corps commander while Cleburne commanded a Division. See Ezra J. Warner, *Generals in Gray*, (Baton Rouge: Louisiana State University Press, 1981), pp. 53-54, 124-125.

<sup>4</sup> State of the Country speech delivered to the Confederate Congress, President Jefferson Davis, 7 December 1863 for the First Congress, Fourth Session, 7 December 1863 to 17 February 1864. James D. Richardson, ed., *A Compilation of the Messages and Papers of the Confederacy*, 2 vol., (Nashville: United States Publishing Co., 1906), vol. I, pp. 345-382. Also see Communication from the Secretary of War, James A. Seddon, 17 December 1863. in *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vols. (Washington: Government Printing Office, 1904), vol. III, p. 446. At this time Virginia, North Carolina, South Carolina, and Georgia contained 64,830 men under exempted status

<sup>5</sup> Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 370, 371. Congress would eventually authorize use of 20,000 black Confederates as cooks, teamsters, laborers, nurses, etc..

conscription and impressment policy concerning the use of black Southerners through a gradual expansion of their current role in the military.<sup>6</sup> Coinciding with his message to Congress were two further proposals from Secretary of War James A. Seddon designed to enlarge the pool of manpower for field service. Seddon explained that the first conscription act of 16 April 1862 had required all troops then in the army to serve for a total of three years effective from 1861. Within the terms of their enlistment, in the year 1864 men from 315 regiments and 58 battalions of the Confederate army would be eligible for discharge. Therefore the Secretary requested that these men be retained in the army for the war's duration, in effect asking for a repeal of the first conscription act. Secondly he asked that Congress organize groups of "the least available conscripts" including those exempt from conscription to be used to assist recruitment officers, and when necessary to help in the return of deserters to the army.<sup>7</sup>

In Congress, even opposition members rushed to propose measures that would increase the strength of the army. On 11 December 1863, Senator Louis T. Wigfall of Texas made a proposal to draft every male between the ages of 16 and 60, and to leave their use almost entirely to the discretion of the President.<sup>8</sup> Mississippi Senator Albert Gallatin Brown followed on the heels of the Wigfall proposal with one of his own. Ordinarily opposed to the practice of squandering away army reserves by drafting a few men here and there, Brown believed "that it would be better to save the country first and settle Constitutional constructions afterwards."<sup>9</sup> On 14 December the Senate's Military Committee introduced Bill No. 158, which was to deal with

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<sup>6</sup> Within the military 'Detail' is the term given to those soldiers who have been posted to perform necessary civilian work. As soldiers, they are still subject to Army Regulations regarding furlough, desertion, and all other military obligations and privileges. Examples range from quartermasters department to recruiting. Jefferson Davis was by profession a planter/statesman in the antebellum period, and with the issue of incorporating blacks into the Confederate military he relied heavily on his past experience. He knew his history, and was aware that upon occasion blacks had fought in the army. However, up to at least early 1864 there is no evidence that this was the direction that he was taking. See William L. Shaw, "The Confederate Conscription and Exemption Acts," *The Journal of American Legal History*, vol. VI, (1962), p. 379; Walter L. Fleming, "Jefferson Davis, The Negroes and the Negro Problem," *University Bulletin Louisiana State University*, series VI, no. 4, (October 1908), pp. 3-23.

<sup>7</sup> Report of the Secretary of War, 26 November 1863, Manuscript copy, P&W folder 2398, Museum of the Confederacy and Archives, Richmond, VA; Wilfred B. Years, *The Confederate Congress*, (Athens: University of Georgia Press, 1960), p. 87.

<sup>8</sup> *Richmond Daily Examiner*, 12 December 1863; Warner, *Generals in Gray*, pp 336-337. This was indeed unusual behavior for Senator Wigfall considering that he was an opponent of Davis.

<sup>9</sup> Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 345-382.

the problem of recruitment throughout the entire domain of military service. The measure drafted all men between the ages of 16 and 60; those between 18 and 45 would constitute the bulk of the army, with the remainder combined with those who were either exempted or detailed to comprise a reserve corps for local defense. Furthermore, the legislation limited class exemptions, though it retained the controversial exemption of state officers.<sup>10</sup> Overall the bill addressed state concerns in two vital ways: first it maintained the primacy of states' rights, and second it allowed men to be explicitly reserved for state defense, though it did not specify whether they should be state residents. This was essential in the minds of many state legislators who were concerned over the military placement of its citizenry. By retaining the exemption of state officials, Georgia, and North Carolina were allowed carte blanche to assign able-bodied men for military duty.

Meanwhile the House Military Committee matched and surpassed the Senate proposals by ending all forms of military exemption except for government officers, and gave the President and his staff complete powers of detail.<sup>11</sup> Committee Chairman, Representative William P. Miles of South Carolina, declared the existing system of military conscription a failure. He assured his colleagues that Davis would not be able to misuse his authority, as the bill would only allow him to propose where men would be of the greatest service to the army.<sup>12</sup> The House did not approve of Miles' bill and quickly shifted most of its support to the Senate measure.

Although both houses of Congress amended the Senate proposal, the essential structure and scope of the bill remained intact. Those who supported the administration accepted only a few additional class exemptions, mainly those in the professional sector, but the important provision of a reserve corps for local defense was dropped. Many of the senators from the Eastern states had wanted to liberalize the exemption of overseers, but this too was rejected.

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<sup>10</sup> Senate Bill No 158, *Forces To Serve During The War* December 14, 1863, Frank E. Vandiver ed., "Proceedings of the Confederate Congress," *Southern Historical Society Papers*, (Richmond, Va.: Southern Historical Society/The Virginia Historical Society, 1876-1959), vol. 50, pp. 44-47.

<sup>11</sup> *Journal of the Congress of the Confederate States of America*, vol. VI, p. 594.

<sup>12</sup> *Richmond Daily Enquirer*, 7 January 1864.

However, in the final reading of the bill Davis would be restricted in his overall authority on the right to detail while retaining control over as many additional exemptions as were necessary.<sup>13</sup> A major blow was that the Senate reduced the draft age from 60 to 55. For its part, the House was concerned over the issue of dealing with men over 45 years of age who at the time made up the backbone of the state militia. It changed the draft age limits from 17 to 50, but exempted men between 45 and 50 engaged in agriculture and mechanics, and required that only men disabled or over 50 handle less active duties.<sup>14</sup>

When the Congressional conference committee met, it settled the disagreements, and reversed one decision of both houses. The House and the Senate had agreed that men over 45 should be used only for inactive duty. Some members of the committee thought that it would be more efficient to allow these men to perform their military duties in the state militia. Senator Edward Sparrow of Louisiana wrote to Davis that “the committee would accept his direction and be able to form a Corps of Minute Men for local and detail duty on his word.”<sup>15</sup> The President’s response to Congress was that he needed the men in reserve corps for emergency military duty and having them serve in a state militia would give them poor training and keep them away from more valuable detail work. The men would probably not be needed for more than two or three weeks away from the fields and workshops.<sup>16</sup>

The Conscription Act of 17 February 1864 drafted all white men between 17 and 50 for the duration. Men already in the army were to stay in their companies under direction of the same officers to prevent confusion. Men aged 17 to 18 and 45 to 50 years of age would be organized into reserve corps for detail duty, and during emergencies could be used for military

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<sup>13</sup> *Journal of the Congress of the Confederate States of America*, vol. III, pp. 554, 572-573. The number of overseers exempted by this law was slightly over 4,000. John C. Schwab, *The Confederate States of America, 1861-1865: A Financial and Industrial History of the South During the Civil War*, (New York: Scribner, 1901), p. 198. An Exemption was a specific alliance of a nonmilitary status to a claimant who established his right to the same. William L. Shaw, “The Confederate Conscription and Exemption Acts,” p. 379; See also Years, *The Confederate Congress*, p. 87.

<sup>14</sup> *Journal of the Congress of the Confederate States of America*, vol. VI, pp. 712-714, 728-729. Barksdale had placed Davis’s program before the house in an amendment to give the President complete powers of details, but it was decisively defeated. *Ibid.*, pp. 728, 729

<sup>15</sup> Edward Sparrow to Davis, 12 February 1864. Lynda L. Crist, Kenneth H. Williams, and Peggy L. Dillard ed., *The Papers of Jefferson Davis, Volume 10: October 1863-August 1864*, (Baton Rouge: Louisiana State University Press, 1999), p. 231.

service within their home states. Provost and hospital guards and quartermaster and commissary employees had to be physically unfit for active service or outside the draft age. All exemptions were repealed except such officers as the President and the state governors certified as necessary. Also excluded were preachers, superintendents, and physicians of benevolent institutions, doctors, teachers, and apothecaries who had practiced a certain length of time, most railroad employees, and all mail carriers specified by the Conscription Act of April 1862. In addition, one overseer on each plantation, "having fifteen slaves and otherwise unsupervised, provided the owner delivered to the government, at impressment prices, specified quantities of meat and sold his marketable surplus to the government at the same prices."<sup>17</sup> This issue of the exemption of overseers soon became a point of contention among troops in the field, as it was perceived that the war was turning into a "rich man's war, poor man's fight."<sup>18</sup> The new conscription act also allowed the President to detail for military service such overseers, artisans, mechanics, and scientists as he saw fit.<sup>19</sup>

The new act thus gave the President and War Department complete control over the South's labor pool.<sup>20</sup> By cutting drastically the number of legal exemptions from the military, the Congress gave the administration the ability to allocate manpower. In effect if the War Office deemed a man's contribution to the economy worth more than his service as a soldier the government could draft him and send him back to his work or farm as a soldier on special assignment.

### **Opposition to Conscription, and Impressment: Alternative Proposals**

The people most affected voiced the strongest criticism. Members of obscure religious sects, dentists, students, and accountants all sought places on the exemption lists. Government

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<sup>16</sup> *Journal of the Congress of the Confederate States of America*, vol. III, p. 739.

<sup>17</sup> James M. Matthews ed., *Public Laws of the Confederate States of America: First Congress, Sessions 1 to 4; Second Congress, First Session*, (Richmond: R. M. Smith, Printer to Congress, 1862-1864), pp. 211-215.

<sup>18</sup> For an example of the resentment among soldiers in the field see, David Williams, *Rich Man's War: Class, Caste, and Confederate Defeat in the Lower Chattahoochee Valley*, (Athens: University of Georgia Press, 1998).

<sup>19</sup> Matthews ed., *Public Laws of the Confederate States of America*, p. 215.

<sup>20</sup> Albert B. Moore, *Conscription and Conflict in the Confederacy*, (Columbia: University of South Carolina Press, 1996), pp. 308-312.

offices were reluctant to give up their personnel and maintained that the army would not miss these few men. Planters feared that Davis would not detail enough help, especially to areas far from the battle lines. Though the press generally complimented Congress on the new law, the military, mainly General Lee, urged that it be enforced to the letter. At least on paper it added thousands of men to the army lists.<sup>21</sup> Most class exemptions abolished were agricultural and industrial to which the President could detail as soldiers at his discretion and the ones kept were the professional and service type. The Conscription Act of 1864 enabled the Confederacy to attempt the coordination of economic production and military need. Virginia, among other states, requested special “favors” in the area of agriculture, but these were denied as unnecessary and the administration continued to handle petitions with an obstinacy, which provoked discontent among citizens and state officials alike.<sup>22</sup>

Other state legislatures would soon join with North Carolina and Georgia in their opposition. These states saw their currently exempted militia and home guard units endangered, especially since the courts did not grant blanket exemptions and required that the youth in the state militias be given over to the Confederate army at the age of seventeen.

The new conscription legislation of 17 February required governors to certify that each individual exempted was absolutely necessary for the proper administration of his government. Not that this produced more recruits: according to Superintendent of the Bureau of Conscription, General John S. Preston, the governors duly certified “all persons in the service of the State, or in any mode employed by State authority.”<sup>23</sup> The North Carolina legislature maintained that the new law tried to reduce states “to mere provincial administrations” and “to

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<sup>21</sup> Years, *The Confederate Congress*, p. 88.

<sup>22</sup> By 1864 discontent over the governments conscription and impressment policy was wide-ranging and explicit. See *Official Records*, series I, vol. XLIV, pp 981-984, series IV, vol. II, p 385-386, series IV, vol. III, pp. 963-979, 993-994; Examples of state government discontent see George G Rable, *The Confederate Republic: A Revolution Against Politics*, (Chapel Hill: University of North Carolina Press, 1994), pp. 154, 161, 163-165, 248-249, 287-296; Examples as written in the press see, *Columbia Tri-Weekly South Carolinian*, 20 December 1864; *Charleston Daily Courier*, 21 December 1864; Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War*, ( New York: Vintage Books, 1997) pp. 204, 241.

<sup>23</sup> John S. Preston to James A. Seddon, 23 November 1863, *Official Records*, series IV, vol. III, p. 850; Years, *The Confederate Congress*, p. 89.

convert the Confederate government into a consolidated military despotism."<sup>24</sup> Other state legislatures indicated that they would not be forced to deny exemptions to anyone they pleased. As a result, all the Confederate governors drew up exemption lists, with North Carolina and Georgia claiming over 25,000 exemptions between them.<sup>25</sup>

Southerners may not have been wholly obstructionist in their states' rights opposition to the conscription and impressment measures, but they were opposed to national controls nonetheless. Even the states' rights leanings of the Confederate Congress, which did not hesitate to stop any measure that strengthened the central government, at least understood the need for conscription. The planters' only alternative was to force the state government to act, and state governments understood their role as a protector of their citizens' rights, with the right to property first and foremost.<sup>26</sup>

Not until 1862 did either Davis or the Secretary of War provoke the First Congress to act on the issue for increased recruitment or labor. Congress was not yet in a strong enough position to fight with the administration, but the initial enthusiasm of both planters and volunteers for the war would at least for a time delay concerns over manpower. However, after the Confederate victory at the battle of first Manassas on 21 July 1861, the Congressional enactment of the first Conscription Act on 16 April 1862, and slave impressment act of 23 March 1863 brought the issue to the fore. At this period in the war Congress was generally dominated by moderates and supporters of the administration so the needs of the Confederacy, as Davis saw them, were passed with little internal opposition, and a measure of popular support.<sup>27</sup>

The Second Confederate Congress, which opened in May 1864, was vastly different than its predecessor as its core membership was set to push for a stronger states' rights agenda. Although the administration hesitated to confront this Congress immediately, Davis knew that

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<sup>24</sup> *Laws of North Carolina, 1861-1865*, 5 vol., (Raleigh, North Carolina: State Printing Office, 1866), p. 24.

<sup>25</sup> Moore, *Conscription and Conflict*, pp. 100, 107.

<sup>26</sup> See, Richard E. Beringer, Herman Hattaway, Archer Jones, and William N. Still, Jr., *Why the South Lost the Civil War*, (Athens: University of Georgia Press, 1986), pp. 224.

he would have to act at some point. Although he thought the Conscription Act of 17 February was too recent for any proper evaluation, the President's concern over the abuse of state and military detail left him somewhat disappointed. When the Congress finally set about to develop an amended conscription bill, the first debate on the relevance on the organization of a separate Bureau of Conscription was deemed unnecessary. When they later resolved that the editor exemption clause should include editors of all periodicals, Davis vetoed the measure, insisting that only newspapers were vital. For the moment, Congress placidly concurred as it had yet to develop a cohesive opposition.<sup>28</sup>

By the summer of 1864 conscription ages had been pushed to their limits and attention now centered upon the exemption and detail lists of 125,000 men. Judge Andrew G. Magrath of South Carolina wrote to Davis stating "that improving the detail system would field 20,000 or 30,000 men from South Carolina and Georgia alone," while General Lee asked Davis to make a thorough and vigorous inspection of the rolls of exempted and detailed men.<sup>29</sup>

On 17 October 1864, the Governors of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Mississippi met in Augusta, Georgia, to make recommendations. They called for "renewed zeal in waging war so that peace based on the independence of the Confederacy might be established." The Governors also recommended that all able-bodied men who could possibly be replaced be sent to the front and, most importantly suggested that slaves be used to fight.<sup>30</sup> Their suggestions to the President were worded cautiously. They merely requested that "a change in policy" be considered, and that those slaves appropriated were only used as required. Although there is no record of a response from Davis, in his speech to Congress on 7 November 1864, he suggested the idea of slave emancipation, but in the

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<sup>27</sup> Moore, *Conscription and Conflict*, pp. 17-26.

<sup>28</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, p. 188; See also Yearns, *The Confederate Congress*, p. 89.

<sup>29</sup> Moore, *Conscription and Conflict*, p. 90; Robert E. Lee to Davis, 2 September 1864. Dunbar Rowland, ed., *Jefferson Davis Constitutionalist: His Letters, Papers, and Speeches*, 10 vol., (Jackson, Miss.: Mississippi Department of Archives and History, 1923), vol. VI, p. 327.

<sup>30</sup> *Official Records*, series IV, vol. III, pp. 683, 685, 735-736.

controversy that followed most of the Governors, apart from William Smith of Virginia, denied that this had ever been their intention.<sup>31</sup>

By early November 1864 Secretary of War Seddon wanted to make the nation one great military camp with Davis in complete charge. Superintendent of Conscription John S. Preston stated that only the President was qualified to determine who should work and who should fight.<sup>32</sup> With this support, the President, in his address to the last session of Congress on 7 November, made a final effort to establish his full control over the able-bodied men in the Confederacy. He asked Congress to replace the class exemption system with one of executive detail and, now that he had given up hope of the states surrendering their remaining militia, to provide a law whereby he could requisition them bodily.<sup>33</sup>

Congress was still undecided on how much authority it should grant the President and its reaction to the President's suggestions was hardly enthusiastic, even though it did not doubt the emergency. By this time, Congress was divided into three distinct groups of opinion, none of which could command a majority in either house.<sup>34</sup> They could on occasion act collectively, but it was still too early for a cohesive party structure to emerge. The two party system of the antebellum period was still nominally in place, with Congressmen declaring party affiliations as either Democrat or Whig, but the distinctions became obscured in a new government in the midst of war. The radical states' rights contingent believed that they had "long since placed at the disposal of the Executive every able-bodied man in the Confederacy,"<sup>35</sup> and wanted to restore class exemptions to the 1863 level. The moderates were still the largest section in both houses, and were willing to make some small concessions, though a few members in each house fully supported the administration.

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<sup>31</sup> Durden, *The Gray and the Black*, pp. 99-100.

<sup>32</sup> Report of the Secretary of War, November 3, 1864, Manuscript copy, P&W folder 2403, Museum of the Confederacy and Archives, Richmond, VA ; Rowland, *Jefferson Davis*, vol VI, pp 379-383.

<sup>33</sup> *Journal of the Congress of the Confederate States of America*, vol. IV, pp. 256-257.

<sup>34</sup> Thomas B. Alexander, and Richard E. Beringer, *The Anatomy of the Confederate Congress*, (Nashville, Tennessee: Vanderbilt University Press, 1972), pp. 113-122.

<sup>35</sup> Williamson S. Oldham, *Memoirs of a Confederate Senator, 1861-1865*, Manuscript copy, (1867), p. 43, Museum of the Confederacy and Archives, Richmond, VA.

The few members who wished to control the distribution of army manpower made little impression on the majority. William N. H. Smith of North Carolina was ignored when he asked the House Military Committee to report any laws needed “to prevent the prostration of the industrial interests of the country.”<sup>36</sup> On another occasion, when Senator James L. Orr questioned whether industry was obtaining enough detailed workers, the Military Committee curtly assured him that the War Department was using proper discretion in every instance on this matter.<sup>37</sup> For the most part Congress’s states’ rights members recognized their own weakness, but still sought to derail the administration’s program through improved organization of their voting block.

Congress considered measures to tighten the exemptions for men whose duties were debatable and proposed ending the exemption status of railroad workers, mail carriers, and overseers and to receive any volunteer groups not subject to military service. But this would not have increased military manpower significantly, since it involved small numbers, and would also have adversely affected these vital services. Most of the proposed bills did not pass the debate process; the only one which would have appreciably increased the army – that of replacing quartermasters and commissary officers with bonded agents – was vetoed because of the danger of it “seriously impairing our ability to supply the armies in the field.”<sup>38</sup>

State governors had managed to lend their reformed militias, under the conscription law of 17 February, to district commanders only during emergencies in their home states, but this limited action did not give them the experience needed to be of value in combat. On 7 November 1864 Davis recommended a law that would “organize, arm, and discipline all state militia for use by the central government.” Although he discreetly avoided asking about the thousands more who were exempt because of holding state offices, Davis was clearly hoping to tap into those state exemptions, which consisted of men who also served in the home guards.<sup>39</sup>

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<sup>36</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, p 289.

<sup>37</sup> *Richmond Daily Examiner*, 16 and 29 November 1864

<sup>38</sup> *Journal of the Congress of the Confederate States of America*, vol. IV, p 669.

<sup>39</sup> *Ibid*, vol VII, p. 253.

Congress recognized the difficulty of imposing its will on the states regarding state exemptions. In November, Representative Waller R. Staples suggested an investigation into whether they could appeal to the states to modify their exemption laws. A special House committee advised joint action with the Senate, but the Senate disliked the political implications of such a joint resolution, and so the request was put forward independently by both houses. However, the figures that the Superintendent of Conscription counted revealed that only North Carolina and Georgia allowed excessive exemptions and the investigation was dropped.<sup>40</sup>

Tampering with state militias was even further out of the question. In December 1864, Clark of Missouri introduced a bill to control the states' militias, but it remained buried for two months in the Military Committee. On 13 March 1865, Davis again asked for complete control of the militia, and although this time he did receive an answer from Congress, it was not the one he wanted. In the Senate Gustavus A. Henry of Tennessee issued a proposal that supported the President's request, but it failed by a tied vote. The House Military Committee revived Clark's bill and was unable to understand how it would help. The militia was "as efficient for State defense as if organized under Confederate authority," and Clark's bill was in reality the conscription of men over 50 and under 17, which the Committee was unwilling to recommend.<sup>41</sup> The report was defeated by a vote of 31 to 33, with the votes determined by whether a Congressman represented an occupied or an unoccupied district.<sup>42</sup> The bill eventually passed the House on 16 March 1865, but the Senate never acted upon it. Two amendments suspending for four months the section preventing reserve forces from serving outside their state limits were the only concessions allowed to the administration.<sup>43</sup>

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<sup>40</sup> Jefferson Davis to the House of Representatives, 21 February 1865. *Official Records*, series IV, vol. III, pp. 1099-1110; Yearn, *The Confederate Congress*, p. 91.

<sup>41</sup> Report of the Committee on Military Affairs, March 16, 1865. *Official Records*, series IV, vol. III, p. 1145; See also Yearn, *The Confederate Congress*, p. 91.

<sup>42</sup> For the votes of Clark's and Henry's bills see *Journal of the Congress of the Confederate States of America*, vol. IV, p. 720, and vol. VII, p. 776.

<sup>43</sup> Charles W. Ramsdell, ed., *Laws and Joint Resolutions of the Last Session of the Confederate Congress (November 7, 1864-March 18, 1865), Together with the Secret Acts of Previous Congresses*, (Durham, N.C., Duke University Press, 1941), pp. 4, 23-24; See also, "Proceedings," *Southern Historical Society Papers*, vol. 52, pp. 494-495; Matthews ed., *Public Laws of the Confederate States of America*, pp. 235-236.

The President's crucial recommendation of abolishing class exemptions still remained. On 7 November 1864, when Mark H. Blandford of Georgia placed this proposal before the House, discontent was felt immediately. The *Montgomery Daily Mail* predicted that the measure would "convert the South into a howling desert,"<sup>44</sup> and Senator William A. Graham of North Carolina wrote home of the "war fever" in Congress designed to "clothe the Executive, with still stronger powers."<sup>45</sup> Despite alarmist fears, the House Military Committee would not be hurried and it would not allow the Superintendent of Conscription or a long list of generals to intimidate it. On 10 December 1864, the Committee reported a bill with only two significant changes to the existing laws: to transfer all overseers to the detail list and to reduce slightly the number of class exemptions. The House placed the bill aside for a month in favor of several other unrelated measures. From January 1865 for the next three months, Congress discussed the Committee bill only intermittently. It never provoked much enthusiasm, and another administration defeat seemed certain. The only group in Congress to exert any vigor was the extreme states' rights contingent, who attempted to retrieve the political standing they had lost the previous February, by proposing numerous class exemption amendments.<sup>46</sup> The President's supporters accused them of "trying to amend the measure to death" but it was soon apparent that the President had lost ground on the issue.<sup>47</sup>

A bill introduced on 18 January by Senator Charles W. Russell of Virginia gained attention after a week's stalemated debate. Not wanting the administration to lose what it had gained over the last two years, Russell's strategy was to keep the administration happy by repealing the exemption of overseers while leaving the other specified classes untouched. He hoped to attract the moderate states' rights members by limiting the President's right of detail to men over forty and to artisans and mechanics then working for the government. The strategy

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<sup>44</sup> *Montgomery Daily Mail*, 11 November 1864.

<sup>45</sup> William A. Graham to David L. Swain, 26 November 1864 William A. Graham Papers, Special Collections, Manuscript Collection no., 285, Box 12, Folder 211 University of North Carolina, Chapel Hill, NC.

<sup>46</sup> Years, *The Confederate Congress*, pp. 92-93.

<sup>47</sup> They insisted that the nation's production was their only concern. *Richmond Daily Examiner*, 14 January 1865; *Richmond Daily Enquirer*, 16 January 1865.

served its purpose of defusing the radicals' base of support and Russell's bill passed the House on 23 January 1865 with 19 of the 26 opposing votes coming from the Eastern states.<sup>48</sup>

In the Senate, James Orr added a test amendment to Russell's bill to exempt all those men who might be more useful at home, asserting that existing laws would be sufficient for maintaining the needs of the military if applied correctly. Four senators from the southeastern half of the Confederacy voted with the border and western states against the test amendment, and his motion failed. The Senate then added two further amendments, for the continued exemption of overseers over forty-five years of age and the exemption of all artisans and mechanics employed by the Confederacy or by a state government.<sup>49</sup>

The bill became law, with the additional Senate amendments, on 16 March 1865, just three days after Davis approved the bill to enlist slave soldiers. The legislation did little to change the status of overseers, as they would retain their jobs except for occasional reserve service duty even if they had not been exempt; as for the amendment concerning artisans, and mechanics, this was already in line with the House plan. During a worker's government employment he would be exempt, but as a civilian worker he would be employed wherever the President desired. His labor was always available no matter what his designation. The Senate amendment was intended to retain congressional determination of military service, not to deprive the government of its labor supply.<sup>50</sup>

While Davis had to accept the bill, he complained that it still excused government workers from all military service, whereas if detailed they could be used for emergency local defense. He particularly criticized the provision "which revokes all details and exemptions heretofore granted by the President and Secretary of War, and prohibits the grant of such exemptions and details hereafter." Long experience had made some men in government service experts and, as fewer than a hundred of them would be affected by the act, he requested

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<sup>48</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, pp. 460, 487. The four states referred to were North Carolina, South Carolina, Georgia, and Alabama; See also Yearn, *The Confederate Congress*, p. 93.

<sup>49</sup> *Journal of the Congress of the Confederate States of America*, vol. IV, pp. 467-468.

<sup>50</sup> Ramsdell, *Laws and Joint Resolutions*, pp. 140-141; Yearn, *The Confederate Congress*, p. 94.

Congress to amend it accordingly.<sup>51</sup> Congress immediately ordered that the President might detail not over one hundred indispensable department workers, and that the law of 16 March 1865 should not exempt artisans and mechanics from military service in the reserve force.<sup>52</sup>

These laws came so late in the war that they could do nothing to help the military situation, and were much more a measure of Congress's defiance of President Davis. The exemption system was hardly touched, and one of Davis' "executive privileges," that of detailing soldiers, was severely limited.<sup>53</sup> On 7 March 1865 Congress enacted a final measure of organizational change, which abolished the Bureau of Conscription established in 1862 and installed a new system operated by the army. The Bureau contained almost 3,000 employees who were exempt and men who subsequently enrolled could also apply for exemption. While their application was being investigated, which usually required several months, their military service was lost. The new system had the general officers commanding the reserves in each state, and directing and enforcing all conscription, impressment, exemption, and detail laws. Conscripts might apply for exemption, but meanwhile were to be enrolled and trained without delay. A board of resident surgeons in each district was to visit around the counties every three months to seek out available men.<sup>54</sup>

The new system was implemented too late to be evaluated. Though it would have reduced the inflated Bureau of Conscription, the army's tactics would have counteracted any benefits by disaffecting public opinion.

### **The Debate for Black Soldiers**

By the spring of 1865, the state of the war forced the Confederacy's political and military leaders urgently to address the question of redefining the role of black Southerners from support staff to soldiers. Widely and often bitterly debated since the start of the war,<sup>55</sup> the

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<sup>51</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, pp. 749-750.

<sup>52</sup> Ramsdell, *Laws and Joint Resolutions*, p. 116.

<sup>53</sup> Yearn, *The Confederate Congress*, p. 94.

<sup>54</sup> *Ibid.*, pp. 86-88.

<sup>55</sup> Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867, Series II, The Black Military Experience*, (Cambridge: Cambridge University Press, 1982), pp. 282-289; Howell Purdue, and Elizabeth Purdue, *Pat Cleburne Confederate General*, (Hillsboro, Texas: Hill Jr. College

matter called for a major reevaluation of the philosophy upon which the Confederacy had in part based its existence.<sup>56</sup> Although recent scholarship tends to concentrate on the role of the Confederate government the actions taken in Virginia paralleled developments at the national level.<sup>57</sup> In the fall of 1864, many, probably most, Virginians strongly opposed this notion, but by the spring of 1865 as the Union army's presence became overwhelming, large numbers of them had reversed their position, led by several key state and national figures.<sup>58</sup>

Speeches on the subject of slave and free black soldiers conducted by national figures were widely reported throughout Virginia, and appear to have had a considerable impact on deliberations. There were two distinct aspects to the question. First, should both slaves and free blacks be used as soldiers? Second, if slaves were used, should they be rewarded for their service with freedom? While both the Virginian and the Confederate governments eventually decided to use black troops in their military forces, the question of emancipation was left unresolved, underscoring the paradox involved in the attempted use of slave soldiers to ensure Southern freedom.

Congress also considered the specific matter of the arming of slaves. The idea had been suggested as early as 1861, but the War Department stated then that a "superabundance of our own color" was volunteering and that white soldiers preferred to do their own fighting.<sup>59</sup> By late 1863, this "superabundance" had vanished and people began to consider the slaves more

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Press, 1973), pp. 267-278

<sup>56</sup> Charles H. Wesley, *The Collapse of the Confederacy*, (New York: Russell and Russell, 1937), p. 166.

<sup>57</sup> Some examples are, James M. McPherson, *The Battle Cry of Freedom*, (New York: Oxford University Press, 1988), pp. 831-837, Gary W. Gallagher, *The Confederate War*, (Cambridge: Harvard University Press, 1997), pp. 81-85, 107-108; Beringer, Hattaway, Jones, and Still, *Why the South Lost the Civil War*, pp. 391-392.

<sup>58</sup> Governor William Smith, *From the Governor of Virginia Communicating a Series of Resolutions Past at a Meeting of the Governors, 7 November 1864*, (Richmond, 1864), pp. 1-3; Alvin A. Fahrner, "William 'Extra Billy' Smith, Governor of Virginia, 1864-1865, A Pillar of the Confederacy," *Virginia Magazine of History and Biography*, vol. 74 (1966), pp. 78-86, Report of Governor William Smith to the Assembly, 7 December, 1864, *Official Records*, series IV, vol. III, p. 915; Jefferson Davis to William Smith, 25, 30 March 1865, *Official Records*, series I, vol. XLVI, pt. 3, pp. 1348-1349, 1366-1367.

<sup>59</sup> Albert T. Bledsoe, Chief of Bureau, of War, to W. S. Turner, Helena Arkansas, 2 August 1861, *Official Records*, series IV, vol. I, p. 529. This letter was in reply to Turner's letter of 17 July 1861, which rejected his offer of a black regiment. The reason given by Bledsoe is that, "now there is a superabundance of our own color tendering their services to the Government in its day of peril and ruthless invasion."

seriously as a source of manpower.<sup>60</sup> In December, General Patrick Cleburne designed a plan to draft slaves and free blacks, which he submitted to Joseph E. Johnston and an assembly of selected generals on 2 January 1864. The crux of his argument was that the hardships of the campaign were depleting the ranks and that the only way to remedy this situation was to enlist blacks as soldiers. He went on further to argue that those slaves who fought for the Confederacy would be given their freedom.<sup>61</sup> While most officers present remained silent, or at the very least voiced tentative support, Generals William Hardee, and Thomas Hindmam, understanding the gravity of the military situation provided unwavering support. Others headed by General William Henry Walker denounced the idea, later stating that the proposal “would ruin the efficacy of our Army and involve our cause in ruin and disgrace.” For his part, the Commander of the Army, General Johnston, refused to forward Cleburne’s letter to the War Department, stating that the issue of slave soldiers was more political than military. Still agitated by the idea, Walker forwarded a copy directly to Davis along with his personal denunciation of the plan. For his part, the President agreed with General Walker’s conclusions. Although Davis recognized Cleburne’s motives, fear of negative publicity brought him to the decision that, “it was inexpedient, at this time, to give sanction to the idea, and requested that it be suppressed.”<sup>62</sup> The few newspapers that deigned to consider the matter were in complete agreement with Cleburne, arguing that if the whites refused to support the war “with their

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<sup>60</sup> For insight into the support of white Southerners for slave and free black soldiers see, Berlin, et. al. ed., *Freedom, Series II, The Black Military Experience*, pp. 284-286.

<sup>61</sup> Stephen Davis, “Pat Cleburne’s Emancipation Proposal” *Blue and Grey Magazine* vol. VI, no. 10, Issue 4, (April 1989), p. 19; Roy Morris, “Pat Cleburne’s Modest Proposal Sent Shockwaves Through the Confederate Army and the Government” *America’s Civil War*, vol. 6, no. 5, (November 1993) p. 6; See also, Mark M. Hull, “Concerning the Emancipation of the Slaves,” in *A Meteor Shining Brightly: Essays on Major General Patrick R. Cleburne*, ed. Mauriel Phillips Joslyn, (Milledgeville, Georgia: Terrell House Publishing, 1999), pp. 143-166.

<sup>62</sup> Jefferson Davis to General William H. T. Walker, 13 January 1864, *Official Records*, series I, vol. LII, pt. 2, p. 596. See also, Thomas Robson Hay, “The South and the Arming of the Slaves,” *Mississippi Valley Historical Review*, vol. VI, no. 1, (June, 1919), pp. 34-37; Stephen Ambrose, “By Enlisting Negroes, Could the South Still Win the War,” *Civil War Times Illustrated*, vol. 3, no. 9 (January 1965), p. 21; Cleburne’s proposal is reprinted in the *Official Records*, series I, vol. LII, pt. 2, pp. 586-592; Purdue, *Pat Cleburne Confederate General*, pp. 270-273.

persons and property let it go, for the Negroes must always be, in the Biblical formula, hewers of wood, and drawers of water.”<sup>63</sup>

The suggestion that black Southerners be armed to supplement Confederate forces in the field had been advanced as early as the opening months of the war.<sup>64</sup> Although the idea received a good deal of favorable attention, Confederate authorities in Richmond, as well as in the states, consistently but politely declined to debate the issue.<sup>65</sup> In the late fall of 1864, General Ulysses S. Grant’s relentless war of attrition waged against General Robert E. Lee’s forces left the Army of Northern Virginia seriously weakened. At the same time, General William Tecumseh Sherman’s army cut a swathe through Georgia from Atlanta to the sea. The result was the continued loss of the South’s most critical resource, manpower. In this increasingly desperate military situation, Jefferson Davis risked his already shaky political future by putting forward the idea of “Negro Enlistment.”

The administration could not yet risk alienating public opinion by redefining black roles within the army, though the idea was openly discussed. A few state governors saw this prevarication by the government as a sign to air their own views on the future role for blacks in the military - despite the fact that in the field the use of slaves and free blacks as support staff was already in practice at varying levels.<sup>66</sup> On 26 September 1864, Louisiana Governor Henry W. Allen wrote to Secretary Seddon that “the time has come for us to put into the army every able-bodied Negro man as a soldier.”<sup>67</sup> However, a month later Seddon stated officially that he could not yet perceive the necessity or approve the policy of employing slaves as soldiers.<sup>68</sup>

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<sup>63</sup> *Yorkville (South Carolina) Enquirer*, 9 September 1863.

<sup>64</sup> *Official Records*, series IV, vol. I, pp. 482, 529; vol. III, p. 693

<sup>65</sup> Bell Irwin Wiley, *Southern Negroes, 1861-1865*, (New Haven: Yale University Press, 1938), pp. 148-149; *Official Records*, series IV, vol. II, p. 941.

<sup>66</sup> Early in the war government statutes at the national level did support measures for the use of slaves and free blacks in the military as support staff. *Journal of the Congress of the Confederate States of America*, vol. II, pp. 45, 113, 118, 145, 152, 174, vol. V, pp. 54, 79, 141-159, 199, 250, 262; Matthews, ed., *Public Laws of the Confederate States of America*, p. 29; *Official Records*, series IV, vol. I, p. 1059. Further examples of the use of slaves and free blacks in the army and home guard as support staff are evident throughout the thesis, see chapters 1, 2, and 4.

<sup>67</sup> See Governor Allen to Seddon, 26 September 1864. *Official Records*, series I, vol. XLI, pt 3, p. 774.

<sup>68</sup> Report of the Secretary of War, 1 November 1864, Manuscript copy, P&W folder 2402, Museum of the Confederacy and Archives, Richmond, VA.

Although initially evasive, Seddon was a member of the planter elite, and he could not rationalize nor justify the use of slaves and free blacks as soldiers. He had no doubt that black soldiers would fight, but contended that there was no necessity for calling on them, since there were enough white men for military duty if they could be brought into the service. Furthermore, throughout his tenure as Secretary of War, Seddon relied firmly on the conscription act of 17 February. He gave orders that the exemption law should be interpreted strictly, but favored amendments to mitigate its severity. On 24 November 1864, he backed up this opinion by refusing to consider the enlistment of either slaves or free blacks as troops.<sup>69</sup>

Evidently, administration pressure was brought to bear on Seddon, for before the end of the year he asked Howell Cobb's opinion about using slaves in the army, and whether or not freedom should be granted to them if they enlisted.<sup>70</sup> The Georgian regarded the proposal as "the most pernicious idea that has been suggested since the war began." He believed that to make soldiers of slaves would cut the foundation from the Southern theory of slavery and society. In this letter to Seddon, Cobb was adamant, "The moment you resort to negro soldiers your white soldiers will be lost to you... The day you make soldiers of them is the beginning of the end of the revolution. If slaves will make good soldiers our whole theory of slavery is wrong."<sup>71</sup> There are some scholars who give too much weight to the Cobb letter, as though he still held a place of power in the Confederate Congress, which at this time, was not the case. Although Cobb's views were similar to such power brokers as Robert Toombs, and Senator Robert M. T. Hunter of Virginia, they were not inclusive of the entire Congress, or of the white South.<sup>72</sup> He was at the time a "political general" in command of Georgia's reserve forces, hardly able to direct events in Congress. In the end, despite his critical views on black recruitment, Cobb would do all he could to execute the new law dutifully.<sup>73</sup> Seddon agreed

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<sup>69</sup> Seddon to E. B. Briggs, 24 November 1864, in *Official Records*, series IV, vol. III, p. 846.

<sup>70</sup> Seddon to Howell Cobb, 30 December 1864, *ibid.*, p. 981.

<sup>71</sup> Howell Cobb to Seddon, 8 January 1865, *ibid.*, 1009-1010.

<sup>72</sup> Durden, *The Gray and the Black*, pp. 241-242; Ernest B. Furgurson, *Ashes of Glory: Richmond at War*, (New York: Vintage Books, 1996), p. 308.

<sup>73</sup> Clarence L. Mohr, *On the Threshold of Freedom: Masters and Slaves in Civil War Georgia*, (Athens: University of Georgia Press, 1986), pp. 278, 285; McPherson, *The Battle Cry of Freedom*, p.

with Cobb but had no part in the later action of Congress providing for the enlistment of slaves as he had resigned over a non-related issue on 19 January 1865.

Until this time, Jefferson Davis had never officially requested Congress to authorize the organization of black troops. Yet it was becoming obvious that only extraordinary measures could salvage the Confederate cause. With the military situation, worsening daily, Davis proceeded to advocate the use of black soldiers. When Davis opened the final session of the Confederate Congress on 7 November 1864, his message contained much that the members expected to hear. He made the best of the military situation and asked for more troops. As expected, he asked for revisions in the tax law and remedies to the inflationary spiral in Confederate money. However, then the Confederate President offered a final program to Congress which took it by complete surprise, which was nothing less radical than a limited form of emancipation for black Southerners.<sup>74</sup>

The President prefaced his proposal with the observation that congressional authorization to employ slaves in noncombatant military services had been less successful than anticipated. Rather than tinker with the act to try to improve it, Davis now suggested “a radical modification in the theory of law.” The President pointed out that slaves “viewed merely as property” were and had been subject to impressment for short periods of labor in the construction of field fortifications. Then he went to the core of his argument:

The slave bears another relation to the State—that of a person. What the Confederacy now needed was the service of the slave as person. The military duties, although noncombatant, required instruction and extended terms of service. Because of the hazards involved those duties also demanded loyalty and zeal. The relation of person predominates ... and it would seem proper to acquire for the public service the entire property in the slave, and to pay therefor due compensation rather than to impress his labor for short terms. If the government bought these slaves, how should it own them? Should he the slave be retained in servitude, or should his emancipation be held out to him as a reward for faithful service, or should it be granted at once on the promise of such service?<sup>75</sup>

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<sup>74</sup> State of the Country speech delivered to the Confederate Congress, President Jefferson Davis, November 7, 1864 for the Second Congress, Second Session, November 7, 1864 to March 18, 1865. Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 482-498.

<sup>75</sup> Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 493-496

The President concluded his speech by favoring what he described as the middle ground. "The policy of engaging to liberate the Negro on his discharge after service faithfully rendered seems to me preferable to that of granting immediate manumission, or that of retaining him in servitude."<sup>76</sup>

Davis' message further recommended the eventual emancipation of a large number of slaves serving with the army in noncombatant positions. He also suggested that the categories in which these black Southerners served be broadened and, if this proved acceptable to Congress that the number of them serving in the army increased from 20,000 to 40,000.<sup>77</sup> In effect, he was requesting not only a military work force, but also permission to embark upon a program of compensated emancipation. For the moment, the President shrank from asking for authorization to employ slaves and free blacks as soldiers, but he did not rule out the possibility. "Until our white population shall prove insufficient for the armies we require and can afford to keep in the field, to employ as a soldier the Negro . . . would scarcely be deemed wise or advantageous."<sup>78</sup> Davis knew that several members of Congress had corresponded with generals in the field over the arming of slaves and hoped that they would be sufficiently impressed by the army's favorable response. He went on to "dissent from those who advise a general levy and arming of the slaves for the duty of soldiers." Davis clearly wanted to leave open the option of using slaves as soldiers: "should the alternative ever be presented of subjugation or of the employment of the slave as a soldier, there seems no reason to doubt what should then be our decision."<sup>79</sup> This was one major issue that Davis was quite willing to leave

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<sup>76</sup> Ibid.

<sup>77</sup> *Official Records*, series IV, vol. III, pp. 797-798, Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 493-496, See also notations in the Confederate Congressional Record regarding Davis's speech on November 7, 1864, located in "Proceedings," *Southern Historical Society Papers*, vol. 51, p. 270.

<sup>78</sup> Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 493-496

<sup>79</sup> *Official Records*, series IV, vol. III, pp. 798-799; See also Durden, *The Gray and the Black*, pp. 101-103 for a careful analysis of the section of President Davis's 7 November 1864 message dealing with the military use of slaves. Davis probably developed his scheme in conjunction with his secretary of state Judah P. Benjamin. However, it should be noted that Davis's proposal closely resembles one dated 3 November 1864 submitted to him by Secretary of War James Seddon as seen in the *Official Records*, series IV, vol. III, pp. 761-762; Richardson, *Messages and Papers of the Confederacy*, vol. I, pp. 493-496; see also, *Journal of the Congress of the Confederate States of America*, vol. VII, p. 255.

with Congress. Although he could have forced it through Executive action, for such an unorthodox proposal would fan the suspicion that he was aiming towards dictatorship.<sup>80</sup>

However practical and expedient Davis' suggestions sounded, they threatened to undermine an essential component of Confederate ideology. Since 1862, the government in Richmond had already compelled Southerners to compromise on their values and sensibilities, especially in the areas of the economy and race. Now the President asked for a sizable block of what many Southerners regarded as the cornerstone of their economic lives, to sacrifice the institution of slavery for the sake of national survival. The President's request was the opening round of a national debate within the Confederacy on the proposition of emancipation versus independence which was destined to continue until the Confederacy was no more. Thus while dying, the Southern nation persisted in trying to define its national life.<sup>81</sup>

The Confederate Congress effectively buried President Davis' military labor and emancipation proposal by the evasive device of patching up the original Military Laborers Act of 17 February 1864. In the meantime, however, the debate swept past the merits of Davis' suggestions on 7 November. The issue quickly became whether or not to arm the slaves, and every new indication of the South's military decline during the fall and winter of 1864 and 1865 impelled Confederates to confront that issue. Beyond the immediate matter of tapping the South's last source of military manpower, however, lay a more fundamental question. If black men could be soldiers in the South, then they never again could be considered less than men; they never again could be slaves. At its base, the debate over arming the slaves was a debate over the South's entire racial attitude.

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<sup>80</sup> *Official Records*, series IV, vol. III, pp. 1148-1149, 1152; See also, Durden, *The Gray and the Black*, pp. 258-261. As a result of criticism from Jefferson Davis on the lack of urgency on the part of Congress to initiate the arming of slaves Senator James L. Orr of South Carolina speaking for Congress responded on 16 March 1865, that Davis could have authorized this measure himself. However, this document need to be read with caution as the report/statement was voiced after the passage of the bill to arm slaves on 13 March 1865, and was done in ignorance of the political risks such an issue incurred.

<sup>81</sup> The existence and significance of this debate are the themes of Durden's, *The Gray and the Black*, see especially, pp. vii-viii; Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South*, (Baton Rouge: Louisiana State University Press, 1988), pp. 78-79

A few minutes before Davis' message of 7 November, William Swan of Tennessee attempted to place the House on record as being against any black soldiers, but after hearing the President's cautious statements on the subject the House refused to commit itself either way. On 29 December 1864 the Senate tried to get Davis to take the initiative by requesting information on the condition of the Army, and the possibility of recruiting slaves, but to no avail. As far as Davis was concerned, the decision to enlist black soldiers would be made by Congress.<sup>82</sup>

Davis' message generated a sharp debate in the press not only in Virginia but also in the rest of the South. The *Richmond Daily Dispatch* led off on 9 November with a series of five objections "to the making soldiers of our slaves." First, it noted, the proposition was totally unconstitutional. The Confederacy had been formed because the Federal government had insisted on meddling in the domestic affairs of the states, and "we are not aware that the Confederate Government has any powers which the Federal Government had not." In addition, the measure was unnecessary: "Our affairs are in a better condition, and our prospects brighter than they ever have been since the commencement of the war." Third, the slaves were much more useful as agricultural laborers than they would be as soldiers: "Take them from farm work, and you destroy the army more effectually than Grant can do it with a million of men to back those he has in the field." In addition, any such measure "would be a powerful stimulant to their recruiting for the Yankees.... Let them [the slaves] see that it is as dangerous to stay as to go, and they will be pretty certain to go. For, with the 'dread Yankees, they get a high bounty for enlisting, and liberty and equality into the bargain." Finally, "we give up the whole question when we adopt this measure. Whatever we may be fighting for, the *Yankees* are fighting for 'the nigger'; that is, to abolitionize the South. We are not disposed to gratify them if we can avoid it."<sup>83</sup>

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<sup>82</sup> *Journal of the Congress of the Confederate States of America*, vol. IV, p. 407.

<sup>83</sup> *Richmond Daily Dispatch*, 9 November 1864.

### The Media's Reaction as the Voice of the Citizenry

During the following year, newspapers like the *Houston Tri-Weekly Telegraph* aired the question thoroughly without much change in opinion. The great majority still believed that the white men were sufficient for the emergency and would be demoralized if compelled to fight alongside blacks. The latter lacked courage, incentive, and intelligence, would soon become disobedient, and would desert at the first chance. The necessary reward of emancipation would embarrass the post-war South by creating thousands more free blacks. They could be best used in menial jobs and thus release able-bodied white men for army duty.<sup>84</sup>

Writing in the *Richmond Enquirer*, the writer known as 'Sentinel' already had made clear his opposition to any plan involving the use of black troops, and in early November 1864, dismissed the idea as an "expedient of absurd desperation. We can," the 'Sentinel' remarked, "neither make the Ethiop white nor the slave a soldier. The Negro had the physical strength to serve on the line, but he lacked intelligence, courage and [needed to be] disciplined closely, but how would he react when the fighting began? His impulse is to escape from danger, not to confront it. In the front rank, he would surrender or desert; in the rear rank, he would run. Let us," the anonymous writer concluded, "lean on no such broken reed."<sup>85</sup>

The *Richmond Daily Examiner* refused even to consider the use of "the brute negro" in the conflict. Unlike the earlier "degenerate and enervated citizens of the declining Roman empire," the spirit of the Southern people clearly had proved equal to the exigencies of war. Nor was this the type of conflict in which one might consider using mercenaries and slaves. It as, the *Daily Examiner* intimated, a sacred war for independence in which white men only were to be involved.<sup>86</sup>

The *Lynchburg Virginian*, on the other hand, left no doubt that it strongly favored the employment of black troops in the Confederate Army. Its motives were unambiguous: "Surely, they [slaves and free blacks] are good enough for Yankee bullets, without our demanding that,

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<sup>84</sup> *Houston Tri-Weekly Telegraph*, 11 February 1864.

<sup>85</sup> *Richmond Enquirer*, 2 November 1864.

<sup>86</sup> *Daily Examiner* (Richmond), 16 November 1864.

in every case, the sacrifice we offer to the fierce Moloch of war and the demon of the North shall be the best blood of the nation.”<sup>87</sup> Several days later, the *Virginian* did its best to convince the skeptics that blacks could be made into capable soldiers. They could be imbued with martial spirit, it insisted, and drill and discipline would do the rest. Reaching into the past, it cited several instances slaves and free blacks had served with valor in earlier conflicts. Would not the present generation of Southern slaves perform equally well in defense of their own home and country? It ended on a high note:

Already the world, and especially our enemy, has been greatly deceived in the conduct of the slaves . . . Let them be armed and marshaled for our defense, and the whole world will confess that they have been altogether mistaken in their estimate of Southern slavery and the feelings of the inferior race toward their masters. Let us present to them a grand moral spectacle such as this world has rarely seen.<sup>88</sup>

Both the *Richmond Enquirer* and the *Montgomery Daily Mail*, two of the earliest converts in favor of black conscription, maintained that freed black soldiers would be easily managed since the distinction between the races was not between freedom and enslavement but between black and white. Their emancipation was not abolition, but manumission, which had been practiced for decades. They considered themselves Confederates, loved their country, and wished to defend it. They would make good soldiers for they thoroughly understood obedience and discipline. Their conscription would indicate untapped manpower and added determination, and would not be a confession of weakness and exhaustion.<sup>89</sup>

The *Richmond Whig* made clear its desire to postpone the “grand moral spectacle for as long as possible. It “would not shrink from the use of black soldiers, if the situation called for it,” but the newspaper doubted, “that such a measure would ever be necessary.”<sup>90</sup> Similarly, *The* (Richmond) *Sentinel* conveyed its feeling that the question would be better left alone for the time being. “If ever it should become a practical question, it will be a plain one. At present, its discussion only arouses prejudices and passions and pride of opinion, which will be bad

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<sup>87</sup> *Lynchburg Virginian*, 8 October 1864.

<sup>88</sup> *Ibid.*, 20 October 1864.

<sup>89</sup> *Richmond Daily Enquirer*, 6 and 18 October, 1 November 1864; *Montgomery Daily Mail*, 9 November 1864.

counselors.” Several days later, commenting on the President’s message of 7 November, *The Sentinel* noted that, “no such exigency as would justify it [the use of black troops], or render it judicious, has, however, arrived; and it is an improbable contingency that it ever will.” Less than a week later, it pleaded that “the question of the expediency of employing slave soldiers be adjourned to the time when *somebody* shall deem it to be then expedient and shall propose its present adoption. Why consume our time, distract our people, and encourage our enemies by discussing it now?”<sup>91</sup>

*The Sentinel* was to be disappointed in its request for the government not to debate the question of arming slaves. Once begun, the controversy over the use of slaves, and possibly free blacks as soldiers would not go away, and it continued until the passage of proportionate legislation in March of 1865. However, in that autumn of 1864, many state legislators who had strong ties to the slave system, as well as slaves owners firmly opposed the use of slave soldiers.<sup>92</sup> I would argue that there are two reasons for this, first the perception that slavery was still economically valuable, especially for the production of cotton and agricultural products. Secondly, that many in the Confederacy saw that they did not have the time or resources to train and equip slave soldiers, many authorities understood that the war was lost, and to bring black Southerners into the conflict at this point would have achieved nothing.<sup>93</sup>

### **Virginia, and the Issue of Black Enlistment**

Of those Virginians who did, however, agree with President Davis’ remarks concerning the use of slaves in the war, few offered more consistent support than the sixty-seven year old chief executive of the state. Serving his second term as governor, William Smith had already experienced his share of the fighting.<sup>94</sup> Commanding the Forty-ninth Virginia Regiment, Colonel Smith, was severely wounded at Sharpsburg, on 17 September 1862. Eight months

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<sup>90</sup> *Whig* (Richmond), 8 November 1864.

<sup>91</sup> *The Sentinel*, (Richmond), 2, 8, 14 November 1864.

<sup>92</sup> *Daily Examiner* (Richmond). 21 November 1864; *Lynchburg Virginian*, 8 October 1864; see also *The Sentinel*, (Richmond), 14 November 1864.

<sup>93</sup> See, Durden, *The Gray and the Black*, p. 287.

<sup>94</sup> Smith was governor of Virginia from 1846 to 1849 and again from 1864 to 1865. Alvin A. Fahrner, “William ‘Extra Billy’ Smith, Democratic Governor of Virginia, 1864-1865: A Pillar of the

later he returned to action as a brigade commander at Gettysburg. By late summer 1863, Smith had been appointed a major general in the Provisional Army of the Confederate States. His military service ultimately ended with his successful campaign for Virginia's governorship.<sup>95</sup> Although many regarded Smith a mediocre tactician, no one questioned his courage under fire.<sup>96</sup> Certainly, he brought to the governor's chair the perspective of someone who had experienced war at first hand, and of one acutely aware of the advantages accruing to the side possessing superior manpower.

As early as mid-October 1864 Governor Smith had aligned himself with those who proposed to expand the slave's role in the war effort. Presiding over a conference of governors, which met on 17 October at Augusta, Georgia, Smith wholeheartedly endorsed the governors' joint resolution on slaves:

*Resolved*, That the course of the enemy in appropriating our slaves who happen to fall into their hands to purposes of war seems to justify a change of policy on our part; and whilst owners of slaves, under the circumstances, should freely yield them to their country, we recommend to our authorities, under proper regulations, to appropriate such part of them to the public service as may be required.<sup>97</sup>

However, the resolution was too subtle to generate extensive discussion; "a change of policy on our part" could mean almost anything. As *The Sentinel* noted in an editorial on the conference, the governor's proposal concerning "the employment of slaves in the Confederate service" was "eminently proper, and in accordance with a growing sentiment among the people."<sup>98</sup> Smith and his colleagues would have to be more explicit if they expected to initiate any far-reaching re-evaluation of a role in the war for black Southerners.

Smith was certainly more forceful when he presented the governor's message to the Virginia General Assembly on 7 December 1864. Unlike the earlier resolution of the

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Confederacy," *Virginia Magazine on History and Biography*, LXXIV (1966), pp. 68-87.

<sup>95</sup> Alvin A. Fahrner, "The Public Career of William 'Extra Billy' Smith," (Ph.D. dissertation, University of North Carolina, 1953), pp. 232-234, 241.

<sup>96</sup> *Ibid.*, pp. 232-233. An article on Smith printed in *The (Richmond) Sentinel* included a brief evaluation of the governor's war record: "soon he was a brigadier—and just as bad a one as the rest of our political generals" *The Sentinel*, Richmond, 21 December 1864.

<sup>97</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, pp. 257-258; *Official Records*, series IV, vol. III, pp. 735-736, 916. See the latter reference for Smith's interpretation of the resolution's meaning. In addition to Smith, the governors of North and South Carolina, Georgia, Alabama, and Mississippi attended the conference.

Governors' Conference, that part of Smith's message dealing with the expanded use of slaves cut to the heart of the matter. He began by noting that the war had passed into its fourth year, and that the army badly needed more men. Where, he asked, were these men to be found? As other sources became exhausted, public attention naturally turned to the slave population of the South. He insisted that the time had come when the slaves must be used.

For my part, standing before God and my country, I do not hesitate to say that I would arm such portion of our able-bodied slave population as may be necessary, and put them in the field, so as to have them ready for the spring campaign, even if it resulted in the freedom of those thus organized.

The time was now, the governor repeated, to use slaves in the army, and he held it "to be clearly the duty of every citizen, however much he may doubt the wisdom and necessity of the policy, to co-operate in strengthening by every means our armies." He ended by urging the General Assembly to give the subject early consideration and to "enact such measures as their wisdom may approve."<sup>99</sup>

Governor Smith's plea does not seem to have changed the minds of very many on this explosive question. Most Virginians remained firm in their opposition to the use of black soldiers in the Confederate forces. The General Assembly did, however, honor Smith's request that the use of black soldiers be considered, even if in its own due time. On 12 December members of both the Senate and the House of Delegates resolved that the question be referred to their respective Committees on Confederate Relations.<sup>100</sup>

Because of the sensitive nature of this issue, neither house would discuss the question in open session so the issue presumably remained buried in committee. Although the veil of secrecy was lifted on 6 March 1865, the debates held in secret session were not published as a whole. Nor, in all likelihood, did any manuscript records of the debates survive the war, if any were kept. What little evidence is available suggests that the General Assembly ignored the

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<sup>98</sup> *The Sentinel*, (Richmond), 24 October 1864.

<sup>99</sup> *Official Records*, series IV, vol III, pp 914-916.

<sup>100</sup> *Journal of the Senate of the Commonwealth of Virginia: Begun and Held at the Capitol in the City of Richmond, on Wednesday, the Seventh Day of December, in the Year One Thousand Eight Hundred and Sixty-four—Being the Eighty-eighth of the Commonwealth, Extra Session, I* (Richmond, 1864), p. 39; *The Sentinel*, (Richmond), 18 December 1864.

resolutions from mid-December to mid-February, at which time, the proposed bill was considered by both houses with a new sense of urgency.<sup>101</sup>

The issue of *The Sentinel* that reported the removal of the injunction of secrecy imposed by the Virginia legislature on the resolutions also printed what it felt was a highly significant speech on the question. During a secret session of the House of Delegates on 31 January, Delegate Alfred Hughes of Ohio County began by denying that he had any motive in speaking except the welfare of his state and country. He then turned to attack bitterly those who maintained “that this question of right properly belongs to the slave interest alone.” “What are slaves,” he demanded, “by these gentlemen esteemed, but so much property? Have we not sacrificed our houses, our lands, our stocks, our farms, our all? What more can you do?” The enemy was becoming more powerful daily: the number of deserters from the army was increasing steadily; some Southern states even maintained large, and often unnecessary, armies of exempt soldiers for their own defense. Faced with these developments, “is the use of black soldiers the political question? Is it, or is it not a question of self preservation?” For Hughes, there could be only one answer; slaves and free blacks must be pressed into military service as quickly as possible, and he was not prepared to accept any argument that said that blacks were unfit to be soldiers.<sup>102</sup>

The natural condition and character of the negro in his own native country and it is from that point of view we must judge him is, by all his instincts, lazy, wild, savage, blood thirsty and ferocious. And he will, in time, as naturally return to that state or condition, as the wolf to his taste for blood. And as a mere machine, the Negro can be schooled in no great time, to become a savage and daring soldier.<sup>103</sup>

A powerful restatement of many of the arguments favoring the employment of black soldiers, Hughes’s speech came a few weeks too early to affect directly the course of action taken on the

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<sup>101</sup> This conclusion is based on a reading of the *Journal of the Senate of the Commonwealth of Virginia*, and of *The (Richmond) Sentinel*, which reported on the debates of the General Assembly.

<sup>102</sup> *The Sentinel*, (Richmond), 14 March 1865. It is significant that Hughes represented a district which had long been under Union control, Ohio County, located in the northern panhandle of what is now West Virginia. The district had very few slave owners, and harbored anti-planter sentiment.

<sup>103</sup> *Ibid.*

resolutions in the House of Delegates. In both houses of the General Assembly, the resolutions would have to await the pressure of events.

### Enter Judah P. Benjamin

The military situation became increasingly bleak during the fateful winter of 1864 to 1865. The two-day battle of Nashville, 15-16 December, witnessed the destruction of the once proud Army of Tennessee. Less than a week later Savannah, Georgia, fell to the Union. Leaving that city on 1 February, Sherman's columns brought the war to Columbia, South Carolina, on 17 February 1865, and to Fayetteville, North Carolina, by 10 March. Meanwhile, Grant's forces maintained their steady pressure on Lee's army at Petersburg. The desperate situation of the South became increasingly obvious. Few looked on more dispassionately, or with a clearer sense of what had to be done than the Confederate Secretary of State Judah P. Benjamin.

Benjamin's speech at the African Church in Richmond on 9 February 1865 was of considerable significance in preparing Virginians to accept the use of black soldiers.<sup>104</sup> The mass meeting was called "to adopt resolutions expressive of the feelings of the people of Virginia," and "to take counsel as to . . . 'their' future."<sup>105</sup> The *Daily Dispatch* described the assembly as the largest and most enthusiastic ever held in the city. The church was filled to capacity two hours before the meeting was scheduled to begin, and a large crowd milled around outside. Those present obviously judged the speakers worth the effort. They listened to Virginia's Confederate Senator Robert M. T. Hunter, Speaker of the Virginia House of Delegates Hugh W. Sheffey, and Benjamin, among others.<sup>106</sup>

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<sup>104</sup> The African Church was the largest auditorium in Richmond during this period. The church was frequently rented from its free black parishioners to the Confederate Government for public assemblies. Eli N. Evans, *Judah P. Benjamin: The Jewish Confederate*, (New York: The Free Press, 1988), pp. 280-286.

<sup>105</sup> *Richmond Daily Dispatch*, 10 February 10 1864; See also Durden, *The Gray and the Black*, pp. 192-194. The fullest account of all the speeches and the reactions appeared in the *Daily Dispatch*. Although Benjamin's suggestions did not result in an instantaneous reaction from Congress the meeting did serve to boost the morale of Virginians after the failure of the Hampton Roads Conference of 3 February 1865.

<sup>106</sup> *Richmond Daily Dispatch*, 10 February 1865.

Hunter spoke first, delivering a fiery speech in which he urged that a still greater effort be made by all on behalf of the Confederacy. Strongly opposed to the use of black soldiers, the vision of an army of slave reinforcements did not distract his mind.<sup>107</sup> The white Confederate soldier would win the war unaided, “his sword dripping, and his brow crowned with laurels, a hero, whom after ages will venerate, and who will be an example to generations to come.”

Sheffey then spoke briefly, and was followed by Benjamin. A close personal friend of Jefferson Davis, the Secretary of State enjoyed a highly successful career as a Louisiana lawyer and politician before joining the Confederate cabinet. A coldly realistic man, Benjamin had long entertained the thought of using black troops in the Confederate Army, and had taken a leading role in the fight for their acceptance.<sup>108</sup> Slavery was clearly dying and he had no wish to prolong its life.<sup>109</sup>

The Secretary opened his speech on a note of defiance: “We now know, in the core of our hearts, that this people must conquer its freedom or die [cheers].” He continued in a “most extraordinary speech” that superbly blended sacrifice and self-interest.<sup>110</sup> We must, he importuned, be prepared to give up every material possession for the cause. What was needed? Most urgently, men to reinforce the brave soldiers in the trenches below Richmond. Where were these men to be found? “I tell you there are not enough able-bodied white men in this country” ... then: “Let us say to every Negro who wishes to go into the ranks on the condition of being made free ‘Go and fight; you are free.’”

The secretary then turned to a major obstacle yet to be overcome. Although he would willingly surrender the peculiar institution, “it could only be done by the States separately.”<sup>111</sup>

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<sup>107</sup> Henry H. Simms, *Life of Robert M. T. Hunter: A Study in Sectionalism and Secession*, (Richmond: The William Byrd Press, 1935), pp. 196-197. See also the *Whig* (Richmond), 9 March 1865.

<sup>108</sup> Evans, *Judah P. Benjamin*, pp. 286-287, 289-291.

<sup>109</sup> *Ibid.*, pp. 32-33, 39-41.

<sup>110</sup> John B. Jones, *A Rebel War Clerk's Diary at the Confederate States Capital*, Earl Schenck Miers ed., (Baton Rouge: Louisiana State University Press, 1993), p. 496

<sup>111</sup> Benjamin's point was well taken. Article I, Section 9, of the Confederate States Constitution stated that: “No bill of attainder, or ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed” Marshall L. DeRosa, *The Confederate Constitution: An Inquiry into American Constitutionalism*, (Columbia: University of Missouri Press, 1991), p. 141; The Confederate Constitution forbade any interference in the private ownership of slaves. However, there was considerable controversy over whether the state governments could legally take action in this area. See the *Richmond*

What state,” he asked, “will lead off in this thing?” A voice responded, “Virginia.” Benjamin quickly added that South Carolina and the rest of the South would follow the Old Dominion, if she would but lead. “When shall it be done?, a voice ‘now’. Let your Legislature pass the necessary laws,” he concluded, “and we will soon have twenty thousand black men down in those trenches fighting for the country.”<sup>112</sup>

As the *Enquirer* remarked the next day, “the Hon: Mr. Benjamin was expected to make a great speech, and no one was in the least disappointed. He made one of the ablest, most eloquent, and effective speeches ever delivered in Richmond.”<sup>113</sup> Benjamin’s speech aroused a great deal of excitement as well as debate among the slaveholders. It also served to stimulate discussion concerning the employment of slaves and free blacks as soldiers, and to emphasize the desperate need of the Confederate army for reinforcements.<sup>114</sup> Following his speech, Congressmen and citizens alike were locked in discussion over the points he made regarding slave and free black enlistment. A week later, in the House, James T. Leach, of North Carolina, offered a series of resolutions designed to express his displeasure. “That the views of Secretary Benjamin, as expressed in his speech last week, at the meeting at the African Church, was derogatory to his position as a high public functionary of the Confederate Government, a reflection on the action of Congress, as a deliberate body, and an insult to public opinion.”<sup>115</sup>

Benjamin’s address was followed on 20 February by another request from Governor Smith, who again urged the General Assembly to pass legislation that would allow for the arming of black Southerners.<sup>116</sup> To many of the legislators, however, Smith’s plea appeared superfluous. Two days earlier, the most honored military leader in the short and turbulent

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*Enquirer*, 2 November 1864; Resolution by Virginia State Senator Robert R. Collier in, *Journal of the Senate of the Commonwealth of Virginia*, vol. 1, pp. 69-70; and Nathaniel W. Stephenson, “The Question of Arming the Slaves,” *American Historical Review*, vol. XVIII, no. 2, (January, 1913), p. 305.

<sup>112</sup> *Richmond Daily Dispatch*, 10 February 1865.

<sup>113</sup> *Richmond Enquirer*, 10 February 1865.

<sup>114</sup> Jones, *Rebel War Clerk’s Diary*, p. 496.

<sup>115</sup> These resolutions were announced on 15 February 1865. See, “Proceedings,” *Southern Historical Society Papers*, vol. 52, p. 355.

<sup>116</sup> Governor William Smith to the Virginia General Assembly, Richmond, 20 February 1865, Executive Papers of Governor William Smith, Box 467, Library of Virginia, Richmond, Virginia.

history of the Confederacy, Robert E. Lee finally had broken his long public silence on the question of slaves as soldiers.

### For the Want of Fresh Recruits

Robert E. Lee had few serious rivals for the affection of his fellow citizens. The *Daily Dispatch* spoke for a generation of Southerners when it commented that:

General Lee is, beyond all question, the greatest of living captains. There is no other, indeed, whose deeds admit of the slightest comparison. But apart from this, he possesses a weight of character, and an estimation with the multitude such as no other man but one ever possessed in this country, and that other was Washington. The whole people look up to him with respect amounting to reverence and a belief in his capacity almost superstitious. They are unwilling to believe, and cannot be taught to believe, that anything he undertakes will fail, that any course he recommends can be wrong, that any cause he may adopt can fail.<sup>117</sup>

Although Lee may have entertained a low opinion of the fighting ability of either slaves or free blacks as soldiers, the incessant demand for fresh troops gradually convinced him that they must be used.<sup>118</sup> On 11 January 1865, Lee, responding to a request by Virginia State Senator Andrew Hunter, wrote a highly significant letter in which he declared, "that we should employ them [slaves] without delay. I believe that with proper regulations they can be made efficient soldiers."<sup>119</sup> Lee's response does not seem to have been made public by Hunter. On 18 February, the general wrote a second letter, this time to Confederate Congressman Ethelbert Barksdale, in which he restated the main themes of his earlier message to Hunter.

In addition to endorsing the use of black troops, Lee suggested that those who did serve be granted their freedom. He argued against implementing conscription among the slaves, commenting that "an impressment or draft would not be likely to bring out the best class, and the use of coercion would make the measure distasteful to them and to their owners." He closed with the recommendation that the entire question be left to the people and the states of the South

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<sup>117</sup> *Richmond Daily Dispatch*, 28 December 1864.

<sup>118</sup> See Douglas Southall Freeman, *R. E. Lee: A Biography*, 4 vol., (New York: Charles Scribner's Sons, 1947), vol. 3, p. 544; and *Official Records*, series I, vol. XXIX, pt. II, p. 736.

<sup>119</sup> The letter from Senator Andrew Hunter to Lee, 7 January 1865, is in the *Official Records*, series IV, vol. III, pp. 1007-1009; for Lee's response to Hunter, 18 January 1865, see *ibid.*, pp. 1012-1013. The letter from Lee to Hunter provides more information on Lee's views than does the general's letter of 18 February 1865 to Confederate Representative Ethelbert Barksdale. Also see Lee to Secretary of War John C. Breckinridge, 27 March 1865, *ibid.*, series I, vol. XLVI pt. 3, pp. 1356-1357.

to resolve. The national government, he felt, lacked the necessary authority to act in this matter.<sup>120</sup>

In January 1865, Congress received word from General Lee, advocating the enlistment of slaves, and that as an incentive for service to the Confederacy those involved would be granted their emancipation.<sup>121</sup> Thomas L. Snead of Missouri, himself an advocate for the use of slaves as soldiers, believed that Senate opposition to the employment of black troops was growing weaker daily.<sup>122</sup> While some members of Congress believed that a shift in the debate from impressing slaves as laborers to their impressment as soldiers would lead to a lengthy and heated debate, Congressional moderates, like Representative William G. Swan, attempted to stop the opposition through the introduction of several resolutions, which themselves resulted in heated arguments. The discussions turned on questions of expediency and necessity in the light of the deteriorating military situation, but frequently began with issues of states' rights.<sup>123</sup> At times, they turned into attacks on President Davis' abilities as commander-in-chief. Senator Landon C. Haynes of Tennessee charged that his state had been lost by the mismanagement of the President.<sup>124</sup> Josiah Turner of North Carolina claimed that the country had been too long deluded and deceived by presidential "plans, projects, and prophecies," and that the President had proposed abolition in a way that created suspicion as to his soundness.<sup>125</sup>

With Lee's opening of the public debate, and continued progress at the state level on the matter of black enlistment, the posturing of the Davis administration became merely a minor distraction. On 10 February 1865, Congressman Ethelbert Barksdale of Mississippi, and

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<sup>120</sup> Lee's letter to Barksdale, 18 February 1865, is printed in James D. McCabe, Jr., *Life and Campaigns of General Robert E. Lee*, (Atlanta: National Publishing Co., 1870), pp. 574-575.

<sup>121</sup> Thomas L. Snead to General Sterling Price, 10 January 1865. *Official Records*, series I, vol. XLVIII, pt 1, p. 1321.

<sup>122</sup> *Ibid.*

<sup>123</sup> Thomas S. Gholson of Virginia maintained that "To fight the negro and give him his freedom at the close of the war was abolition, and was in express violation of every declaration of the South." See House speech by Gholson, 1 February 1865, "Resolutions Relative to Peace, The Army, and The Employment of Negroes as Soldiers," in "Proceedings," *Southern Historical Society Papers*, vol. 52, pp 276-277.

<sup>124</sup> *Richmond Daily Examiner*, 7 February 1865.

<sup>125</sup> *Hillsboro (North Carolina) Recorder*, 8 February 1865, The North Carolina Legislature had just passed a resolution against arming the slaves. *Laws of North Carolina, 1864-1865*, p. 33, Yearns, *The Confederate Congress*, pp. 96-97.

Senator Williamson S. Oldham of Texas introduced legislation to their respective houses with explicit reference to the arming of slaves. Their measures were exactly alike except that the Oldham bill made provision for 200,000 black troops while Barksdale's left the number to the President. Furthermore, the legislation left open their organization and implementation to the War Department, but both were specific in that slave freedom, as a reward was entirely a state decision.<sup>126</sup> The result was Congressional vacillation, as opponents gathered their forces and prepared to resist any notion to arm slaves, as like many of their constituents, they believed that such a measure would foster ideas of slave freedom and/or unrest.<sup>127</sup> Representative Josiah Turner of North Carolina, even postponed his return to comfort a complaining wife in order to "stay right here and defeat the any notion of arming slaves."<sup>128</sup>

A special select committee made up of one representative from each state was appointed by the House, and charged with a thorough examination of Congressman Barksdale's measure. The result was that on 17 February a significant majority reported favorably on the bill.<sup>129</sup> The opposition relied on the strategy of an alternative motion asking the states for 300,000 men "irrespective of color," but at the height of the debate Barksdale produced the

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<sup>126</sup> Richmond Daily Examiner, 11 February 1865; "A Bill to Increase The Military Forces of the Confederacy," 10 February 1865, also listed as "A Bill to Provide for Raising Two Hundred Thousand Negro Troops," 10 February 1865, "Proceedings," *Southern Historical Society Papers*, vol. 52, pp. 325, 329-331; See also, "House of Representatives No., 367, To be entitled An Act to increase the military force of the Confederate States," 10 February 1865, *Committee of Military Affairs Papers*, Manuscript copy, P&W folder 810, Box 6, Museum of The Confederacy and Archives, Richmond, VA; Durden, *The Gray and the Black*, p. 202-203; The language of the two bills left for the military a loophole that they were to take full advantage of in order to obtain maximum participation. See, *Official Records*, series IV, vol. III, "General Order No. 14, 23 March 1865, An Act to increase the military force of the Confederate States," pp. 1161-1162.

<sup>127</sup> See for example, Berlin, et. al. ed., *Freedom, Series II, The Black Military Experience*, p. 279; Durden, *The Gray and the Black*, pp. 239-242; Furgurson, *Ashes of Glory*, p. 308.

<sup>128</sup> Josiah Turner to his wife, 11 February 1865, Josiah Turner Papers, University of North Carolina; Yeans, *The Confederate Congress*, p. 97. Turner's views although personal were not exclusive, as the North Carolina legislature in a preemptive and defiant stance had sent on instructions to all its representative in the Congress to "deny the constitutional power of the Confederate government to impress slaves for the purpose of arming them." See, "Resolutions Against the policy of arming slaves, 3 February 1865," Manuscript copy, P&W folder 826, Box 6, Museum of The Confederacy and Archives, Richmond, VA; Durden, *The Gray and the Black*, pp. 252-253.

<sup>129</sup> See "Proceedings," *Southern Historical Society Papers*, vol. 52, p. 345. House member William P. Miles, of South Carolina, headed the five members from the committee who submitted a minority report opposing the arming of slaves under any circumstances. This was printed as "*Minority Report on the bill to increase the military forces of the Confederacy.*" Following this, House member S. St. George Rogers, of Florida wrote a second minority report agreeing to their being armed when all other resources were exhausted. "*Mr. Rogers' Minority Report.*" Both printed 15 February 1865, *Journal of the*

letter from General Lee for which he had been waiting, which supported the bill as written. On hearing that the measure was finally before Congress Lee had written that "it was not only expedient but necessary, that the enemy, who had been using blacks in the army since 1862, would certainly continue to rely on them more."<sup>130</sup> This warning influenced enough representatives, and on 20 February, the House passed it by a vote of 40 to 37, with North Carolina, Texas, Arkansas, and Missouri having a majority against it.<sup>131</sup> The vote did not indicate any sectional or political alignment. Lee's influence may have affirmed the opinion of some and swayed others to vote with their principles.

Meanwhile the Senate Military Committee had reviewed Oldham's bill and on 17 February reported it favorably, with the amendment that all slaves so armed should, with the consent of their states, be freed at the end of their service. The influence of the administration and of General Lee was used to bring in favor of the bill, and Judah P. Benjamin wrote letters trying to persuade the army to declare for it,<sup>132</sup> but the Senate majority could not accept the idea. It defeated its own bill by one vote and moved aside the House measure for two more weeks. The administration would not be defeated this time, and asked for help from the Virginia legislature then in session, which in turn instructed its senators to vote for the measure quickly. The Senate then revived the House bill and, now with the approval of both Virginia Senators passed the legislation on 8 March by a vote of nine to eight, of those present, in favor of the bill.<sup>133</sup>

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*Congress of the Confederate States of America*, vol. VII, pp 583-586.

<sup>130</sup> *Richmond Daily Enquirer*, 25 February 1865. This letter was reprinted in its entirety following Barksdale's submission of it to the press; See also Clifford Dowdey, and Louis H. Manarin, ed., *The Wartime Papers of Robert E. Lee*, (Boston: Da Capo Press, 1961), pp. 914, 927.

<sup>131</sup> *Journal of the Congress of the Confederate States of America*, vol. VII, pp. 612, 613. South Carolina and Florida were divided on the voting of the bill. The legislation won Georgia and Virginia by a majority of one each.

<sup>132</sup> William A. Graham to David L. Swain, 22 February 1865, William A. Graham Papers, Special Collections, Manuscript Collection no., 285, Box 12, Folder 211, University of North Carolina, Chapel Hill, NC, See also Yearns, *The Confederate Congress*, p. 98

<sup>133</sup> *Richmond Daily Enquirer*, 7 March 1865, *Journal of the Congress of the Confederate States of America*, vol. IV, pp. 585, 670, 671. At this time, both the condition of the Confederacy in general, and the current Union bombardment / military situation in Richmond caused many government officials to leave long before the "official evacuation." See, Michael B. Ballard, *A Long Shadow: Jefferson Davis and the Confederacy*, (Athens, Georgia: University of Georgia Press, 1997).

Two significant issues were raised in the passage of this bill. The first was the Senate's slowness in contrast to the House's speed, which was in part because the Senate was generally more independent than the House, and less easily influenced by Lee. Second, was the Senate's choice of bills. Its own measure ordered the slave soldiers freed, provided their state did not object. The House bill evaded all possible constitutional difficulties by stating that, "nothing shall be construed to authorize a change in the relation which the said slaves shall bear to their owners, except by consent of the owners and of the States in which they reside."<sup>134</sup> This was precisely in line with what both Davis and Lee wanted. Although Lee personally advocated emancipation, he advised Barksdale that the matter should be left, as far as possible, to the people of the States. Lee had also asked the Virginia legislature to arm its slaves and provide a system of gradual emancipation.<sup>135</sup> For its part, the Confederate Congress had acted strictly in accordance with Lee's wishes.

Lee's highly publicized letter, coupled with the rapidly deteriorating military situation, convinced the undecided. On 16 February the *Daily Examiner*, commenting that Lee's desire for a large force of slaves "to be used according to his best judgment" was well known, added that the country would not venture to deny the general, "in the present position of affairs, 'anything' he may ask for." Four days later the *Daily Dispatch* remarked that unanimity had been attained on this subject. All were willing to leave the question to Lee's judgment.<sup>136</sup> The *Whig* reminded its readers that Lee was the best judge of the need to use black troops. It warned that, "if the cause should be lost, when any means of resistance that he had called for remained un-granted the responsibility . . . would rest upon those who withheld the aid he called for, not

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<sup>134</sup> "A Bill to Increase The Military Forces of the Confederacy," 10 February 1865, *Southern Historical Society Papers*, vol. 52, pp. 325, 329-331; See also, "An Act to increase the military force of the Confederate States," 10 February 1865, *Committee of Military Affairs Papers*, Manuscript copy, P&W folder 810, Box 6, Museum of The Confederacy and Archives, Richmond, VA; Durden, *The Gray and the Black*, pp. 202-203.

<sup>135</sup> *Richmond Daily Enquirer*, 25 February 1865. For Lee's role here see Stephenson, "The Question of Arming the Slaves," pp. 295-308, Durden, *The Gray and the Black*, p. 204-209; See also, *Official Records*, series IV, vol. III, pp. 1012-1013; With regard to Lee's notions of slave emancipation see Dowdey, and Manarin, ed., *The Wartime Papers*, pp. 378-379, 385, 611,661; Yearn, *The Confederate Congress*, p. 98.

<sup>136</sup> *Daily Examiner* (Richmond), 16 February 1865, and *Richmond Daily Dispatch*, 20 February 1865.

upon him.” *The Sentinel* took the same ground as the *Whig* stating that “Those foolhardy civilians who insisted on preferring their judgment to that of Lee would incur not only the imputation of presumption, but a responsibility to the country which no man could support.”<sup>137</sup>

By late February public opinion in Virginia not only concurred with Lee’s assessment, but also strongly favored the use of black troops.<sup>138</sup> Of course, many remained adamant in their opposition to the measure.<sup>139</sup> Some contended that white soldiers would refuse to serve in the same army as blacks. This argument was negated by a series of petitions from various Confederate units calling for slave conscription. For example, on 15 February the officers and men of the First Virginia Infantry Regiment resolved “that we would hail with acclamation the enrollment into our armies of negro troops. We therefore recommend to our Representatives in Congress assembled to use their endeavors for the accomplishment of this end.”<sup>140</sup> Others rejected the enlistment, arguing that the use of black men would result in the complete disruption of slavery. Disagreeing, the *Lynchburg Virginian* commented that even if the disruption did occur, “we should still be better off as masters of the situation than to have the slaves freed by our Yankee masters.”<sup>141</sup>

Still others maintained that implementing Lee’s proposal, as outlined in his 18 February letter to Representative Barksdale, would inflict a cruel injury to both races, would mark the beginning of abolition in the South, and would mean the “abandonment of the black race to inevitable destruction upon this continent.” The *Daily Examiner* could find no cause to quarrel with the theoretical basis of these arguments. “This is the true Southern principle, and the only righteous principle,” it declared. “But what then?”

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<sup>137</sup> *Whig* (Richmond), 20 February 1865, *The Sentinel*, (Richmond), 23 February 1865.

<sup>138</sup> “Never was there a greater change in public sentiment than there has been upon this question,” *Lynchburg Virginian*, 25 February 1865; “Public opinion has definitely declared in favor of arming the negroes,” *Richmond Enquirer*, 18 February 1865; “At this time [late February early March, 1865] public opinion in favor of the measures had become almost unanimous among both citizens and soldiers.”, As quoted in Hay, “The South and the Arming of the Slaves,” pp. 60-61.

<sup>139</sup> On 9 March, the *Daily Examiner* identified one powerful group opposing the measure: “he [General Lee] will see from the earnest protests of some of the best Southern statesmen how reluctantly this measure has been wrung out of Congress by military necessity alone, and by his declaration of that necessity” (*Daily Examiner* [Richmond], 9 March 1865).

<sup>140</sup> *Whig* (Richmond), 18 February 1865. See also the *Richmond Enquirer*, 10 February 1865; and *The Sentinel*, (Richmond), 23 February, 1 March 1865.

What good will our principle do if the Yankees come in over us? Will there be any comfort in going down to perdition carrying our principle with us intact? The principle of slavery is a sound one; but is it so dear to us that rather than give it up we would be slaves ourselves? Slavery, like the Sabbath, was made for man; not man for slavery.<sup>142</sup>

### Facing the Alternative: "Slave Soldiers"

While the debate continued in the press, the Virginia General Assembly resurrected the long delayed measures on the use of slave and free black soldiers. On 10 February 1865 State Senator Robert R. Collier, who had previously opposed the use of black soldiers, reversed his position. He called on the Senate Committee on Confederate Relations to consider the propriety of reporting the legislation needed to permit the enlistment and training of black troops.<sup>143</sup> At this point, the Committee on Confederate Relations decided that it no longer wanted to be held accountable for the measure. On 23 and 24 February, Senator Asa D. Dickinson, speaking for the committee, asked that it be discharged from any further responsibility for the question.<sup>144</sup> After a brief period of discussion, the Senate agreed to Dickinson's request on 27 February. However, another Senate committee had already picked up the slack. On 23 February, Senator Beverley B. Douglas, from the Committee on Military Affairs, had presented "Bill No. 76, A bill to raise a volunteer force of slaves and free Negroes." On Douglas's motion, the Senate transferred the bill to the secret calendar for debate.<sup>145</sup>

In the meantime, the Virginia House of Delegates had kept pace with the upper chamber. On 17 February 1865, delegate John T. Anderson of the Committee on Military Affairs, reported on a resolution of considerable importance. The measure would authorize the Confederate States government, "to enlist such number of able-bodied slaves for military service as may be deemed necessary, upon such terms, and under such limitations, as may be

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<sup>141</sup> *Lynchburg Virginian*, 18 February 1865.

<sup>142</sup> *Examiner* (Richmond), 25 February 1865.

<sup>143</sup> *Journal of the Senate of the Commonwealth of Virginia*, vol. 1, pp. 69-70 (10 January 1865), p. 131 (10 February 1865).

<sup>144</sup> *Ibid.*, pp. 162, 164.

<sup>145</sup> *Ibid.*, pp. 159, 172.

agreed upon between the Confederate government and the owners of such slaves.”<sup>146</sup> Debated and apparently modified in secret session, the resolution was supported by a very large majority of the House on 27 February, and was subsequently submitted to the Senate for its approval.<sup>147</sup>

However, on 27 February the Virginia Senate passed its own resolution concerning the use of black soldiers. With both versions in hand, it proceeded on the following day to discuss them. Senator Andrew Hunter offered a key amendment when he resolved that the state’s national senators are instructed, and her representatives in Congress are requested, to support the policy outlined in the resolutions.<sup>148</sup> Finally, between the 4<sup>th</sup> and 6<sup>th</sup> of March 1865 the General Assembly endorsed a series of four joint resolutions that marked the end of a long struggle.<sup>149</sup>

Governor Smith was clearly disappointed, as the three resolutions of 4 March did not provide for the manumission of slave soldiers,<sup>150</sup> though the measures did make large numbers of men available to the Confederate Army. The first resolution authorized Confederate authorities, “to call upon Virginia, through her governor, for all of her able-bodied free male blacks between the ages of eighteen and forty five.” The resolution also called for, “up to 25 per cent of her male slaves in the same age group, if needed for the public defense.”<sup>151</sup> The second required that the call for slaves be evenly apportioned so that no owner would suffer

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<sup>146</sup> *The Sentinel*, (Richmond), 17 February 1865.

<sup>147</sup> *Ibid.*, 25 and 27 February 1865; and *Journal of the Senate of the Commonwealth of Virginia*, vol. 1, p. 168.

<sup>148</sup> *The Sentinel*, (Richmond), 27 February 1865; and *Journal of the Senate of the Commonwealth of Virginia*, vol. 1, pp. 179-180. Concerning Hunter’s amendment, it may be recalled that a Confederate bill dealing with the enrollment of black soldiers was stalled in the Senate. Changing the votes of Virginia’s two national senators (Allen T. Caperton, and Robert M. T. Hunter), both of whom opposed the bill, would tip the balance in its favor. See Durden, *The Gray and the Black*, p. 240, n. 240.

<sup>149</sup> The voting breakdown on the resolutions is not available for either house of the General Assembly. For the actual legislation see *Official Records*, series I, vol. LI, pt. 2, a bill entitled, “Joint resolutions in relation to the employment of slaves and free negroes as soldiers or otherwise for the public defense,” p. 1068. Also, Governor Bell Smith to the President of the Confederate States, *Ibid.*, series I, vol. XLVI, Part III, page 1315.

<sup>150</sup> Fahrner, “William ‘Extra Billy’ Smith, p. 86.; and George C. Rable, *The Confederate Republic*, p. 295, Also Smith did not give up the fight to free those slaves who might serve in the army. (Governor Smith to General Robert E. Lee, Richmond, 25 March 1865, Executive Papers of Governor William Smith, Box 467, The Library of Virginia, Richmond, Virginia).

<sup>151</sup> The State Auditor’s Office estimated that 4,722 free blacks and 6,424 slaves (that is, 25 percent of 25,697 slaves) in the age range indicated could be called for service. Governor Smith considered this estimate somewhat high. Auditor’s Statement, Virginia State Auditor’s Office to Governor William Smith, Richmond, 25 March 1865, Executive Papers of Governor William Smith, Box 467, The Library of Virginia, Richmond, Virginia.

unduly from the use of his property. The third resolution restated Andrew Hunter's amendment of 28 February, calling on the state's congressional delegation to support the Confederate bill concerning the enlistment of black soldiers. Two days later the General Assembly passed the final resolution that allowed for slaves and free blacks currently serving with the army to bear arms and carry ammunition while on active duty.<sup>152</sup> The legislative struggle had ended at last, and the efforts to enlist black soldiers within Virginia could finally begin.

Neither had the resolution passed by the Virginia assembly on the 4<sup>th</sup> and 6<sup>th</sup> of March, nor the corresponding government bill of 13 March 1865, "An Act to increase the military force of the Confederate States," provided for the emancipation of slave soldiers.<sup>153</sup> However, the subsequent Confederate army general order for 23 March 1865, which implemented this Congressional measure throughout the military, did include an amendment which allowed for slave emancipation. Although Confederate Adjutant General Samuel Cooper would sign the order, its language was clearly the result of joint intervention by Davis and Lee, and despite its direct reference to the national act, by implication the measure effected the Virginia resolutions as well. General Order 14 specified that "no slave will be accepted as a recruit unless with his own consent and with the approbation of his master by a written instrument conferring, as far as he may, the rights of a freedman."<sup>154</sup> The military arm of the Confederacy thus quietly accomplished emancipation, but for only those slaves who enlisted to fight in defense of the nation. Despite this attempt at Confederate benevolence wrapped up in the language of emancipation, this idea of freedom for those slaves who joined as soldiers came at the exclusion of their families thus fuelling the argument that at this juncture in the war those slaves who did participate were coerced.

Aside from key additions created by the general order, the Act of 13 March 1865 authorized the President to ask for and accept from the states such numbers of slaves as he

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<sup>152</sup> *Official Records*, series I, vol. LI, pt. II, p. 1315.

<sup>153</sup> See, Durden, *The Gray and the Black*, pp. 250-252, 255-258, 261-265; Furgurson, *Ashes of Glory*, p. 308.

<sup>154</sup> *Official Records*, series IV, vol. III, "General Order No. 14, 23 March 1865, An Act to increase the military force of the Confederate States," pp. 1161-1162. This measure had already been signed into

wished, and to assign them to military service in whatever capacity he might direct. They were to be organized as the Secretary of War prescribed and should receive the same pay and rations as other troops. If this method proved inadequate, the President might call on each state for its quota of 300,000 troops, to be raised from such classes of its population, "irrespective of color," as the state authorities might determine. Not more than 25 per cent of the male slaves between 18 and 45 in any state could be called, but nothing in the legislative version of the bill was to be construed as a measure of slave emancipation.<sup>155</sup>

The law provoked one final outburst of bitterness between Congress and the President. At this point in the war, Jefferson Davis was overstrained, and in his present nervous state peevishly reproached the government for its delay in passing the vital measure. He had been anxious to enlist the slaves and to use their emancipation as a diplomatic bribe with Europe, and so chided Congress for not passing the law the previous year.<sup>156</sup> The Senate defended itself vigorously, contending that "the President, in no official communication to Congress, has recommended the passage of a law putting slaves in the army as soldiers, and the message under consideration is the first official information that such a law would meet his approval." The body recounted its efforts to elicit such opinion, and denied that its requests had ever received official recognition. "Under these circumstances, Congress, influenced no doubt by the opinions of General Lee, determined for itself the propriety, policy, and necessity of adopting the measure in question."<sup>157</sup> Congress made no effort to shoulder the blame for the delay and by implication expressed its habit of depending on the President for instructions. The fallacy in the whole argument was that no matter how much direct urging Davis might have given earlier, Congress itself was not ready to arm the slaves until the very last days of the Confederacy.

Directives to recruitment officers, authorizing them to enlist slaves and free blacks went out quickly following the passage of the national act.<sup>158</sup> Two of the most active recruiters in the

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law on 13 March 1865 See also, Durden, *The Gray and the Black*, pp 268-269.

<sup>155</sup> Ramsdell, *Laws and Joint Resolutions*, pp. 118-119.

<sup>156</sup> *Journal of the Congress of the Confederate States of America*, vol. IV, p. 704.

<sup>157</sup> *Ibid.*, pp. 726, 727; Durden, *The Gray and the Black*, pp 258-261.

<sup>158</sup> For two examples of such directives issued by Assistant Adjutant-General John W. Riely, see

Richmond area were Majors James W. Pegram, and Thomas P. Turner. Their methods, which included coercion, addressed the problem imaginatively, running a series of advertisements in the Richmond papers.<sup>159</sup> *The Sentinel* reported on 21 March 1865, that the “brigade for whom, Majors Pegram, and Turner had organized was accepting recruits from all Negroes in the area, and the regiment was being rapidly filled.”<sup>160</sup> Two of the brigade’s three companies consisted of slaves and free blacks who were used as nurses and attendants by the Confederate medical service. On the afternoons of 24 and 25 March, newspaper correspondents covered these troop reviews and came away visibly impressed. Of the 24 March display, the *Daily Dispatch* commented that it had “no hesitation saying that, for the time they [the black soldiers] have been at it, as much aptness and proficiency was displayed as is usually shown by any white troops we have ever seen.” Covering the drill held the following day, the *Daily Examiner* noted that “the knowledge of the military art they already exhibit was something remarkable. They moved with evident pride and satisfaction to themselves.” The black soldiers’ quarters were, the article added, “neat, clean, warm, and comfortable.”<sup>161</sup>

However, the effort to arm and utilize slaves and free blacks as soldiers came too late to be of any consequence to the Confederacy. The effect they might have had on the course of events in the state, had they been available in large numbers, is still open to speculation.<sup>162</sup>

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*Official Records*, series IV, vol. III, pp. 1144, 1194, Riely to Majors Pegram and Turner, 15 March 1865; and *The Sentinel*, (Richmond), 21 March 1865.

<sup>159</sup> See for example, *The Sentinel*, (Richmond), 21 March 1865; Furgurson, *Ashes of Glory*, p. 313. These events are mentioned throughout the secondary literature, but there is no evidence in post war slave testimony, or slave narratives that would validate the newspaper stories.

<sup>160</sup> *The Sentinel*, (Richmond), 21 March 1865.

<sup>161</sup> *Richmond Daily Dispatch*, 25 March 1865; *Daily Examiner* (Richmond), 27 March 1865. For a negative and one-sided view of the black soldiers recruited in Richmond, see Edward A. Pollard, *Life of Jefferson Davis, with a Secret History of the Southern Confederacy, Gathered “Behind the Scenes in Richmond”* (Philadelphia: National Publishing Co., 1869), p. 456; and *The Sentinel*, (Richmond), 23 March 1865.

<sup>162</sup> Berlin, et. al. ed., *Freedom: Series II, The Black Military Experience*, pp. 279-282; McPherson, *The Battle Cry of Freedom*, pp. 831-837.

## Conclusion

This chapter emphasized two main points in the process of defining a role for slaves and free blacks within the Confederacy. First, the legal process used by the Confederate administration, certain members of Congress, and military leaders to redefine the role of black Southerners. The Davis administration had to show that it had exhausted all other avenues and that there was no other option available. Second, the state level debate over the use of slaves, and possibly free blacks as combat soldiers. Here particular attention was drawn to Virginia where their debate over these issues had a considerable effect on the cooperation between state and government officials. Although this change in policy was not agreeable to all sectors of the Southern white population, from 1861 to 1865 there was an increasing shift of thought and policy in redefining the role and place of black Southerners.

The escalation of the debate to obtain white recruits and to implement the use of black Southerners resulted from continued military setbacks. By 1865, legislation was passed that effectively placed blacks in the Confederate army not as support staff but as combat soldiers. The progress of this legislative policy by the Confederacy can be traced back to its beginnings in 1862, and by the influence of initiatives taken by the states in 1861. The sway of public opinion from refusal to tacit acceptance is evident in the newspapers of the time. The use of blacks as soldiers was initiated in the legislation, supported and further defined by military regulations and implemented at the company and regimental level. The next chapter examines how slaves and free blacks were employed in the Confederate army as regimental support staff.



## Chapter Four "Faithful Among the Faithless:" Body Servants, Slaves, and Free Blacks in the Confederate Army

This chapter examines the role played by slaves and free blacks as body servants and, to a larger extent, as supportive personnel within the Confederate military establishment through the use of examples found in the primary and secondary materials. Although Confederate authorities had set down a "verbal policy" that in essence limited the place and role of black Southerners in the army, the reality was that these men did have an extensive military presence. As individual state governments, planters, national authorities, and military leaders debated how black Southerners were to be used, they also realized that despite white concerns over the political implications involved, slaves and free blacks would be vital for sustaining the army during the war.

As early as 1861, wealthy Confederate officers and privates alike were bringing slaves with them to the front, and soldiers who were able, either purchased, rented, or confiscated a servant for their own. However, the role and place of slaves and free blacks in this context was much more than looking after the needs of their owners. Generally, black Southerners were to nineteenth-century military infrastructures what critical combat support staff is for the modern army. In this social sphere, they served as teamsters, cooks, musicians, ammunition handlers, nurses, scouts, etc., and on rare occasions as soldiers, while a short list of their duties included foraging, washing clothes, setting up camp, and digging latrines. Although black Southern support staff was in evidence throughout the war, slaves and free blacks were responsible for assisting in the maintenance of the military, a situation that would reach its zenith, as the realities of *Confederate defeat loomed large in late 1863.*

With respect to motivations, although there are rare instances of volunteerism, and white memories and or perceptions of loyalty, the overwhelming factor was coercion by white civil and military authorities. Behind the label of volunteerism, there is a host of reasons why individuals black Southerners chose to throw in their lot with the Confederacy, and here issues of black pragmatism and autonomy loom large. Stories of black participation in the

Confederate military were without a doubt used in the post war South to fuel Lost Cause ideology and white supremacy, but there are examples where analysis of the primary documentation supports the historical facts. However, it must be stressed that most of the slave and free black regimental support staff were at some level coerced into their role as part of the military infrastructure.<sup>1</sup>

Government authorities at the state and national level had legislatively acknowledged the presence and use of black Southerners as support staff in various ways. Two examples of this took the form of military general orders, and illustrate the need for their labor. First, Confederate Adjutant and Inspector General, Samuel Cooper, issued General Order 69 in September 1862, which had required newspapers to publish the names of “servants and their true owners.” Second, in May 1863, General Order 49 ordered that, “the regimental adjutant general throughout the army will inquire into and report all cases of slaves serving with their respective regiments without written authority from their masters.”<sup>2</sup> These orders, combined with several other legislative actions, for instance those concerning black regimental musicians and cooks, suggest that the Confederate government had recognized the need to use black

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<sup>1</sup> I estimate that some eighty to one hundred thousand slaves and free blacks participated in state militias and Confederate national forces as critical combat support staff throughout the entire conflict, and not at any particular point during the war. As discussed in the introduction, evidence for such an informed “guess” is based on a limited examination of black pension files, records of monuments and grave markers to black veterans, company muster sheets, and eyewitness accounts obtained from official reports, veterans’ recollections, as well as from sources previously mentioned. This estimate is not conclusive, and as with many issues connected to the Civil War, questions over numbers are very debatable: for example, “how many Civil War soldiers died during the war?” I do not believe that the issue of numbers is a foundation for disputing the fact that a small yet significant number of slaves and free blacks were defined as soldiers. However, because of the contentious nature of this topic the question over numbers will continue to be a subject of considerable debate. See, R. A. Brock, ed., *The Appomattox Roster: a List of the Paroles of the Army of Northern Virginia, Issued at Appomattox Court House on April 9, 1865*, (New York: Antiquarian Press, 1962 reprint of the 1887 edition); Alabama State Archives Publication, *1907 Alabama Census of Confederate Soldiers, Autauga, Baldwin, and Barbour Counties*, (Cullman, Alabama: Gregath Co., 1982); Ted O. Brooke, and Linda Woodward Geiger, *Index to Georgia’s Confederate Pension Supplements*, (Cumming, Georgia: T. O. Brooke and L. Woodward Geiger, 1999); Lillian Henderson, ed., through the Georgia State Division of Confederate Pensions and Records, *Roster of the Confederate Soldiers of Georgia, 1861-1865, 6 vol.*, (Hapeville, Georgia: Longina & Porter, 1959-1964); Virgil D. White, *Index to Georgia Civil War Confederate Pension Files*, (Waynesboro, Tennessee: National Historical Pub. Co., 1996); Michael L. Cook, and Alicia Simpson, *Kentucky Confederate Veteran and Widows Pension Index*, (Hartford, Kentucky: Cook & McDowell Publications, 1980); John C. Rietti, *Military Annals of Mississippi: Military Organizations Which Entered the Service of the Confederate States of America from the State of Mississippi*, (Spartanburg, South Carolina: Reprint Co., 1976).

<sup>2</sup> *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D. C.:

Southerners as part of the army.<sup>3</sup> The reasons were firstly to address the growing problem of “unscrupulous officers” hiring runaway slaves without the permission of their owners. Secondly, and essentially, as the war progressed Confederate authorities needed to use slaves and free blacks as support staff in order to free up white males who had previously escaped combat duty by enlisting in areas of regimental support. As Confederate defeat became more likely, slaveholders were increasingly unwilling to release their slaves for use as military laborers or as support staff without just compensation, and soon this too became insufficient, resulting in a breakdown of the impressment and conscription system for black Southerners.<sup>4</sup>

Through the use of primary, largely anecdotal, evidence, including that of foreign observers, and Federal soldiers, this chapter will relate the story of slave and free black roles within the Confederate military as a precursor to the detailed analysis of black Confederate veteran’s pensions in the post war South. The main points are to discuss the foundation of black support staff, examples of their duties and abilities, and slave and free black reactions to instances when they were directly or indirectly involved in combat. Concluding this chapter are three aspects that tie together the role of black Southerners in supportive regimental roles, their limited use in combat, and issues of Lost Cause ideology and white supremacy. First, slave and free black roles during the Gettysburg campaign of June-July 1863, which arguably was the pinnacle of black roles in the regimental infrastructure. Second, their use as scouts by General Nathan Bedford Forrest, and the ironic role of black Southerners during the Fort Pillow massacre on 12 April 1864. Third, is the place of black Southerners during the war’s final days in Richmond, following the legislative enactment of 13 March 1865 that formally established

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Government Printing Office, 1901), series II, vol. VI, p. 86.

<sup>3</sup> The use of slaves and free blacks as musicians was authorized through legislation on 15 April 1862. A subsequent measure was passed on 18 April 1862, and provided for the enlistment and pay of blacks as cooks. *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vol. (Washington, D.C.: Government Printing Office, 1904-1905), 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol. II, pp. 45, 113, 118, 145, 152, 174, vol. V, pp. 54, 79, 141-159, 199, 250, 262; James M. Matthews, ed., *Public Laws of the Confederate States of America, Passed at the First Session of the First Congress 1862*, (Richmond: R. M. Smith, Printer to Congress, 1862), 15 April 1862, p. 29; *Official Records*, series I, vol. IV, p. 1059, series I, vol. LII, no. 2, p. 301.

<sup>4</sup> Confederate States of America War Department, *General Orders, Confederate States Army*, January 1862, to December 1863, Issue No., 80; Confederate States America War Department, *General Orders, Confederate States Army*, Issue No., 59.

slaves as soldiers. Woven throughout this chapter is the issue of slave and free black reasoning as placed within the primary source materials, veterans' memories, and white held beliefs over black loyalty.

### The Development of Critical Combat Support Staff

Black Southerners found their way into the army's regimental infrastructure in three ways: as body servants, as individuals attached to or enlisted in white regiments as support staff, or loosely defined as soldiers in companies organized either partially or entirely of slaves and free blacks. Body servants and those placed in supportive roles, such as musicians, blacksmiths, and teamsters did not fall under the same definition as military laborers, and although many of their duties were similar, their classification legislatively and militarily placed them as a different group entirely. As a wartime labor force, black support staff was usually drawn from the slave population, and in the antebellum period had been cooks, butlers, carriage drivers, or in other specialized fields. Sam Newsom, a Tennessee slave, and personal servant to his owner's son remembered their relationship and its connections to his service in the Confederate military.

We was sort of brought up together, master Will and I was, and maybe that's why everybody seemed to sort of trust him to me. I used to rock him to sleep. He got to be a fine and reckless sort of gentleman. Then the war came. I went with Master Will. Nothing could stop him and I knew he would need me. He got to be a first lieutenant in the cavalry. I slept in the same tent. When he was fighting, I stayed with the ambulances. . . I got wounded once at the battle of Sullivan's Creek. Master Will was killed at Chickamauga. I brought his body home. I smuggled him by the pickets, hired a wagon, and got him to Chattanooga. From there, I brought him on home.<sup>5</sup>

The feelings of black Southerners about the war cannot be placed into a single category.

The assumption that all slaves and free blacks behaved rationally, and had equated a Federal

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<sup>5</sup> No record exists concerning the battle of Sullivan's Creek, and in all probability was part of either a larger battle, or an engagement that was listed under a different name. The battle of Chickamauga occurred on 19-20 September 1863. Quoted in Robert Greene, ed., *Black Defenders of America, 1775-1973*, (Chicago: Johnson Publishing, 1974), p 85; Jay S. Hoar, "Black Glory: Our Afro-American Civil War Old Soldiery," *Gettysburg Magazine*, Issue No 2, (January, 1990), p 212; See also the pension application of Sam Newsom, #270 Microfilm roll 2, Tennessee State Library and Archives, (TSLA), Nashville, TN. As seen in *Tennessee Confederate Pension Applications*, TSLA, Nashville, TN; *Index to Confederate Pension Applications*, TSLA, Archives Division, Nashville, TN; *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, TSLA, Nashville, TN.

invasion of the South with their own freedom, is a fallacy. Perhaps the concept of freedom is so overwhelming in our culture that we assume that all black Southerners believed that from the start the war would result in their liberation. Economic necessity, greater autonomy, fear of Union invasion, white coercion, black pragmatism, and even the possibility of Southern emancipation, were for a small minority of black Southerners just some of the possible reasons for their place in Confederate ranks. For slaves in particular, there was no measure of choice offered to them, as their involvement in the war was largely dictated to them through coercion from white owners and local military authorities. Nevertheless, the reality is that a minority of slave and free black Southerners did for reasons as diverse as those articulated by many white soldiers, participate within the regiments of the Confederate military as critical combat support staff.

William Lynch, a free black cook in the 5<sup>th</sup> North Carolina Cavalry, recalled that he had “fought” first for the South and then latterly for the North. Furthermore claiming that, “I neber fought for the Yankees till dey captured me and put me in a corral and said, ‘Nigger, you fought for de South; now you can fight for de North.’”<sup>6</sup> Another example of the “presumed loyalty” of servants is found in the exchange between a black Southerner and a Union officer following his, and the subsequent capture of “his master.” “I had as much right to fight for my native state as you had to fight for your’n, and a blame sight more right than your furriners, what’s got no homes.” The body servant was later paroled, and “mustered out” as a member of the 7<sup>th</sup> Virginia Cavalry.<sup>7</sup> On the march to Gettysburg, one servant talked to the wife of a Pennsylvania farmer who suggested that he ran away from the army while he was able. When he refused this offer, she asked him “are you treated well?” to which he replied, “I live as I wish, and if I did not, I think I couldn’t better myself by stopping here. This is a beautiful country,

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<sup>6</sup> George P. Rawick, ed., *The American Slave: A Composite Autobiography, Vol. I, From Sundown to Sunup: The Making of the Black Community*, (Westport, Connecticut: Greenwood Press, 1972), p. 136.

<sup>7</sup> H. C. Blackerby, *Blacks in Blue and Gray: Afro-American Service in the Civil War*, (Tuscaloosa, Alabama: Portals Press, 1973), p. 34.

but it doesn't come up to home in my eyes."<sup>8</sup> Another black body servant underscored his wish to improve life in the South by defending it, stating "he had hoped to raise esteem for blacks amongst both blacks and whites by fighting for the South." "No matter where I fight, I only wish to spend what I have, and fight as long as I can, if only my boy may stand alone in the street equal to a white boy when the war is over."<sup>9</sup>

Like their white counterparts, some black Southerners, went off to war in 1861 with the notion that it would be an exciting thing to do, and in some ways the greatest adventure of their generation. An unnamed servant from South Carolina in writing to his sister summed up his feelings about battle as well as his self-discovery, expressing to a degree what other slaves and free blacks may have felt in the early days of the war:

I've bin havin' a good time generally see a heap of fine country and a plenty of purty gals. . . I have also bin on the battlefields and hear the bullets whiz. When the Yankees run I . . . got more clothes, blankets, overcoats, and razors than I could tote. I've got an injin rubber cloke with two brass eyes keeps the rain off like a meetin' house. Im a made man since the battle and cocks and primed to try it again. If I kin kill a Yankee and git a gold watch, and a pair of boots, my trip will be made. How other niggers do to stay at home, while we soldiers are havin' such a good time is more than I can tell.<sup>10</sup>

At this early period in the war, several groups of free black Southerners had made a point of writing to South Carolina Governor Francis W. Pickens expressing their concern, and willingness to assist the state. One group of African-Americans stated emphatically that, "we are ready, whenever called upon to assist in preparing the State a defense, against any action which may be brought against her."<sup>11</sup> While an observer in Charleston noted that a "thousand Negroes who, so far from inclining to insurrections, were grinning from ear to ear at the prospect of shooting Yankees."<sup>12</sup>

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<sup>8</sup> Washington Wills, quoted in Manly Wade Wellman, *Rebel Boast: First at Bethel-Last at Appomattox*, (New York: Henry Holt and Company, 1956), p. 117.

<sup>9</sup> Quoted in Blackerby, *Blacks in Blue and Gray*, p. 34.

<sup>10</sup> Quoted in Bell Irvin Wiley, *Southern Negroes, 1861-1865*, (New Haven: Yale University Press, 1938), pp. 141-142.

<sup>11</sup> Quoted in Michael P. Johnson, and James L. Roark, *Black Masters: A Free Family of Color in the Old South*, (New York: W.W. Norton, 1984), pp. 293-294.

<sup>12</sup> Charles Wesley, *The Collapse of the Confederacy*, (New York: Russell and Russell, 1937), p. 244.

In Georgia, another group of free blacks published an open letter to the district's commanding officer, Brigadier General Alexander Robert Lawton, in the *Savannah Evening News*. The group had declared that:

The undersigned free men of color, residing in the city of Savannah and county of Chatham, fully impressed with the feeling of duty we owe to the State of Georgia as inhabitants thereof, which has for so long a period extended to ourselves and families its protection, and has been to us the source of many benefits beg leave, respectfully, in this the hour of danger, to tender to yourself our services, to be employed in the defense of the state, at any place or point, at any time, or any length of time, and in any service for which you may consider us best fitted, and in which we can contribute to the public good.<sup>13</sup>

This was one of several rare offers of "voluntary service" made by free blacks to local Confederate commanders in the press. With each offer, the newspaper would follow with an editorial comment, which simply listed their destination, and the names of what the paper termed as "Free Colored Volunteers." In these cases, no records exist as to their specific role, but most were sent to the Confederate commander at Fort Pulaski, and in all probability were detailed to strengthen the fortifications, but not to take part in its defense. For his part, the editor of the *Evening News* stated that those free blacks involved had been "honorably discharged after having faithfully served the time for which they volunteered."<sup>14</sup>

In Lynchburg, Virginia, some 70 men enlisted to fight for the defense of Virginia soon after it seceded; a local newspaper raised "three cheers for the patriotic Negroes of Lynchburg."<sup>15</sup> A week later a group in Richmond volunteered, "for the work of defense, or any other capacity required" and having been received were ordered to report "to the Captain of the Woodis Riflemen."<sup>16</sup> In Petersburg, a group of blacks who had volunteered to work on defenses held a mass rally at the courthouse square. The former Mayor, John Dodson,

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<sup>13</sup> Clarence Mohr, *On The Threshold: Masters and Slaves in Civil War Georgia, 1861-1865*, (Baton Rouge. Louisiana State University Press, 1986), p. 66.

<sup>14</sup> *Ibid.*, Confederate forces under Colonel Charles H. Olmstead held Fort Pulaski until its surrender to Federal forces following a heavy bombardment on 10-11 April 1862. Those free blacks who were inside the fort were captured along with the rest of the garrison, and were used as part of Union Major General David Hunter's 1<sup>st</sup> South Carolina Colored Regiment. See, *Official Records*, series I, vol. VI, pp. 133-143, 389, 432; James M. McPherson, *The Negro's Civil War: How American Blacks Felt and Acted During the War for the Union*, (New York: Ballantine Books, 1965), pp. 63, 142, 167, 298

<sup>15</sup> Frank Moore, ed., *The Rebellion Record*, (New York, G. P. Putnam, 1861-1863; D Van Nostrand, 1864-1868), p. 245

<sup>16</sup> Benjamin Quarles, *The Negro in the Civil War*, (Boston. Little, Brown, and Company, 1955), p

presented them with a Confederate flag and promised them “a rich reward of praise, and merit, from a thankful people.” Charles Tinsley, a bricklayer and spokesperson for the group, accepted the flag and said, “we are willing to aid Virginia’s cause to the utmost of our ability. We do not feel that it is right for us to remain here idle, when white gentlemen are engaged in the performance of work at Norfolk that is more suitable for our hands and of which it is our duty to relieve them. We promise unhesitating obedience to all orders that may be given us.”<sup>17</sup>

In 1862, a Union surgeon who had been caught behind Confederate lines, made the following observation in his diary on the movement of the Army of Northern Virginia as it marched toward Sharpsburg, Maryland, and the accompanying presence of several thousand black Southerners.

At 4 o’clock this morning, the Rebel army began to move from our town, Jackson’s force taking the advance. The movement continued until 8 o’clock P.M., occupying 16 hours. The most liberal calculation could not give them more than 64,000 men. Over 3,000 Negroes must be included in the number. . . They had arms, rifles, muskets, sabers, bowie knives, dirks, etc. They were supplied, in many instances, with knapsacks, haversacks, canteens, etc., and they were manifestly an integral portion of the Southern Confederacy army. They were seen riding on horses and mules, driving wagons, riding on caissons, in ambulances, with the staff of generals and promiscuously mixed up with all the Rebel horde.<sup>18</sup>

Clearly, slaves and free blacks formed an integral and important part of Southern armies, but it was a role suited to the pragmatic nature of slaves, and the sometimes harsh coercion of their owners. Private Edward McGehee Burruss had on one occasion sent his servant home for supplies, while explaining to his wife that, “he is a great darky worth his weight in gold even in these hard times. He can tell you what things I principally need, and more fully than I can write, he knows more about it anyway than I do, knows more about what I have and what I need, he attends to it all.”<sup>19</sup> In 1861, the 3<sup>rd</sup> Alabama Infantry marched to war with 1,000 white soldiers

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<sup>17</sup> J. K. Obatala, “The Unlikely Story of Negroes Who Were Loyal To Dixie,” *Smithsonian*, vol. 9 (1979), p. 94; Quarles, *The Negro in the Civil War*, p. 35.

<sup>18</sup> Quoted in Isaac W. Heysinger, *Antietam and the Maryland and Virginia Campaigns of 1862*, (New York: Neale Publishing Company, 1912), pp. 122-123. Sharpsburg is the name Southern forces gave for the battle of Antietam, which took place on 16-18 September 1862.

<sup>19</sup> Quoted in Eugene Genovese, *Roll, Jordan, Roll: The World the Slaves Made*, (New York, Vintage Books, 1974), p. 347; The debate on the role and place of slaves and free blacks as support staff in an area more closely associated within the regimental infrastructure than as military laborers is still emerging. It is in part, the argument of this thesis that black Southerners had at varying degrees, and reasoning, a vital

in the ranks, and almost as many blacks. This was not unusual when considering that early in the war regiments normally held more supportive personnel than front line troops, and this at a time when men of both races held these supportive roles.<sup>20</sup> Here slaves and free blacks acted on ideas of survival, and the possibility of greater autonomy, but mostly for the chance to run away to the Federal lines at the first opportunity. The notion of volunteerism and loyalty were a way to rationalize the place of black regimental support staff, but it was overwhelmingly a view imposed by white soldiers and later by veterans. Black Southerners did possess a measure of attachment to their white owners, and a sense of rewards for duties well performed, but they were nevertheless aware of their position, particularly as the war progressed.

### **Body Servants as Regimental Support Staff**

Body servants were by far the largest group within the Confederate army's regimental infrastructure. Mostly male, although there were also some women, they were usually between the ages of sixteen to sixty, and were typically impressed, conscripted, or the property of either the plantation owners, or of their sons. In particular it was not uncommon for a body servant to be the attendant to a small group of officers, or even the property of a combat soldier. However, the higher the military rank of an owner, the more status the servant had in the camp. Many had been assigned to their masters since childhood and considered their duties as positions of the highest trust. At least until 1863, when it became plain that the tide of the war was going against the South, these individuals had participated for various reasons: whether coercion or the pragmatism of self-preservation. During the war they were the butt of numerous jokes, anecdotes, songs, and stories, but in the post-war era this minority of black Southerners were welcomed by the veteran as living links to a memory of the war colored by Lost Cause

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place in the day-to-day functioning of the regiment. For some examples of the core source material, integral to this discussion see, Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867 Series I Volume 1, The Destruction of Slavery*, (New York: Cambridge University Press, 1985), pp. 663-670, 760-761; Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867, Series II, The Black Military Experience*, (Cambridge: Cambridge University Press, 1982), pp. 279-284; Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, (Baton Rouge Louisiana State University Press, 1972), pp. 47-53; Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*, (Charlottesville: University Press of Virginia, 1995), pp. 185-188, 190-191.

<sup>20</sup> Walter Fleming, *Civil War and Reconstruction in Alabama*, (New York: Columbia University

ideology. Later, these former slaves and free blacks were granted a pension as a formal “reward” for their war time loyalty, which was used by white supremacists to testify that black fidelity meant that the war was not about slavery.<sup>21</sup>

The duties of body servants in the military were hard, numerous, and continuous; up before dawn, they had to cook breakfast, brush uniforms, wake their masters, prepare hot water for shaving and bathing, polish swords, and clean pistols. They washed clothes, straightened up living quarters, and were constantly on the lookout for extra supplies. It was their responsibility to make sure that coffee was always available, while at night, they were among the last in camp to retire. Other duties were boot cleaning, foraging, and entertainment. Some became superb foragers and made important contributions to food supplies. For their masters, and often for many others, they set up and struck tents, cleaned clothes, cared for the sick and wounded; in the Navy they stoked the fires in steamships and tended the sails on older ships. In short, they performed virtually every act of labor of a personal sort one can imagine.<sup>22</sup>

Unlike free blacks, their role was a continuation of the master-slave relationship; they tended their wounded owners, escorted their bodies home, and occasionally fought in battles. Few servants remained with the Confederate army after 1863 due to supply shortages, and the increased need for black industrial and agricultural labor. However, whenever Confederate officers rented civilian lodgings, the Confederate government paid charges for meals and lodgings costs for them and their body servants. In 1863, body servants were quartered at the Fredericksburg Hotel at a cost of twenty-five to seventy-five cents per day. A June bill for two servants and their two meals totaled \$1.50; in August the supper and breakfast of five cavalry regiment servants cost \$2.50, a single night’s lodging of three servants was \$1.50. Some of

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Press, 1905), p. 208.

<sup>21</sup> See, James M. McPherson, “What Caused The Civil War,” *North & South*, vol. 4, no. 1, (November, 2000), pp. 12-22; David W. Blight, *Race and Reunion: The Civil War in American Memory*, (Cambridge, Massachusetts: Harvard University Press, 2001), pp. 282, 284, 289-290, 296; Gary W. Gallagher, Alan T. Nolan, ed., *The Myth of the Lost Cause and Civil War History*, (Indianapolis: Indiana University Press, 2000), pp. 78-83, 92-98. See also, Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*, pp. 185-188, 190-198. Although Jordan concentrates on slave and free black role in Virginia, his work provides a general background to the role body servants played throughout the Southern Confederacy.

<sup>22</sup> Wiley, *Southern Negro*, pp. 135-137.

these men had to make do with beds of straw in the stables and a cold breakfast of black molasses, ashcake, and water; if they were lucky meat might be allocated to them in the form of swine tails or some other offal.<sup>23</sup>

They were called as “boy” or “uncle” or by their first name (usually they only had one) or skin color “Black Peter,” never as “Mr.” even if they were free blacks. Although one body servant was described as “Mr. Snow,” it was in mockery of his color. It is apparent that these black men were highly valued. Many were trusted with passes from their owners and traveled alone hundreds of miles unescorted on railroads and other public conveyances, disregarding numerous chances to escape. Stirling, a slave owned by General Philip St. George Cocke, received a pass at Belmead plantation in Powhatan County Virginia in May 1861. He traveled by packet ship to Fluvanna County and from there by land to Culpeper Court House, where he completed his solitary journey, a distance of more than fifty miles, through five Virginia counties.<sup>24</sup> The Confederate government also issued standardized passes for body servants. These printed forms included a description of the slave, and instructed military officials to provide safe passage.<sup>25</sup>

Camp life had its lighter moments, and not always at the expense of blacks. Griffin Hawkins, a slave employed by a colonel of the 2<sup>nd</sup> Virginia Cavalry, shared in the serendipitous discovery of a moonshine still in Franklin County. He became thoroughly drunk and proceeded to call and answer the entire roll of his master’s regiment in alphabetical order in perfect mimicry of its colonel. Robert T. Hubbard, of the 3<sup>rd</sup> Virginia Cavalry described the indifference of a servant named Davy, who despite the intensity of the battle was only concerned about his master’s horse. “One day when a heavy cannonade was in progress, someone met Davy riding

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<sup>23</sup> Bell Irvin Wiley, *The Life of Johnny Reb: The Common Soldier of the Confederacy*, (Baton Rouge: Louisiana State University Press, 1996), pp. 117, 327-328, Dr. John Eugene Coles Papers, no. 9982, his few writings are part of Elizabeth Coles Langhorne Papers, Accession #7942-g, Special Collections Department, University of Virginia Library, Charlottesville, Virginia, (on loan to the Museum of the Confederacy, Richmond, Virginia).

<sup>24</sup> Henry Kyd Douglas, *I Rode with Stonewall: Being Chiefly the War Experiences of the Youngest Member of Jackson’s Staff from the John Brown Raid to the Hanging of Mrs. Surratt*, (Chapel Hill: The University of North Carolina Press, 1940), p. 336.

<sup>25</sup> An example of such a pass can be found in African American Slavery Collection, folder 15, box 1, Museum of the Confederacy and Archives, Richmond, VA.

towards the scene of action and asked, where are you going? Davy [replied], Gwine arter Marsa's horse, sir. For what? Case he tell me if he got kilt I must take care'n his horse; and all dat firm' must ha' kilt him 'fore now."<sup>26</sup>

Not all these men were slaves, as there were also free black body servants within the ranks who had held either economic or other attachments to the people they served.<sup>27</sup> Many voluntarily became body servants for wages and whatever other advantages they might negotiate. In addition, self-preservation was for many the paramount objective, and body servants were quite capable of taking full advantage of the situation.

Samuel Page, a resident of Appomattox County, Virginia, boasted of his freeborn status when he joined the Confederate army in 1861. There he served at first as a laborer for the army at First Manassas, and later as a body servant for Company, A, 20<sup>th</sup> Battalion Virginia Heavy Artillery, a post he held until the end of the war. In 1924 Page had applied for and received a Confederate veteran's pension, and attached to his application was an added endorsement from a Mr. E. F. Collins who stated that, "I believe he would have taken his place in the ranks with his gun if told to do so."<sup>28</sup> A black teamster named Joe had joined the 13<sup>th</sup> Virginia Cavalry as indicated on the regimental muster sheets. John H. Bell, was a black bugler with the Surry Light Artillery, he is shown as having served in that role from May 1863 through to March 1865 as

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<sup>26</sup> The "battle" referred to by Hubard occurred at Auburn, Virginia, on 14 October 1863. Rufus H. Peck, *Reminiscence of a Confederate Soldier of Company C, 2<sup>nd</sup> Virginia Cavalry*, (Fincastle, Virginia: no publisher, 1913), pp. 63-64; Notebook of Robert Thurston Hubard, 1860-1866, Accession #10522, Special Collections Department, University of Virginia Library, Charlottesville, Virginia, "chapter 11," p. 85; See also, Robert T. Hubard, Papers, 1825-1874, Accession #7093-f, Special Collections Department, University of Virginia Library, Charlottesville, Virginia.

<sup>27</sup> Greene, *Black Defenders of America*, pp. 53-102. Greene lists several free blacks who were hired as body servants, and served from three to four years. However, this length of stay did not mean that those slaves or free black body servants involved were loyal, as many did run away at the first opportunity. Free blacks who hired themselves out were in the minority, and did so in most cases solely for economic gain.

<sup>28</sup> Research in the area of pension application is virtually nonexistent. E. F. Collins was in all probability a white veteran. Although there is no written policy to support my contention that only white endorsements were acceptable, extensive cross checking has not revealed an example of a black witness. As detailed in Chapter 5 of this thesis, all pension applications after 1920, white and black, required verification of service, which could only be obtained through the United States War Department, Washington. Samuel Page's application was approved 8 April 1924. See, Virginia, Department of Confederate Military Records, *Confederate Rosters, 1861-1865*, 20 vol., Accession no. 27684, State of Virginia Government Records Collection, The Library of Virginia, Richmond, Virginia; *Index to Confederate Pension Applications Filed by Virginia Confederate Veterans and Widows*, Samuel Page,

indicated on the battery's muster and pay sheets.<sup>29</sup> Early in the war Joseph R. Anderson, Confederate superintendent at the Tredegar Iron Works had organized a "defense battalion" in 1861, which was done explicitly to retain and exempt skilled workers from being drafted. However, in 1864, the battalion was reorganized as much of the work force was now black, and so comprised four companies of mixed black and white volunteers, and conscripts, to assist in the defense of Richmond.<sup>30</sup>

Six black Southerners had joined the Goochland Light Artillery during the years 1863 to 1864 as cooks, blacksmiths, and teamsters, and had participated in the defense of Richmond at Chaffin's Bluff. Five of these men, Benjamin, Frank, Frederick, Mortimer, and Samuel, apparently were slaves as indicated on the batteries muster sheets. Frederick in particular appeared on the muster rolls as an artilleryman, with pay set at \$12 a month, the same as that of white gunners.<sup>31</sup>

Tom Hester a slave from Suffolk, Virginia had accompanied his owner's son to Richmond early in the war and worked as a horse tender. Wounded in the cheek and jaw at First Manassas, Hester was captured by Union forces and taken to an Alexandria hospital; after recovering, he served with a Union ambulance corps. Sixteen black Southerners from Buckingham County, Virginia served as body servants and laborers; a Spotsylvania County

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application number 116, The Library of Virginia, Richmond Virginia.

<sup>29</sup> Daniel T. Balfour, *13<sup>th</sup> Virginia Cavalry*, (Lynchburg, Virginia: H. E. Howard Publishers, 1986), p. 84; Benjamin Washington Jones, *Under the Stars and Bars: A Private History of the Surry Light Artillery*, (Dayton, Ohio: Press of Morningside Bookshop, 1975), p. 210; Surry Light Artillery, service record for John H. Bell, *Compiled Service Records of Confederate Soldiers Who Served in Organizations from the State of Virginia*, 1075 microfilm reels, (Washington: National Archives Microfilm, 1960), The Library of Virginia, Richmond, Virginia, reel 18, no. 380.

<sup>30</sup> For an idea on the amount of slave and free black employees at Tredegar, and information on the battalion see, Charles B. Dew, *Ironmaker to the Confederacy: Joseph R. Anderson and the Tredegar Iron Works*, (Richmond: The Library of Virginia, 1999), pp. 94-95, 245-248, 262-263. Further information can be seen in, Ernest B. Furgurson, *Ashes of Glory: Richmond at War*, (New York: Vintage Books, 1996), pp. 187-188; Ezra J. Warner, *Generals in Gray*, (Baton Rouge: Louisiana State University Press, 1981), p. 8; See also, "Roster of the Tredegar Battalion, 6<sup>th</sup> Battalion, Local Defense Troops," *Compiled Service Records of Confederate Soldiers, Virginia*, The Library of Virginia, Richmond, Virginia, reel 17, no. 20-52; Lee A. Wallace, *A Guide to Virginia Military Organizations: 1861-1865*, 2<sup>nd</sup> ed., (Lynchburg, Virginia: H. E. Howard Publisher, 1986), pp. 183-184.

<sup>31</sup> For information on Goochland Light Artillery see, *Compiled Service Records of Confederate Soldiers, Virginia*, The Library of Virginia, Richmond, Virginia, reel 299-300; Mark M. Boatner III, *The Civil War Dictionary*, (New York: David McKay Company Inc., 1988), pp. 624-625; Wallace, *Guide to Virginia Military Organizations*, p. 22.

slave named Cornelius served with the 47<sup>th</sup> Virginia Infantry. George T. Antrim, a captain in the 5<sup>th</sup> Virginia Infantry, furnished his own "colored servant" shortly after his April 1861 enlistment, and Joseph C. Ford was a slave who served with the 30<sup>th</sup> Virginia Infantry.<sup>32</sup> Peter Vertrees, a Kentucky mulatto, served his white uncle as Assistant Surgeon in the Confederate army for three years.<sup>33</sup>

Several black Southerners were well known for their resourcefulness when it came to foraging for the army during a campaign. One such individual was given the name of "General Bodyguard" in honor of his ability to find and capture food. It was remembered that the "General's" role was that of a company cook, and that while in Pennsylvania often left the regiment at daybreak and did not reappear until the column had halted for the night. "He always returned laden with hams, chickens, fruit, and other produce from the local farms." Wrote one Confederate officer. "No one ever bothered to inquire too closely about how he had obtained such choice viands in enemy country."<sup>34</sup> Another excellent forager was Dick Poplar, a free black from Petersburg, Virginia, who had been a well-known caterer and cook before the war. Taken prisoner at Gettysburg, Poplar was sent to Point Lookout prison for the rest of the war, where despite repeated offers to be released he resisted Federal entreaties to take an oath of allegiance.<sup>35</sup>

Several body servants became known as a result of their service to, and association with, some of the more celebrated Confederate officers, who had either made mention of their supposed loyalty through memoirs, and numerous postwar articles.<sup>36</sup> Some of these black

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<sup>32</sup> Charles W. White, *The Hidden and the Forgotten: Contributions of Buckingham Blacks to American History*, (Marceline, Missouri: Walsworth Press, 1985), p. 54, Ruth Coder Fitzgerald, *A Different Story: A Black History of Fredericksburg, Stafford, and Spotsylvania, Virginia*, (Greensboro, North Carolina: Unicorn Press, 1979), p. 90, Lee A. Wallace, *5<sup>th</sup> Virginia Infantry*, (Lynchburg: H. E. Howard Publishers, 1988), p. 90; Fredericksburg, *Free Lance Star*, (Virginia), 6 June 1932.

<sup>33</sup> Scott E. Sallee, "Black Soldier of the Confederacy," *Blue and Gray Magazine*, vol. 7, no. 8, issue 5, (June 1990), p. 24.

<sup>34</sup> Wayne R. Austerman, "Virginia's Black Confederates," *Civil War History Quarterly*, vol. 8, (Kent, Ohio: Kent State University Press, 1987), p. 50.

<sup>35</sup> Francis W. Springer, *War for What?* (Nashville: Bill Coats Ltd., 1990), p. 175.

<sup>36</sup> The *Confederate Veteran*, magazine contains many stories that account for the role, and white perception of, faithful slaves. See, "A Notable Colored Veteran," *Confederate Veteran*, vol. II, no. 8, (August 1884), p. 233, "Fidelity of Negro Servants," *Confederate Veteran*, vol. V, no. 3, (March 1897), p. 119; "Faithful Uncle Dave Hatcher," *Confederate Veteran*, vol. VI, no. 11, (November 1898), p. 520;

Southerners had looked back on their experience, and the war, with fondness. One such slave was Aaron Burton, body servant to Colonel John Singleton Mosby a well-known partisan ranger. Originally, Aaron had been a gift to Mosby's mother from her father, and was subsequently sent with the Colonel supposedly, "to watch over him." Aaron apparently had spoken with pride of his association with Mosby following the war claiming that, "I loved him, and was with him in all his battles. When the war was over Colonel John told me that I was free and could go and do as I pleased. He is a good man, and was a great fighter." Some time later Mosby sent Burton money and told him, "you were always faithful to me, and I shall always remember you for it. I hope you are comfortable in your old age." At the time of this interview Burton, was eighty-seven, and resided with his daughter in Brooklyn, New York.<sup>37</sup>

Jem, a free black from Fredericksburg, Virginia, was the body servant to General Dabney H. Maury. Described as six feet two inches tall, Jem was not considered to be a good servant, but Maury had apparently overlooked this as Jem was "of a most joyous and happy disposition, and a ready wit, which made him a great favorite with all about headquarters." When General Maury was later sent to the western theater of operations in 1862, Jem accompanied him, and there saw action in Arkansas, Tennessee, Alabama, and Mississippi. Maury described him as "a black fire-eater, and a supporter of Virginia's secession." In Alabama, Jem became quite the braggart, as he would often boast of his status as a "Virginny Nigger, and of his soldiery exploits at First Manassas," and went further to claim that Virginia's privates were better soldiers than even the colonels from the rest of the Confederate army. Throughout his memoirs, Maury treated Jem as a comical figure, but always maintained that he had remained a loyal servant, and with the end of the war had parted on friendly terms. Jem went to Mobile, Alabama, after the war "just in the flush cotton times," where when last seen by

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"Tributes to Faithful Servants," *Confederate Veteran*, vol VIII, no. 9, (September 1900), p. 399.

<sup>37</sup> John Singleton Mosby Papers, 1855-1922, Accession #7872, Special Collections Department, University of Virginia Library, Charlottesville, Virginia, box 3:34, folder 7872-A; See also, Papers of John Singleton Mosby and the Mosby Family, 1803-1924, Accession #9836, Manuscript Division reel #M2234, University of Virginia Library, Charlottesville, Virginia

Maury, he had become a “prosperous owner and driver of a cotton flat, and a politician in the reconstruction times of Alabama.”<sup>38</sup>

Four black body servants were associated with Thomas J. “Stonewall” Jackson: Joseph Green, a servant named John, Jeff Shields, and James Lewis. The names of others perhaps have been forgotten. A 1925 obituary for Green simply stated he was “one of the immortal Stonewalls body servants” when it announced his death at Williamsport, Maryland, at the age of eighty-eight. John is mentioned briefly as a “handyman” by one of Jackson’s biographers, while another publication identified Shields as his personal cook.<sup>39</sup>

James “Jim” Lewis, “a large and handsome mulatto” is said to have been born in the same year as Jackson, and as a cook, his culinary accomplishments were second to none. Little is known about his antebellum life other than that he was a free black resident of Lexington. He is chiefly remembered for his often-quoted remark about how he knew the secretive Stonewall was about to launch an attack. Whenever the general arose in the middle of the night to pray, Lewis would begin to pack “cos den I knowed dere wuz a move on hand, and hell to pay in the morning.” This was the man who applied wet towels to Jackson’s face as he lay dying after being accidentally shot by his own troops at Chancellorsville; afterwards Lewis was an official member of the delegation that accompanied the body to Richmond. He led Sorrel, Jackson’s horse, during the funeral procession.<sup>40</sup> Lewis later returned to the army and became a servant to

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<sup>38</sup> Dabney Herndon Maury, *Recollections of a Virginian in the Mexican, Indian, and Civil Wars*, 3<sup>rd</sup> ed., (New York: Charles Scribner’s Sons, 1894), pp. 160-163, 165. Extensive research has been unable to positively match Jem, body servant to Dabney H. Maury, to any one black politician in Alabama during Reconstruction. However, one possibility is, Jeremiah Haralson, 1846-1916. Born near Columbus, Muscogee County, Georgia, on 1 April 1846, he was a Republican member of Alabama state house of representatives in 1870, a member of Alabama state senate, 1872, and a United States representative to Congress from 1875-1877. This match was drawn from a comparison of Maury’s description and existing biographical materials on Haralson. There is also some question with regard to Jem’s status as either a slave or free black. Maury claimed in his book that Jem was free, but with his possible connection to Jeremiah Haralson, this may not have been the case as Haralson had been born a slave. See, Richard Bailey, *Neither Carpetbaggers nor Scalawags: Black Officeholders During the Reconstruction of Alabama, 1867-1878*, (Montgomery, Alabama: Published by the author, 1991); Richard Bruner, *Black Politicians*, (New York: McKay Publishers, 1971).

<sup>39</sup> “Comrades of Hagerstown, Maryland,” *Confederate Veteran*, vol. XXXIII, no. 1, (January 1925), p. 468; Frank Vandiver, *Mighty Stonewall*, (Westport, Connecticut: Greenwood Press, 1977), p. 448; Bell Irvin Wiley, *Embattled Confederates: An Illustrated History of Southerners at War*, (New York: Harper & Row, 1964), p. 235.

<sup>40</sup> Burke Davis, *They Called Him Stonewall*, (New York: Eastern National Press, 1954), p. 25; Mary

Colonel Alexander "Sandi" Pendleton until he too died at the battle of Fisher's Hill in 1864. Disconsolate, Lewis died shortly afterwards and was buried in Lexington's black cemetery. Ten years after his death former members of Jackson's command solicited funds to erect a monument over Lewis's grave.<sup>41</sup>

Robert E. Lee's two wartime servants were William T. Evans and William Mack Lee. Evans' 1905 obituary described him as a servant, cook, and bodyguard for the general. Born a slave, Evans was freed at the age of two; he witnessed the hanging of John Brown, had served Lee throughout the war, and was present at the surrender at Appomattox Court House, Virginia. After Lee's death Evans drifted north where he worked as a waiter and at odd jobs until his death at Asbury Park, New Jersey at the age of eighty-one.<sup>42</sup>

William Mack Lee was a free black who had served Lee throughout the war, and continued there after until Lee's death in 1870.<sup>43</sup> In 1922, William's reminiscences were published, which were a combination of narrative and excerpts from previous newspaper interviews, and included a photograph of him wearing a chest full of medals from numerous Confederate reunions he attended. Born on 12 June 1835, in Westmoreland County, William, after the death of his mother, was raised at Arlington, the home of Robert E. Lee. Trained as a cook, William remained with Lee for the entire war and was wounded at Gettysburg. He fathered eight daughters and lived to see twenty-one grandchildren and eight great-grandchildren. William became an ordained Baptist minister, preaching in Washington, Maryland, South Carolina, North Carolina, and elsewhere to raise money for his many churches. In addition, he had organized quite a few black benevolent associations in Washington D. C.,

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Anna Jackson, *Life and Letters of General Thomas Jackson*, (New York: Harper, 1892), pp. 288, 372; John Overton Casler, *Four Years in the Stonewall Brigade*, (Dayton, Ohio: Morningside Bookshop, 1982), p. 92; Robert Lewis Dabney, *Life and Campaigns of Lieutenant General Thomas J Jackson*, (New York: Blelock Publishers, 1866), p. 716; William Gleason Bean, *Stonewall's Man: Sadie Pendleton*, (Wilmington, North Carolina: Broadfoot Publishing Co. 1987), pp. 69, 81, 121, 124; Vandiver, *Mighty Stonewall*, p. 492; Douglas, *I Rode with Stonewall*, pp. 154-155

<sup>41</sup> Austerman, "Virginia's Black Confederates," p. 51; *Lexington Gazette and Citizen*, (Virginia), 17 December 1875; Francis Springer, "Beyond the Call of Duty," *Southern Partisan*, (Spring 1985), p. 29.

<sup>42</sup> *Fredericksburg Free Lance Star*, (Virginia), 7 November 1905.

<sup>43</sup> William Mack Lee, *History of the Life of Reverend William Mack Lee, Body Servant of General Robert E. Lee, through the Civil War; Cook from 1861 to 1865, Still Living under the Protection of the Southern States* (Norfolk, Virginia: The Smith Printing Co., 1922).

and in Virginia.<sup>44</sup> In later years, William developed an effective fund-raising technique, which had helped him to build other churches. Upon entering an office building, usually a newspaper office, William would ask for donations, and when it became apparent that he was being ignored, he would announce that he was Robert E. Lee's body servant. At that instant nearly every Southerner in the place would then gladly offer contributions in exchange for the opportunity to ask questions about the immortal Lee.<sup>45</sup>

William's narrative contains several incidents regarding General Lee, including the time he wept at the death of Stonewall Jackson; he quoted the general as saying, "I'm bleeding at the heart, William." He also recalled how the general purchased a black hen from a Petersburg resident and christened the fowl Nellie; she kept him supplied with fresh eggs for the remainder of the war. A racial accommodationist in the post Reconstruction period, William professed support of the cultural dogmas of the Lost Cause. "The best friends we have are the Southern people. If we colored people want to get along well with the white people we must show our behavior to respect, and be obedient to them. These are my views to our race." Williams was the type of black that postwar Southern whites could easily accept: a former slave who adored white folks, still limped from a Yankee bullet, and as he professed to be a Democrat he was permitted to vote in every election.<sup>46</sup>

Black Southerners demonstrated a pragmatic loyalty to their owners in varied and surprising ways. Situations occurred when body servants were occasionally captured by Federal troops as the war progressed.<sup>47</sup> Leroy Jones, a body servant in the 4<sup>th</sup> Tennessee was with his master when they were both captured. When his owner died in prison of typhoid fever, Jones slipped through the Union lines, and returned to his master's home, where he remained until the end of the war. In 1924, Jones had made an application for and received a Confederate veterans

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<sup>44</sup> Ibid., pp. 3, 12-13.

<sup>45</sup> Ibid., pp. 3-6, 10-11, 14.

<sup>46</sup> Ibid., pp. 4, 7, 9, 11, 13; On issues related to post war racial/black accommodation see for example, Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, (New York: Alfred A. Knopf, 1998), pp. 415-417, 481, 488, 493.

<sup>47</sup> There are several examples of the extreme loyalty behavior as exhibited by captured slaves and free blacks held in Federal prisons see, Captain A. O. P. Nicholson, "Servants in Prison," *Confederate*

pension, which had contained the endorsement of several former regimental officers.<sup>48</sup> Several examples exist of servants wearing “Confederate gray or butternut,” but this has more to do with the standards of military clothing allotment than an indication of their feelings towards the South through the wearing of uniforms. The Cahaba Rifles had servants who “with gray blankets, haversacks, and cedar canteens strapped on their shoulders and wearing the Confederate gray uniform, marched behind the company.”<sup>49</sup>

The black army cook, Hiram Conaway, was captured by Federal forces early in the war near Winchester, Virginia, and was held as a prisoner-of-war until the Confederate surrender at Appomattox.<sup>50</sup> Eli Dempsey of the 1<sup>st</sup> North Carolina Artillery was captured in 1862 and held as a regular soldier until 1864.<sup>51</sup> In 1912, an article appeared in the *Confederate Veteran*, “written” by a former body servant, who went by the name of “Black Hawk,” wrote a letter to the *Confederate Veteran* stating, “I am proud of my war record. I was given to Lieutenant James H. Williams, and I stood by him and his brothers until the close of the war.” He had been taken prisoner on two occasions, but escaped, and returned to his regiment with valuables that had been given to him for safekeeping.<sup>52</sup> Another body servant who went by the name of Robin, captured with his master during Brigadier General John Hunt Morgan’s raid into Ohio, was imprisoned apart from him. Robin was offered his liberty several times in exchange for taking an oath of loyalty to the Union. He refused, saying “I will never disgrace my family by

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*Veteran*, vol. XIII, no. 3, (March 1905), p. 111.

<sup>48</sup> Leroy Jones, #64, Microfilm roll 1, TSLA.

<sup>49</sup> Anna G. Fry, “Life in Dallas County During the War,” *Confederate Veteran*, vol. XXIV, no. 5, (May 1916), p. 216. Dallas County is located in Alabama, with the city of Selma as its county seat.

<sup>50</sup> Hiram (Harry) Conway’s application was approved 18 October 1930. Hiram (Harry) Conway, application number 34, The Library of Virginia, Richmond Virginia.

<sup>51</sup> Greene, *Black Defenders of America*, p. 64.

<sup>52</sup> Black Hawk, “Gratitude of a Faithful Servant,” *Confederate Veteran*, vol. XX, no. 9, (September 1912), p. 410. Muster Rolls of Chew’s Battery for 1862 list Black Hawk, a.k.a. John Williams as a body servant to Lieutenant James H. Williams, and in 1864 list him as cook to Chew’s Battery. Despite the concern that this type of “supporting evidence” in the *Confederate Veteran* was heavily edited, overall the magazine is still the best source on reunion information and first hand accounts from veterans. See, John A. Simpson, *S. A. Cunningham and the Confederate Heritage*, (Ph D. Dissertation, University of Oregon, 1987); See also, Virginia, Department of Confederate Military Records, *Confederate Rosters, 1861-1865*, 20 vol., Accession no. 27684, State of Virginia Government Records Collection, The Library of Virginia, Richmond, Virginia.

such an oath.”<sup>53</sup> A number of servants captured at Vicksburg were offered their freedom with Federal protection, but rejected the offers and chose instead to be sent to Northern prisons with those they served.<sup>54</sup> Nathan was a body servant belonging to a Lieutenant Williams of the 1<sup>st</sup> Georgia Regulars, who had been captured by a Union officer “who took him as his own property.” Shortly there after, Nathan was sent by his new “Yankee owner” to a nearby spring for water, but instead he escaped with two horses back to the Confederate lines. His surprised master “bestowed praises on his faithful servant whom he had given up as a runaway. The lieutenant apparently permitted Nathan to keep the horses as a reward, and while retaining one for himself sold the other for fifty dollars.”<sup>55</sup>

Some of the more popular stories are those involving black Southerners who cared for wounded or dead masters. During the battle for Missionary Ridge, Thomas J. Firth, a private in the 13<sup>th</sup> Tennessee Infantry had received a severe wound, whereupon his body servant Alf carried the injured man to a secure area behind the lines.<sup>56</sup> Alf took care of Thomas for several months, then returned to the regiment to work for his master’s brother. Although Alf had “disappeared at the end of the war,” the three men were reunited forty years later at a veterans’ convention. Alf, like many body servants, simply ran away at the first opportunity, thus exhibiting a pragmatic understanding of the imminent defeat of the Confederacy. This was something that the South’s veterans would not acknowledge, as they believed and wrote a memory of the war heavily influenced through an ideology of the Lost Cause that did not account for a reversal of black fidelity.<sup>57</sup> George Mills, a body servant to Captain William Bryson of Hendersonville, North Carolina, was attached to General Matt Whitaker Ransom’s Brigade, and witnessed service at the engagements of Big Bethel, First Manassas, Seven Pines,

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<sup>53</sup> *Richmond Whig*, 27 January 1864.

<sup>54</sup> *Official Records*, series II, vol. VI, pp. 397-398.

<sup>55</sup> Thomas Joseph Macon, *Reminiscences of the First Company of Richmond Howitzers* (Richmond, Whittet & Shepperson, Printers, 1909), pp. 81-82; Austerman, “Virginia’s Black Confederates,” p. 47.

<sup>56</sup> The battle for Missionary Ridge was a part of the larger engagement at Chattanooga, Tennessee, on 23-25 November 1863, which had ended in a Confederate defeat. See, *Official Records*, series I, vol. XXXI, no. 2, pp. 24-47

<sup>57</sup> Thomas J. Firth, “Separated at the End,” *Confederate Veteran*, vol. XXXV, no. 4, (April 1927), pp. 152-153; Blight, *Race and Reunion*, pp. 284, 286-289.

Fair Oaks, and Malvern Hill. While at the battle of Sharpsburg, Bryson was killed, whereupon Mills prepared the body for shipment North Carolina. At Fredericksburg, Virginia, Mills used some of the money Bryson had given him for safe keeping to ship the remains by rail to Greenville, Tennessee, where he hired a wagon and driver to deliver the body home.<sup>58</sup> In these examples of “slave loyalty,” Alf and Mills may have been seeking closure of their “responsibilities,” by taking the bodies of their masters back home for burial and with their “obligations” completed, they disappeared or ran away.

### Support Staff, and Combat

Other slaves and free blacks had on occasion actually taken up arms and fought. However, there is a strong argument to suggest that this had more to do with their own notion of dignity, loyalty, and the emotional enigma that was the war, than white idealism of black fidelity. Teen Blackburn, a servant to Captain Augustus Blackburn, was with him at First Manassas when “the Captain got into trouble.” Teen picked up a sword, and fought off an oncoming Yankee, thus saving his master’s life.<sup>59</sup> One servant encountered a Federal soldier leading two horses; he shot the man, and then led the horses into Confederate lines.<sup>60</sup> One Confederate veteran had remembered that his regiment’s cooks “would not remain in camp, but marched out with the rest, and fought behind their masters.” The actions of one servant in particular, Archie, stood out as he had “braved enemy fire to get water and ammunition on more than one occasion,” and overall all of the servants concerned “usually behaved like trumps.”<sup>61</sup> At the battle of Seven Pines on 31 May 1862, a black company cook who was attached to one

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<sup>58</sup> George C. Mills’ pension application was approved 26 July 1902. See, *Index to Confederate Pension Applications Filed by Virginia Confederate Veterans and Widows*, George C. Mills, application number 41, The Library of Virginia, Richmond Virginia. Mills is an exception to the rule in the administering, and approval of pensions to former slaves and free blacks, as the State of Virginia had not established black Confederate pension legislation until 14 March 1924. See, *Acts and Joint Resolutions (Amending the Constitution) of the General Assembly of the State of Virginia, Session Which Commenced at the State Capitol on Wednesday, 9 January 1924*, (Richmond: Davis Bottom, Superintendent of Public Printing, 1924), “Chapter 188, An Act to amend and re-enact an act approved 28 February 1918, entitled an act to amend and re-enact an act approved 21 March 1916, relating to Confederate Pensions,” approved 14 March 1924, pp. 294-303.

<sup>59</sup> Hoar, *The South’s Last Boys in Grey*, p. 462.

<sup>60</sup> Wiley, *Southern Negro*, p. 139.

<sup>61</sup> T. E. C., *Battlefields of the South, from Bull Run to Fredericksburg; with sketches of Confederate Commanders, and Gossip of the Camps*, By an English Combatant, 2 volumes, (London, England: Smith,

of the Alabama regiments became so excited that he suddenly grabbed a rifle, and went into battle. He was heard to yell at the regiment “De Lor’ hab mercy on us all, boys, here dey comes agin! Dar it is,” he exclaimed, as the Yankees fired over their heads, “just as I t’ought! Can’t shoot worth a bad five-cent piece. Now’s de time, boys!” As the Alabamians returned fire, and massed for a successful countercharge, he was heard to shout “Pitch in, White folks Uncle Pomp’s behind yen Send all de Yankees to de ‘ternal flames. Whar dere’s weeping and gnashing of-sail in Alabama; stick ‘em wid de bayonet, and send all de blue ornery cusses to de state of eternal fire and brimstone!”<sup>62</sup>

Black support staff was considered, at least on paper, in both Confederate military regulations and national law as a part of the army, and in that capacity many found themselves caught up into the fever of the battle. Pompey Tucker was helping a doctor at Second Manassas when “a shell blew off the head of the horse we were driving, and shrapnel from the same shell wounded the doctor.” During this, episode they became separated, but Tucker searched for the doctor while continuing to work with the wounded. A day and a half later, Tucker found him as well as another soldier who came from the same area, both severely wounded. After obtaining two horses, Tucker loaded both men in a wagon, and drove fifteen miles to a railroad where he put them on a train bound for Chimborazo Hospital in Richmond. Tucker went with the men, cared for them in the hospital and eventually helped the Confederate effort at home in Virginia. He later recalled, “I helped the South by capturing six Yank guerrillas three colored, three white near Mortar Branch, hardly five miles from where I live now.”<sup>63</sup>

Still rarer were examples of black Southerners in Confederate uniform who fought alongside their owners. Primus Kelly was a slave from North Carolina who moved to Texas before the War with the family of John W. S. West. They settled in Grimes County, Texas, where they became successful cotton planters. Kelly grew up with West’s three sons, Robert, Richard, and John, Jr., and when the war started, the sons joined the 8<sup>th</sup> Texas Cavalry, also

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Elder and Company, 1863, 1865), vol. 1, pp. 22-23.

<sup>62</sup> Ibid., vol. I, p. 253.

<sup>63</sup> Jay S. Hoar, *The South’s Last Boys in Gray: An Epic Poem Elegy*, (Bowling Green, Ohio:

know as Terry's Texas Rangers. On the day the regiment boarded a train in Houston to head east, Kelly showed up on his own and went with them. Being black, Kelly was prohibited from officially joining the outfit, however his name does appear on the troops muster sheets as a "colored servant."<sup>64</sup> Yet he donned a gray uniform and carried a gun. Richard was wounded twice in battle, and each time Kelly carried him home to Texas. Each time that Richard returned to the war, Kelly went with him. At Woodsonville, Shiloh, Bardstown, Perryville, Murfreesboro, Chickamauga, and Knoxville, all four members of the West family fought, black alongside white. After the war Primus Kelly returned to Texas, bought a small farm near his "brothers," and lived there until his death in 1890.<sup>65</sup>

Occasionally slaves and free black support staff were responsible for the capture of white and/or black Federal soldiers. Colonel Arthur Fremantle, a British officer in the Coldstream Guards, had been sent to observe the Army of Northern Virginia in 1863. There he witnessed a black Southerner, "dressed in full Yankee uniform. In his hand was a rifle at full cock, leading along a barefooted white man, with whom he had evidently exchanged clothes. Lieutenant General [James] Longstreet stopped the pair, and asked the black man what was all this." The black man said that two white Southerners had captured the Yankee, and then had a bit too much brandy, whereupon they turned the prisoner over to him. Fremantle was impressed with the slave's earnestness and seriousness, as well as the "supreme contempt with which he spoke to his prisoner."<sup>66</sup>

Another Confederate soldier wrote, "When his regiment went into battle their servants went in too, picking off Federal officers." During one such charge, they found that a half-dozen black "servants" had actually preceded them, and each had returned with a black Federal

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Bowling Green State University Popular Press, 1986), pp. 212-213.

<sup>64</sup> See, Virgil D. White, *Index to Texas C. S. A. Pension Files*, (Waynesboro, Tennessee: National Historical Publishing Company, 1989); John M. Kinney, *Index to Applications for Texas Confederate Pensions*, (Austin: Archives Division, Texas State Library, 1977); William A. Fletcher, *Rebel Private Front and Rear*, (Austin: University of Texas Press, 1995).

<sup>65</sup> Jeff Carroll, "Dignity, Courage and Fidelity," *Confederate Veteran*, (November/December 1990), pp. 26-27.

<sup>66</sup> Arthur James Lyon Fremantle, *The Fremantle Diary: Being the Journal of Lieutenant Colonel James Arthur Lyon Fremantle, Coldstream Guards, on his Three Months in the Southern States*, Walter Lord, ed., (Boston, Massachusetts: Little, Brown, and Company, 1954), p. 225.

prisoner. The group of company cooks and body servants, “kicked and abused the black Union soldiers saying,”

You black rascal you! Does you mean to fight agin white folks, you ugly niggers, you? Suppose you tinks yourselves no ‘small taters’ wid dat blue jacket on and dem striped pants. You’ll oblige dis Mississippi darkey by pulling dem off right smart, if yer doesn’t want dat head o’ yourn broke! “This statement was made by one of our cooks to his captive.” Comin’ down Souf to whip de whites! You couldn’t stay ‘t home and let us fight de Yanks, but you must come along too, eh! You took putty good care o’ yourself, you did, behind dat ole oak! I was a lookin’ at yer; and if you hadn’t dodged so much, you was a gone chicken long ago, you ugley ole Abe Lincolnite, you!<sup>67</sup>

Stories like these have to be taken within the proper context, as the only verifiable instances of slave and free black participation in the Confederate Army are those that can be substantiated through the pension materials, muster sheets, and other collaborative materials. However, to ignore all of the anecdotal evidence within the primary documents based solely on whether the source can be verified beyond reproach arguably contradicts the very nature of historical research. Evidence of black Southerners in supportive roles found within the pages of publications like *Battlefields of the South*, and the *Confederate Veteran*, is no doubt riddled with exaggeration based on the memory of veterans, and Lost Cause ideology. Nevertheless, there is no indication that there was a concerted effort by veterans or their representative organizations to mount a campaign of misinformation about black roles within the Confederacy. White supremacists in the post-war era embraced stories about this minority of slaves and free blacks whose place in the Confederacy was used as a propaganda tool to show that slavery had nothing to do with war.<sup>68</sup> Similar stories in the *Veteran* for instance, show connecting evidence of dates, places, generals, and military operations, which are verifiable, and support information supplied through the *Official Records*.

Other tales of black support staff directly involved in the fighting are numerous. At the battle of Port Republic, Virginia in June 1862 Edmund Drew, a black barber assigned to the Charlottesville Light Artillery joined the fight after an unnerved Irish substitute named Brown

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<sup>67</sup> T. E. C., *Battlefields of the South*, vol. 1, pp. 157-158, Austerman, “Virginia’s Black Confederates,” p. 47.

<sup>68</sup> McPherson, “What Caused The Civil War,” pp. 12-22.

abandoned the battery's advance caisson during a Yankee attack. During the Seven Days' battles near Richmond, a Confederate soldier confessed his fright to his superior officer, who disgustingly ordered him to the rear. Westley "a good-looking darkey" received permission to take the coward's place and arm himself with his weapons. Westley provided a good account of himself during the battle, killing a Federal trooper with every shot, which resulted in his being acclaimed as an inspiration to soldiers throughout the regiment.<sup>69</sup>

One Confederate officer recalled that his servant William, "a strong 23 year old and part Indian, was six feet in height, and when with me as bold as a lion, having fought by my side in more than one affair."<sup>70</sup> Another officer remembered that at Brandy Station, (Virginia, 9 June 1863) "my Negro servant Edmund, formed the [other] officers' servants, and colored cooks in line immediately in the rear of the regiment and flourishing an old saber over his head, took command of them. As the troops moved into battle their servants went too, but when the artillery shells started landing, they scattered in every direction."<sup>71</sup> At the same engagement, two servants from the 12<sup>th</sup> Virginia Cavalry, who went by the names of Tom and Overton, picked up rifles discarded by Northerners and joined in the charge. They captured the black servant of a Union officer and marched him back to camp, where he was promptly put to work there rather than return him to slavery as stipulated by Confederate policy.<sup>72</sup>

These stories are, however, the exception, as they do not take into account the individual reasoning and motives of black Southerners for their actions. The vast majority of body servants, military laborers, and regimental support staff were not given a choice as to whether they wanted to go to war, and masters did not hesitate to use coercion or the whip as necessary. Resistance by slaves and free blacks to such force increased as the war progressed, and was accomplished to its greatest effect as they found the opportunity to run away toward Federal lines. A slave named Thadeus escaped from Thomas J. Durrett of the 28<sup>th</sup> Georgia

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<sup>69</sup> See, Leroy Wesley Cox Memoirs, 1861-1865, Accession #5049, Special Collections Department, University of Virginia Library, Charlottesville, Virginia; T. E. C., *Battlefields of the South*, vol. 1, p. 284.

<sup>70</sup> Thomas Nelson, *The Confederate Scout* (Washington, D. C.: The Neale Publishing Company, 1957), p. 122.

<sup>71</sup> Blackerby, *Blacks in Blue and Gray*, p. 13.

Infantry in 1861 while wearing “a military cap and pants trimmed in yellow.” A year later he was still at large. Daniel, servant to Franklin Woodall of Hampton’s Legion, was apprehended in August 1863 in Lynchburg after his attempt to abscond was foiled when his badly scarred right hand gave him away. Others, not wishing to leave their homes and families, balked at being sent away to their master’s regiments. Levi, owned by a member of the 13<sup>th</sup> Virginia Infantry, procrastinated for more than a month at the idea of becoming a cook at the Virginia front.<sup>73</sup>

Despite this larger black resistance to supportive roles within the military, especially as the war progressed, rare exceptions from the norm continued to appear in the post war memories of veterans. Levin Graham, a camp cook, who had “consistently refused to stay behind when a battle approached, and instead grabbed a musket, he fought manfully, and killed several Yankees.” However, this story, written for *New Orleans Crescent* in 1861 is probably just another example of the wartime propaganda that was prevalent in much of the print media both North and South.<sup>74</sup> Several regimental cooks witnessed front line action upon occasion, as one veteran remembered that the cooks of his company often joined in the fight with a measured amount of enthusiasm:

You might as well endeavor to keep ducks from water as to attempt to hold in the cooks of our company, when firing or fighting is on hand. In fact, an order has been frequently issued to keep darkies in the rear in time of battle, but although I lectured my boy about it, I was surprised to find him behind me at Manassas, rifle in hand, shouting out: “Go in, Massa! Give it to ‘em, boys! Now you’ve got ‘em, and give ‘em Hell!”<sup>75</sup>

The extraordinary military role of black support staff often led to injury and even death. Alfred Brown, a surgeon’s assistant from Georgia, was frequently close to the lines of battle. During the battle of Chickamauga he was “wounded twice in one day with a ball shot through his left thigh, and a wound in the right leg by a piece of a shell.”<sup>76</sup> Hutson Longstreet, a servant

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<sup>72</sup> Austerman, *Virginia's Black Confederates*, vol. 1, p. 47.

<sup>73</sup> *Lynchburg Daily Republican*, 5 August 1862, and 21 October 1863, Balfour, *13<sup>th</sup> Virginia Cavalry*, p. 3.

<sup>74</sup> *New Orleans Crescent*, 15 November 1861.

<sup>75</sup> T. E. C., *Battlefields of the South*, vol. 1, p. 282.

<sup>76</sup> Alfred Brown #233, Microfilm roll 2, TSLA.

for four years, caught a bullet in the neck at Granada, Mississippi, while Wade Watkins of Tennessee was shot in the right leg, yet continued to serve in the 48<sup>th</sup> Tennessee Cavalry throughout the rest of the war. J. K. Knight of South Carolina was wounded at Petersburg, and Spencer Copeland had a foot amputated after injuring it while digging barefoot on the breastworks at Charleston.<sup>77</sup> Monroe Jones of the 1<sup>st</sup> Mississippi Light Artillery lost both legs after an enemy shell exploded at Snyder's Bluff near Vicksburg.<sup>78</sup>

In June 1861, an article in the *Lexington Valley Star* stated that "following a collision of two trains near Orange Court House, Virginia, a black cook was killed, and another had his leg amputated below the knee," while another told of a servant employed by the 6<sup>th</sup> Virginia Infantry who mistakenly used two live shells as andirons for the camp fireplace until they exploded during the preparations of a meal for the regiment's colonel. A black cook employed by the 44<sup>th</sup> North Carolina Infantry was accidentally killed during a manual-of-arms drill in 1863; a camp favorite, this black's death depressed the soldiers.<sup>79</sup>

While body servants, cooks, and others found their way into combat as circumstances dictated, some black Southerners were enlisted as part of regular units within the Confederate Army. Information found in black pension records, as well as other sources, provides a window into the wartime careers of many black Southerners who participated in Confederate regiments. On 10 June 1861, Union Major Theodore Winthrop had the distinction of being the first officer killed in battle by an unnamed black sniper during the engagement at Big Bethel. The marksman was a member of the Wythe Rifles of Hampton, Virginia, whose Captain had told him a story that the "Yankees would take you to Cuba and sell you. If you wish to stay with your wife and children, drive them out of Virginia."<sup>80</sup> A black artilleryman fired the last cannon

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<sup>77</sup> Hutson Longstreet, (approved 1924) Record Group 29, State Auditor, Confederate Veterans and Widows Pension Applications, Roll 49, Mississippi Department of Archives and History, Jackson, Mississippi; Wade Watkins #270, Microfilm roll 2, TSLA; Helsley, "Black Confederates," p. 186;

<sup>78</sup> Monroe Jones, #41, Microfilm roll 1, TSLA.

<sup>79</sup> *Lexington (Virginia) Valley Star*, 6 June 1861; *Southern Federal Union*, (Milledgeville, Ga.), 22 July 1862.

<sup>80</sup> Frank Moore, *Civil War in Song and Story*, (New York: P.F. Collier, 1889), p. 481.

shot at Federal forces as the Confederates abandoned the breastworks at Yorktown in 1862.<sup>81</sup>

While William H. Dove and at least two others in the 5<sup>th</sup> North Carolina Cavalry were officially listed on regimental muster rolls as “a free Negro, has no home.”<sup>82</sup>

When Brigadier General George H. Gordon, ordered the charge at Fort Wagner, on 18 July 1863, he noted that, “there was sharp picket firing from Wagner, in which many men from my command were killed. Strange stories were bruited about of the fatal precision and fire of a Negro marksman, a Rebel.”<sup>83</sup> Further collaborative evidence is derived from James H.

Gooding, a black corporal of the 54<sup>th</sup> Massachusetts Infantry Regiment who was stationed near Fort Wagner, and one of the few who survived the assault on that Confederate position.

Gooding’s letters were published “as sent” in his hometown of New Bedford Massachusetts. In this excerpt from a letter dated 30 August 1863, he relates an event of particular interest.

Last Thursday night [27 August] our pickets were successful in assaulting and carrying the rebel rifle pits, close under Wagner,... Among the captured prisoners, were 5 black men; two were fully armed and equipped, as rebel sharpshooters. They had the very best pattern of rifle, “neutral” make, and are represented by the “trash” as unerring shots. The other three were at work in the trenches. One of these sable rebels is represented to be a reb at heart; he is a large owner of chattels himself, and does not seem to exhibit any of that humble or cowering mind. There may be many more such men as that in the South; but the idea of Mr. Davis relying on his attached and docile servants to recuperate his wasted armies is all moonshine... The slaves would very likely be glad to get arms, but Mr. Davis probably is certain they would use them on the kind and indulgent upholders of the peculiar institution instead of the marauding Yankees. And if he takes the chattels to fill the army, who is to raise the wittles? Patriotism and dreams of a Great Southern Empire may sustain the SPIRIT of treason, but the rebels are not Joves nor wizards; they must eat. But I hope Mr. Davis may so far forget himself as to call on every able Negro in his so called Confederacy, for it is plain to be seen that they would only be ready to fall into Uncle Sam’s ranks at the first opportunity, with the advantage of coming to us armed and equipped, at the expense of the Confederacy, and Neutral Britain.”<sup>84</sup>

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<sup>81</sup> George Alfred Townsend, *Rustics in Rebellion: A Yankee Reporter on the Road to Richmond, 1861-1865* (Chapel Hill. University of North Carolina Press, 1950), p. 52.

<sup>82</sup> Greene, *Black Defenders of America*, pp 65, 79, and 89. The other two were William Lynch who was a cook in Company E, and William Rudd who was also listed as a cook in Company E.

<sup>83</sup> George H. Gordon, *A War Diary*, (Boston, Massachusetts: Little, Brown and Company, 1882), p. 194. Despite the accuracy of General Gordon’s “first hand account” of the assaults on Fort Wagner on 10 and 18 July 1863, there is strong evidence to suggest that Gordon was not even present during this operation let alone in command of it. At the time of the Fort Wagner operation, the assault order was given by departmental commander, Major General Quincy A. Gillmore, while Brigadier General George C Strong was the on site operational commander. See Boatner, *The Civil War Dictionary*, p. 301; Ezra J. Warner, *Generals in Blue: Lives of Union Commanders*, (Baton Rouge: Louisiana State University Press, 1981), pp. 176-178, 483-484.

<sup>84</sup> Virginia Matzke Adams, ed., *On the Altar of Freedom, Corporal James Henry Gooding: A Black*

Although a report of this type is rare, Gooding's letter is different from many of his white contemporaries in its fluency, perspective, and level of detailed information. The black sharpshooter mentioned in the letter was a proud man inferior to no one, an "owner of chattels himself," and is shown to the reader in a light that argues a degree of sympathy for the "misguided brethren." In the larger context, the letter offers a brief description of some of the roles played by black Southerners, and applies insight as to how the Confederacy may have used blacks as the war progressed. Similar stories of black roles within Confederacy do exist, but many of these tales were written after the actual events, or were used as propaganda. Some Federal accounts relating to the place of black Southerners in the Confederate military also imply a certain urgency: either for using blacks in Federal service, or a quick end to the war before the South mobilized this largely untapped resource.<sup>85</sup>

Numerous black Southerners enlisted and/or were posted as regimental or company level army musicians. Henry Brown of Camden, South Carolina is a representative example. While his status at birth in 1830 is unclear, by 1861 he was a highly respected free black brick mason. In 1861, Brown joined a local defense unit, the Darlington Guards, as a drummer, where he proceeded with his unit to Charleston, prior to the firing on Fort Sumter. After the unit disbanded he went to Virginia with Captain W. H. Evans's company of the 8<sup>th</sup> South Carolina Infantry, but later transferred to Captain S. H. Wilds's company of the 21<sup>st</sup> South Carolina Infantry.<sup>86</sup> General John B. Gordon had Josephus Black and two other musicians in his entourage, while Charles McCuller served as a drummer in the 7<sup>th</sup> North Carolina Cavalry, "Claiborne's Partisan Rangers" in 1864. Another black musician went by the name of "Old Dick" Slate. He was a veteran of the Mexican War, and in the Civil War enlisted as a drummer

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*Soldier's Civil War Letters From the Front*, (Amherst: University of Massachusetts Press, 1991) pp. 53-54.

<sup>85</sup> This implication of urgency to promote the use of blacks in the Union army can be seen in Dudley Taylor Cornish, *The Sable Arm: Negro Troops in the Union Army, 1861-1865*, (New York: Longmans, Green, 1956), pp 16-17.

<sup>86</sup> Greg Tyler, "Rebel Drummer Henry Brown," *Civil War Times Illustrated*, (February, 1989), pp. 22-23. See also, Greg Tyler, "Article Brings Notice to a Unique Rebel," *Civil War Times Illustrated*, (May/ June 1990), p. 57.

with the 18<sup>th</sup> Virginia Infantry in 1861. Along with fellow drummer George Price, and fifer Austin Dix, all three were listed as “free men of color,” in Garnett’s Brigade, and saw service at Gettysburg.<sup>87</sup> One Northerner who managed to observe Confederate troops on the march noted “the only real music in their column today was from a bugle blown by a Negro. Drummers and fifers of the same color abound in their ranks.”<sup>88</sup> James Clark, a free black resident of Georgia had enlisted at the age of 57 in Company K, 28<sup>th</sup> Georgia Infantry where he served as a regimental fifer until 1865. Several members of his company testified that Clark had not been actually mustered into service but had joined on his own account and was paid by the members of the company for his services.<sup>89</sup> Charles Binger, a veteran of the Seminole War, signed on as a fifer with the 2<sup>nd</sup> Georgia Infantry Battalion in May 1861 and served through the Seven Days and at Malvern Hill before being discharged in July 1862 at the age of 68.<sup>90</sup>

In general black musicians had become so common that the Confederate Congress passed an act in April 1862 providing that “whenever colored persons are employed as musicians in any regiment or company, they shall be entitled to the same pay now allowed by law to musicians, regularly enlisted.”<sup>91</sup> Some black Southerners enlisted as company musicians purely for the money, but most were coerced. Colonel Cormillus W. McCreary’s Brigade, 1<sup>st</sup> South Carolina Infantry, had a predominantly black band throughout the last years of the war, which consisted of at least fourteen black musicians. All were listed as “free persons of color” except one, William Rose, a slave who apparently ran away from his owner to join the Confederate army.<sup>92</sup> They were listed on the company muster sheets as company musicians,

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<sup>87</sup> Obatala, “The Unlikely Story of Negroes,” p. 98; Blackerby, *Blacks in Blue and Gray*, p. 21. Garnett’s Brigade was commanded by General Richard B. Garnett who was later killed on 3 July 1863 during action at Gettysburg as part of “Pickett’s Charge”.

<sup>88</sup> *Ibid.*, p. 16.

<sup>89</sup> James Clark’s pension application is in original format, and indexed through the Georgia Department of Archives and History, Atlanta, Georgia. See, Virgil D. White, *Index to Georgia Civil War Confederate Pension Files*, (Waynesboro, Tennessee National Historical Publishing Company, 1996), p. 215. See also, Ted O. Brooke, *Index to Georgia’s Confederate Pension Supplements*, (Cumming, Georgia: Ted O. Brooke and Linda Woodward Geiger Publishers, 1999).

<sup>90</sup> Mohr, *On the Threshold*, p. 286.

<sup>91</sup> *Official Records*, series I, vol. IV, p. 1059

<sup>92</sup> A. S. Salley, Jr ed., *South Carolina Troops In Confederate Service*, vol. 1, (Columbia, South Carolina: R. L. Bryan Company Publishers, 1913), p. 218 It was not possible to determine a length of enlistment in this instance. Records regarding this case are scant, and those available list many of these

“drum, and fife,” with changes to other instruments as necessary for occasions such as larger regimental and brigade functions. Two of the men who enlisted in this group were blind, while the other served six months before he dropped out. They also served as the regimental band for McGowan’s brigade, a unit that fought through the entire war including Gettysburg with the Army of Northern Virginia.<sup>93</sup>

There are several accounts of black sharpshooters: some black Southerners evidently had an aptitude for the rifle. During the Peninsula Campaign in 1862, a black sharpshooter appeared firing at troops from Hiram Berdan’s 1<sup>st</sup> U. S. Sharpshooters. The unit’s historian later wrote the following, which bears extensive quotation:

For a considerable time during the siege the enemy had a Negro rifle shooter in their front who kept up a close fire on our men, and, although the distance was great, yet he caused more or less annoyance by his persistent shooting. On one occasion while at the advanced posts with a detail, the writer with his squad had an opportunity to note the skill of this determined darky with his well aimed rifle. Being stationed at a pit on the edge of a wood fronting the treeless stretch of ground around the opposing works, with sand bags piled up for cover, during the forenoon this rebellious black made his appearance by the side of an officer and under his direction commenced firing at us. For a long time this chance shooting was kept up, the black standing out in plain view and cool drawing bead, but failed to elicit any response, our orders being to lie quiet and not be seen. So the Negro had the shooting all to himself, his pop, pop, against the sand bags on the edge of the pit often occurring, while other close shots among the trees showed plainly that he was a good shot at long range. He became pretty well known among the scouts and pickets, and had established quite a reputation for marksmanship, before he came to grief. Emboldened by his having pretty much all this promiscuous shooting unopposed, the pickets rarely firing at him, he began to work at shorter distance, taking advantage of the ground and scattering trees. This was what our men wanted, to get him within more reasonable range, not caring to waste ammunition trying to cripple him at the long distance he had at first been showing himself. They wanted to make sure of him. In the meantime, our boys would when opportunity offered, without being seen, post a man forward to await in concealment for the adventurous darky. The scheme succeeded and his fate was sealed. A scouting party was sent out, cornered the black sharpshooter in a chimney top a quarter of a mile in front of their lines, and shot him.<sup>94</sup>

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individuals as deserters. Colonel McCreary did not command the Regiment until January 1864, and those blacks that served with the brigade did so sometime after that date.

<sup>93</sup> See, James Fitz James Caldwell, *The History of a Brigade of South Carolinians: First known as “Gregg’s” and subsequently as “McGowan’s Brigade”*, (Dayton, Ohio: Morningside Press, 1992); Blackerby, *Blacks in Blue and Gray*, p. 18.

<sup>94</sup> C. A. Stevens, *Berdan’s United States Sharpshooters in the Army of the Potomac, 1861-1865*, (St. Paul, Minnesota: Price-McGill Publishers, 1892), pp. 55-56.

This account, although rare, provides a northern perspective on the use of black Southerners by Confederate forces. It is marked by an almost stoic rendering of the black soldier's marksmanship, which concludes with his death at the hands of Union forces.

In August of 1861, a Federal officer observed a group he called the "Richmond Howitzer Battery" near Newport News, Virginia that was manned by blacks.<sup>95</sup> A correspondent from the *New York Times* riding with Ulysses S. Grant reported in 1863 on a black artillery crew in Tennessee. "The guns of the rebel battery were manned almost wholly by Negroes," he noted, with "a single white man, or perhaps two, directing operations."<sup>96</sup> An Indiana private wrote in a letter to his hometown newspaper about an exchange of fire with a group of black Southerners in the fall of 1861:

A body of seven hundred Negro infantry opened fire on our men, wounding two lieutenants and two privates. The wounded men testify positively that they were shot by Negroes, and that not less than seven hundred were present, armed with muskets. This is, indeed, a new feature in the war. We have heard of a regiment of Negroes at [First] Manassas and another at Memphis, and still another at New Orleans, but did not believe it till it came so near home and attacked our men. One of the lieutenants was shot in the back of the neck and is not expected to live.<sup>97</sup>

It is possible that "black units" as those described, could have been organized from black support staff, but it is unlikely that they were formed specifically as infantry. Another example, a slave who went by the name of John Parker, had been pressed into service as an artillery gunner during the battle of First Manassas, and as such was witness to the use of slaves and free blacks as soldiers. Parker had been a field hand when his master went off to war in 1861, he was soon followed by the plantation's overseer, but for his part, Parker along with other slaves were sent to labor on earthworks around Fredericksburg, Winchester, and Richmond. As excitement over the forthcoming battle at Manassas Junction neared, "all the colored people" were sent off to the front lines to fight. Parker arrived at the Junction two days before the start of the engagement and recalled that,

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<sup>95</sup> Austerman, "Virginia's Black Confederates," p. 50.

<sup>96</sup> Obatala, "The Unlikely Story of Negroes," p. 99.

<sup>97</sup> Quoted in Blackerby, *Blacks in Blue and Gray*, p. 5.

They immediately placed me in one of the batteries. There were four colored men in our battery, I don't know how many there were in the others. We opened fire about ten o'clock in the morning of Sunday the 21<sup>st</sup>; couldn't see the Yankees at all and only fired at random. Sometimes they were concealed in the woods and then we guessed our aim. My work was to hand the balls and swab out the cannon; in this, we took turns. The officers aimed this gun; we fired grapeshot. The balls from the Yankee guns fell thick all around. In one battery a shell burst and killed twenty, the rest ran. I felt bad all the time, and thought every minute my time would come; I felt so excited that I hardly knew what I was about, and felt worse than dead.<sup>98</sup>

All the while, Parker, as well as other blacks, hoped that the Federal soldiers would gain the upper hand so that they could run to their lines.<sup>99</sup> Accounts like these speak more to the confusion of some Federal soldiers over the reality of black Southerners in combat, as well as the true nature of coercion that was applied to slaves and free blacks by Southern armies in the field.

The 6<sup>th</sup> Louisiana Cavalry had at least nine free black/mulattos in its ranks, but most of what we know of these men comes from the affidavits attached to their pension applications, which were filled out decades after the war ended. The men were all from the area around Compti, in Bossier Parish, and apparently joined Captain Thomas W. Fuller's Bossier Cavalry Company in April 1862, which became Company H, 6<sup>th</sup> Louisiana. There were mulattos who "lived white, in almost all respects, as there were hardly any aspects of Compti life or society in which they were not freely accepted. Almost all of the old [white] Compti families were their relatives and freely acknowledged it."<sup>100</sup>

Throughout the primary source materials, which are to a degree re-examined in the secondary literature, three events tie together the role of slaves and free blacks as support staff, their limited use in combat, and white perceptions of their loyalty: the appearance of slaves and free blacks during the Gettysburg campaign; their use as scouts by General Nathan Bedford Forrest; and their place in Richmond following the legislative actions of 13 March 1865 that had established "slave soldiers" in the Confederacy's final days.

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<sup>98</sup> McPherson, *The Negro's Civil War*, pp. 25-26.

<sup>99</sup> *Ibid.*, pp. 26-27.

<sup>100</sup> Arthur W. Bergeron, "Louisiana's Free Men of Color in Gray," *Civil War History Quarterly*, vol. 32, no. 3 (Kent, Ohio: Kent State University Press, September 1986), p. 251.

## Gettysburg

The campaign and battle of Gettysburg, Pennsylvania, which began in mid June with the battle taking place from 1-3 July 1863, has received a great deal of historical analysis, but little attention has been given to those slaves and free blacks who were witness to the conflict. By 9 o'clock on the evening of 2 July, Colonel Edward Porter Alexander, of Longstreet's artillery recalled, "the field was silent. It was evident that we had not finished the job and would have to make a fresh effort in the morning." The fighting had hardly ceased when Charley, one of his two body servants, came looking for him, "with a fresh horse and some food, affectionate congratulations on my safety, and what was equally acceptable, something to eat. Negro servants hunting for their masters were a feature of the landscape that night."<sup>101</sup> It seems that nearly every Confederate officer who wrote an account of his exploits at Gettysburg had at least one servant, and often two.

At Gettysburg the duties of black Southerners and more specifically the body servants expanded due to the enormity in scale and length of the battle, and the resulting casualties involved.<sup>102</sup> There are numerous accounts of body servants performing medical duties and saving lives in other ways. A body servant of a Confederate soldier named Robertson, related to Confederate General Beverly Holcombe that he had found his wounded master on the battlefield at Gettysburg, given up for dead. He "nursed" him, and took him back to Virginia where he could fully recover from his wounds, thereby saving his life.<sup>103</sup> Robert W. Morgan, a Virginia private, was wounded during the early stages of Pickett's Charge. Shot in both feet, he grabbed a second musket and hobbled to the rear where he was "taken care of by the faithful negro servant, Horace, who had been with us from the beginning and remained faithful to the end." Horace carried Robert on his back to an ambulance, then stayed with him all the way

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<sup>101</sup> Quoted in Richard Wheeler, *Witness to Gettysburg*, (New York: Harper and Row, 1987), p. 219. See also, E. Porter Alexander, *Fighting For The Confederacy: The Personal Recollections Of General Edward Porter Alexander*, Gary W. Gallagher, ed., (Chapel Hill: University of North Carolina Press, 1989), p. 76-77, 229.

<sup>102</sup> Edwin B Coddington, *The Gettysburg Campaign: A Study in Command*, (New York: Charles Scribner's Sons, 1968), pp. 442-443.

<sup>103</sup> Blackerby, *Blacks in Blue and Gray*, p. 22.

back to Virginia.<sup>104</sup> Another Virginian, Dr. Matt Butler, Assistant Surgeon of the 37<sup>th</sup> Virginia, had his horse shot out from under him and was wounded in the foot on 2 July. He returned to his command with the help of a black aide named Jim. Hungry and tired they came across a local woman cooking in the open, but upon inquiring for some food they were refused as she explained that her efforts were for some Yankee Colonel, and named him. They left her and eventually found a place to rest for the night. Jim apparently undaunted said to Butler "Now Doctah, you got a gold dollah, give it to me, I'se gwine out to git some eatins." He soon returned with a large serving of pone, (a type of corn bread), dripping in butter and a gallon of buttermilk. When Butler asked how he had gotten it, Jim replied, "I des told dat lady, de kunnel am waitin' for his pone."<sup>105</sup>

Colonel E. P. Alexander hired two servants, Charley, and Abram, in early 1862. He describes Charley as being 15 years old, "medium tall & slender, ginger-cake colored, & well-behaved and good dispositioned boy." Charley stayed with him through the entire war. For his part, Alexander said of him, "I had to give him a little licking but twice. Once for robbing a pear tree in the garden of the Keach house, in which we were staying on the outskirts of Richmond below Rocketts, and once in Pennsylvania just before Gettysburg, for stealing apple-brandy & getting tight on it."<sup>106</sup> This was the same Charley who brought him food at the close of the battle on 2 July. Surgeon Spencer Welch of the 13<sup>th</sup> South Carolina of McGowan's Brigade had at least two slaves accompanying him on the march into Pennsylvania, where one of them remarked that he "don't like Pennsylvania at all" because he "sees no black folks."<sup>107</sup>

Charles F. Lutz of St. Landry Parish, Louisiana, was born in 1842, the son of a white father and mulatto mother. He enlisted in Company F, 8<sup>th</sup> Louisiana Infantry in 1861, and went

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<sup>104</sup> William H. Morgan, *Personal Reminiscences of the War of 1861-1865*, (Freeport, New York: Books for Libraries Press, 1911), pp 167-168.

<sup>105</sup> Quoted in Gregory A. Coco, *On the Bloodstained Field of Gettysburg*, (Gettysburg, Pennsylvania: Thomas Publications, 1989), p. 54.

<sup>106</sup> Alexander, *Fighting For The Confederacy*, pp. 76-77.

<sup>107</sup> Spencer Glasgow Welch, *A Confederate Surgeon's Letters to His Wife*, (New York: The Neale Publishing Company, 1911), p. 58.

to Virginia with the brigade commanded by General Richard Taylor.<sup>108</sup> This company fought at Winchester, Cross Keys, and Port Republic with Stonewall Jackson in the Valley campaign of 1862, and in the Seven Days, Second Manassas, Sharpsburg, and Fredericksburg battles with Lee and the Army of Northern Virginia. Lutz was captured at Chancellorsville, Virginia, along with about 100 men from the regiment. He spent two weeks in prison, was released, and by June had returned to the Army of Northern Virginia. On the evening of 2 July, he charged up Cemetery Hill with Hays' Louisiana Brigade. The Confederates overran and captured three Federal lines and several cannon. They paused to regroup and were soon attacked by several Federal brigades who held their fire until within twenty feet of the Louisiana regiment. The volley killed or wounded many Southerners, including Lutz. He took a bullet in the left arm and was captured for a second time. He was eventually exchanged again, but went home to recuperate from his Gettysburg wound and never returned to Virginia. Discharged by the army in May 1865, it was later determined that Lutz was in fact black by the Louisiana Pension Board, but was still able to receive a state pension in 1900.<sup>109</sup>

William Colen Revels was twenty years old when he volunteered for Confederate service, and was one of the first men of any color in Surry County, North Carolina, to march off to war. He spent the greater part of the war in the 21<sup>st</sup> North Carolina Infantry, and is listed on the rolls as a "Negro." He was wounded in the leg at Winchester, and caught a bullet in the right thigh at Gettysburg, probably on East Cemetery Hill on 2<sup>nd</sup> July 1863. Although there were at least five black Southerners who served in the regiment, Revels was the only one that could be documented as having served at Gettysburg.<sup>110</sup> There was also a report of several

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<sup>108</sup> Records of the Louisiana State Comptroller General, "Louisiana Confederate Pension Applications," Accession no. P1985-101, application for Charles F. Lutz #CP1.88, Microfilm role no. 5, Louisiana State Archives, Baton Rouge, Louisiana.

<sup>109</sup> Bergeron, "Louisiana's Free Men of Color in Gray," pp. 248-249. See also Andrew Booth, *Records of Louisiana Confederate Soldiers and Louisiana Confederate Commands*, (New Orleans: 1920), vol. III, book I, p. 815; Other works that examine the regimental structure, see, Arthur W. Bergeron, Jr., *Guide to Louisiana Confederate Military Units, 1861-1865*, (Baton Rouge: Louisiana State University Press, 1989), 90-92.

<sup>110</sup> Hester Bartlett Jackson, ed., *Surry County Soldiers in the Civil War*, (Charlotte: Delmar Printing, 1992) p. 148; Weymouth T. Jordan, Jr., ed., *North Carolina Troops, 1861-1865, A Roster* (Raleigh: Division of Archives and History, 1977), vol. VI, p. 608; Agnes Moseley Wells, *1860 Census of Surry County, North Carolina* (Mt. Airy, North Carolina: Privately Printed, 1983), p. 103.

slaves and free blacks who marched with the 14<sup>th</sup> Tennessee, and 13<sup>th</sup> Alabama Infantry Regiments during the battle. These men apparently fell into line with General James J. Archer's Brigade and helped open the battle on 1 July. On the 3<sup>rd</sup> day of the battle, they formed the center of the line led by Colonel B. D. Fry. Here a "black Corporal" picked up a Confederate flag near the Emmitsburg Road, climbed over the fences and charged up the ridge, only to be shot just before reaching the stone wall.<sup>111</sup> In addition, the *New York Herald* reported that on 1 July 1863 a group of armed black men were captured, and "among the rebel prisoners who were marched through Gettysburg, there were observed seven negroes in uniform and fully accoutered as soldiers."<sup>112</sup>

After the battle, the Confederate wagon train carrying the wounded back to Virginia was 17 miles long. The train took thirty-four hours to pass any given point on the retreat through southern Pennsylvania, and was driven in part by black teamsters. Some of these men also drove cattle to feed Lee's army from Virginia to Gettysburg and back.<sup>113</sup> In the wagons black servants fed and cared for white wounded Confederates, and probably a few wounded blacks too. One resident of Greencastle, Pennsylvania, described the army on its retreat and recorded that "the common soldiers seemed to be either too stupid to speak, or else forbidden to give a true account of the battle, but all the way through the colored portion declared that they were badly whipped."<sup>114</sup> One Confederate officer recalled that while the wagons were massed

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<sup>111</sup> C. Wallace Cross, Jr., *Ordeal By Fire: A History of the Fourteenth Tennessee Volunteer Infantry Regiment, C. S. A.*, (Clarksville, Tennessee: Clarksville Montgomery County Museum, 1990), p. 72. Cross cites that the black Southerner's name was George B. Powell, who is recorded as having picked up the flag and been wounded just short of the stone wall. However, there is disagreement on this issue. See also, the William McComb Papers, Eleanor S. Brockenbrough Library, The Museum of the Confederacy, Richmond, VA.

<sup>112</sup> *New York Herald*, 1 July 1863; See also, Coco, *On the Bloodstained Field*, p. 30.

<sup>113</sup> Williamsport was the last stage for Lee's retreating Army of Northern Virginia from Gettysburg to the relative safety of Virginia. Due to heavy rains from 4-7 July 1863 the Potomac River was swollen and the Williamsport to Falling Waters, Virginia, [now West Virginia] ford was the only place to cross safely. Union forces finally attempted, although with little effect, to catch Lee's column. Union cavalry did catch up with the wagon train at Williamsport on 9 July, and between the 9<sup>th</sup> and 14<sup>th</sup> of July 1865 they repeatedly skirmished with the Confederates, but were unable to capture the wagon train despite superior numbers. See, Caldwell, *The History of A Brigade of South Carolinians*; Coddington, *The Gettysburg Campaign*, pp. 552-554, and 564-566, and A. Wilson Greene, "From Gettysburg to falling Waters: Meade's Pursuit of Lee," in Gary W. Gallagher, ed., *The Third at Gettysburg and Beyond*, (Chapel Hill: University of North Carolina Press, 1994), pp. 164-165, 172-173, 176-177, 188-189.

<sup>114</sup> Blackerby, *Blacks in Blue and Gray*, p. 30.

at Williamsport, Maryland, waiting for the water to recede, Union artillery began shelling their position. As he turned toward the wagons, the officer suddenly was aware that not a single teamster was to be seen. He could not account for it, until he happened to look toward the river, and there saw hundreds of black heads just showing above the water. "The Negro teamsters with one accord had plunged into the river to escape the shells, and were submerged to the neck!"<sup>115</sup>

When the Union advance appeared before Williamsport, on 7 July 1863, another Confederate officer witnessed that the black Southerners attached to the train, "probably 500 teamsters in all, were organized into companies, and armed with the weapons of the wounded men found in the train." Slightly wounded officers, quartermasters, and commissaries were pressed into service to lead them. Combined with roughly 2100 regular soldiers they stood off a much larger enemy force headed by cavalry Generals John Buford, and Hugh Judson Kilpatrick. "This came to be known as 'the wagoner's fight' in our army from the fact that so many of them [blacks] were armed' and did such gallant service in repelling the attack made on our right."<sup>116</sup>

Gettysburg did not end with the retreat, as the memories of white veterans placed the battle as a significant event, and this belief was also shared with a minority of black Southerners who witnessed the engagement. Two examples further illustrate this point. A major from South Carolina died on the retreat, and after the war his widow, brother-in-law, and former servant returned to Pennsylvania to recover the remains. The servant had stayed with the officer until the end, was with him when he died, and buried him. "Under the guidance of the colored man" the family dug up the remains and took them home.<sup>117</sup> Captain William McLeod of the 38th Georgia was mortally wounded in the action around Barlow's Knoll on 1 July. His servant Moses went on the battlefield, retrieved McLeod, and carried him to a temporary hospital at the Jacob Keim farm, where he died. Moses wrapped him in a blanket and buried him, and

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<sup>115</sup> Quoted in Jacob Hoke, *The Great invasion of 1863, Or, General Lee in Pennsylvania*, (Dayton, Ohio: W. J. Shuey Publishers, 1887), p 501.

<sup>116</sup> Quoted in Coco, *On the Bloodstained Field*, p. 96

remained with the men of Gordon's brigade during the retreat to Winchester, then took Mcleod's personal effects back to the family plantation near Swainsboro, Georgia, where he remained after the war. In 1865 Moses and Mcleod's brother-in-law drove a wagon from Georgia to Gettysburg, exhumed the remains, and carried them home.<sup>118</sup>

### Black Southerners as Confederate Scouts at Fort Pillow

Monuments dedicated to the loyalty of slaves are rare, but such tributes do exist.<sup>119</sup> In a lot adjoining the town cemetery of Canton, Mississippi stands a 20-foot obelisk in memory of the black Mississippians who served in a partisan unit attached to the cavalry of Confederate General Nathan Bedford Forrest. Known as "Harvey's Scouts" they were led by a white Mississippian, Captain Addison Harvey. Built sometime between 1894 and 1900 from donations, the obelisk is dedicated to "the good and loyal servants who followed the fortunes of Harvey's Scouts during the Civil War." It carries a further tribute to the "faithful servant and friend William Howcott, a colored boy of rare loyalty and faithfulness whose memory I will cherish with deep gratitude," Howcott was a black private in the unit, and a major contributor to the monument's construction.<sup>120</sup>

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<sup>117</sup> Hoke, *Great Invasion of 1863*, pp. 495-496.

<sup>118</sup> *Ibid.*, p. 496.

<sup>119</sup> From the 1890s the major veterans' organizations, United Confederate Veterans, United Daughters of the Confederacy, and Sons of Confederate Veterans lobbied state and Federal authorities to erect monuments, and to provide pensions to former faithful slaves, and loyal free blacks who either took part in the Confederate Army, or stayed on the plantation. From 1893 to 1932 *The Confederate Veteran* and its influential editor Summer Archibald Cunningham, was the voice of the independent veterans organizations, and in 1897 became the voice of the larger ones as well. The magazine and its editor set itself the task of being a lobbyist for both white and black veterans. For just a sample of efforts made to erect monuments to black Southerners see Mrs. Fred A. Olds, "A Monument to the Faithful Old Slaves," *Confederate Veteran*, vol. XII, no. 9, (September 1904), p. 443; W. A. Flanigan, "The Fight at Fort Gilmer," *Confederate Veteran*, vol. XIII, no. 3, (March 1905), pp. 123-124; Mrs. Edward Carter, "Build Monument to Faithful Slaves," *Confederate Veteran*, vol. XXI, no. 2, (February 1913), p. 71; Hugh G. Barclay, "A Monument to 'Uncle Ben'," *Confederate Veteran*, vol. XXII, no. 10, (October 1914), p. 474; "Monument to Faithful Slaves," *Confederate Veteran*, vol. XXII, no. 12, (December 1914), p. 548; Matthew Page Andrews, "Faithful Body Servant," *Confederate Veteran*, vol. XXIX, no. 6, (June 1921), pp. 237-238; Mrs. Mary Dowling Bond, "Faithful Slaves Memorial," *Confederate Veteran*, vol. XXXI, no. 1, (January 1923), p. 32; "Monument to Faithful Slaves Involved in the Late War," *Confederate Veteran*, vol. XXXVI, no. 2, (February 1928), p. 46; and E. D. Pope, "The Negro in the South," *Confederate Veteran*, vol. XXXVII, no. 12, (December 1929), pp. 444-445.

<sup>120</sup> *Clarion* (Mississippi) *Ledger*, 3 May 1884; "Harvey's Scouts," *Confederate Veteran*, vol. II, no. 4, (April 1894), p. 117. This article provides a detailed account of the monument, its costs, and a brief history of the troop with particular mention of the pre war occupation of its members, as well as its youth, venturesome, and successful nature. The monument committee consisted of George Harvey, Wiley N. Nash, W. H. Howcott, Wallace Wood, Scott Field, George Shelby, and James L. Goodloe; and James L.

A monument that combines a tribute to a scout troop attached to General Forrest, and makes a dedication to the contribution of its "good and loyal servants" warrants further investigation. From the sources available, a startling picture as to the nature, whereabouts, and operation of this troop emerges. Harvey's scouts were the vanguard unit for Forrest's Cavalry Corps for roughly the last two years of the war.<sup>121</sup> First mention of the troop's operational progress comes in a report written in 1864 by Addison Harvey, then a Lieutenant. This details the troop's movements against the Union during its expedition to Meridian, Mississippi, from 3 February to 6 March 1864.<sup>122</sup> The most important part of the document rests not on its content, but on the command title of its author. Here Harvey calls himself the commanding officer of scouts under Forrest. Under the Confederate command structure the officer holding the title would be involved in all military operations for a given department, army, corps or division, and since Harvey was attached to Forrest, it is likely that he either participated in, or had knowledge of the operations against Fort Pillow on 12 April 1864.<sup>123</sup>

An 1865 report in the *Official Records* showed that Harvey's troop had been attached to the divisional command of Brigadier General William H. Jackson.<sup>124</sup> Investigation of Jackson's military record shows that he, like Harvey, was involved in both the Meridian expedition, and General John Bell Hood's invasion of Tennessee. However, further study reveals that during these events Jackson was attached to the command of other officers, and was not attached to

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Goodloe, "Negro Servants with Harvey's Scouts", *Confederate Veteran*, vol. XX, no. 11, (November 1912), p. 515. In this follow up article written by one of the committee's original members, Goodloe writes of his fellow member Howcott, describing him as a black private of Harvey's scouts, who enlisted with the troop as part of Forrest's Cavalry. Furthermore, Howcott, at his own expense bought the land upon which the monument to Harvey and those faithful black Southerners stands. The monument is also dedicated to Harvey who was killed by a citizen of Columbus, Georgia, 19 April 1865. See *Official Records*, series I, vol. XLIX, no. 2, pp. 1271-1272, John E. Fisher, *They Rode with Forrest and Wheeler: A Chronicle of Five Tennessee Brothers' Service in the Confederate Western Cavalry*, (Jefferson, North Carolina. McFarland & Company, Inc., 1995), p.203.

<sup>121</sup> *Confederate Veteran*, vol. XX, no. 11, (November 1912), p. 515

<sup>122</sup> *Official Records*, series I, vol. XXXII, no. 1, pp. 381-382.

<sup>123</sup> It is not known for certain whether Harvey's Scouts were present at Fort Pillow, nor is it known if his unit participated in any preliminary reconnaissance for the attack on the Fort. However, in order to prove this, an analysis of the command structure, and more specifically who was Harvey's direct superior is needed. For a history of the Fort Pillow "Massacre," and the congressional investigation see Jack Hurst, *Nathan Bedford Forrest: A Biography*, (New York: Vintage Books, 1994), pp. 165-181, For the historical controversy see Albert Castel, "The Fort Pillow Massacre: A Fresh Examination of the Evidence," *Civil War History Quarterly*, vol. 4, no. 1, (March 1958)

Forrest until February 1865 when he assumed command of the second division.<sup>125</sup> Harvey's scouts on the other hand, were attached to Forrest from its organization, or at least by 22 March 1864 and as such was either under his direct command or that of his first division commander Brigadier General James R. Chalmers.<sup>126</sup> Because there is credible evidence to show that Chalmers' division was involved in the attack at Fort Pillow, it seems plausible that at the very least Harvey's troop was present during the battle.<sup>127</sup>

Originally, Harvey's scouts had been organized with forty-six men, and could have reached as high as seventy, but the sources are unclear as to whether the black Southerners that were apart of his command were defined as either servants and/or privates.<sup>128</sup> In all likelihood, Harvey used all the resources available to him and, considering that his troop was "the scouting unit" for an entire corps, black Southerners would have been used based upon their skills, ability to obtain information, and knowledge of the area. Unfortunately, the sources do not reveal what duties individuals of the troop performed, and especially what role they played during the Fort Pillow attack. However, given the controversy over Forrest and Fort Pillow the sources support two plausible certainties: that Harvey's scouts participated to an extent in the Fort Pillow expedition, and that the troop used black "servants" as a part of its daily operations.

Actions taken by individuals and states to enlist blacks as soldiers illustrate not only the continued belief in state sovereignty, but also the exigencies that states had to address in the face of the invading Union armies. Although these actions were not supported by the Confederate authorities and, in fact, were in flagrant disobedience of the law that forbade/prohibited black enlistment, debate at the highest level raged as early as 1861 over incorporation of blacks into

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<sup>124</sup> *Official Records*, series I, vol. XLIX, no. 2, pp 1229.

<sup>125</sup> Warner, *Generals in Gray*, pp 152-153. Until February 1865, Jackson was under the commands of General Leonidas Polk, and General John Bell Hood.

<sup>126</sup> In April 1864, General Chalmers was attached to Forrest's command, and was present at the action at Fort Pillow. After the battle of Chickamauga, Georgia, 19-20 September 1863, Forrest and his commanding officer General Braxton Bragg had a falling out. The result of these arguments was that Forrest requested a transfer, which was approved by Jefferson Davis in October 1863. However, Forrest was basically not permitted to take any of his command with him. During the process of reorganizing his corps, Forrest's first divisional commander was Chalmers. Not until Hood's invasion of Tennessee in September 1864 would Forrest's Corps be up to full strength. See, Hurst, *Nathan Bedford Forrest*, pp. 141-142, and 165, Boatner, *The Civil War Dictionary*, p. 185.

<sup>127</sup> Hurst, *Nathan Bedford Forrest*, pp. 165-181.

the military. The Confederate Government steadfastly opposed enrolling blacks except as servants and laborers, as most officials felt that there were more than enough white Southerners to defeat the Yankees. The war was in its early stages and the sentiments of the planter aristocracy continued to hold sway, as the Government's policy was firmly set not to allow blacks to fight.<sup>129</sup> Even in early 1863, Confederate Secretary of War James A. Seddon had said, "that the foundation of the Southern theory of the racial superiority of whites would crumble if blacks were allowed to enlist."<sup>130</sup>

### Richmond and the Recruitment of Slave Soldiers

As the devastation of 1864 continued to strangle the South and the realities of attrition and desertion took their toll on the Southern armies, more white voices were heard in favor of recruiting black soldiers. As detailed in the previous chapter, Davis, aided by Commanding General Robert E. Lee, advised the government to enlist slaves as soldiers. From the start, congressional leaders were firmly against any such notion that considered enlisting blacks for military service. However, on 13 March 1865, after several months of official debate in the Confederate Congress, the government finally began actively recruiting and enlisting black soldiers.<sup>131</sup>

From the moment the new act was passed, messages were sent out authorizing state governors and field commanders to begin raising black troops, and soon drilling was taking place in several areas of the unoccupied South.<sup>132</sup> Indeed, on the same day, "two companies [of black Confederates] were seen parading with a battalion." Another witness recorded that "the

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<sup>128</sup> *Confederate Veteran*, vol. II, no. 4, (April 1894), p. 117.

<sup>129</sup> Stephen Ambrose, "By Enlisting Negroes, Could the South Still Win the War," *Civil War Times Illustrated*, vol. 3, no. 9 (January 1965), pp. 17-19.

<sup>130</sup> *Official Records*, series III, vol. IV, p. 1009.

<sup>131</sup> Furgurson, *Ashes of Glory*, pp. 308-309.

<sup>132</sup> Letters to Majors James W. Pegram and Thomas P. Turner, *Official Records*, series III, vol. IV, p. 1144. Several states in the Confederacy had started to train what slaves and free blacks either state officials or local field commanders could obtain, and organize into companies. Specifically northwestern Louisiana, southwestern Georgia, and parts of Virginia not fully under federal control were areas where this recruitment of black Southerners did occur, but strictly on a small scale.

streets of Richmond were filled with 10,000 Negroes who had been gathered at Camp Lee on the outskirts of Richmond. The negroes were armed and placed in trenches near Richmond.”<sup>133</sup>

By 1865, the few slaves and free blacks who were still acting as either support staff or as military laborers, now made the formal transition to a combat role. Thomas Morris Chester, a black newspaper correspondent from Philadelphia, was near Richmond at this time, and had interviewed several blacks soon after the fall of the city. He recorded that the black community was abuzz with a discussion of how they should react to the call to arms. That, “after a cordial exchange of opinions it was decided with great unanimity, and finally ratified by all the auxiliary associations everywhere, that black men should promptly respond to the call of the rebel chiefs, whenever it should be made, for them to take up arms.”<sup>134</sup> Richmond’s vast hospitals were a prime source of recruits. One writer observed, “The Battalion from Camps Winder and Jackson, under the command of Dr. Chambliss, paraded on the square each Wednesday evening.” The doctor made particular note that, “this was the first company of Negro Troops raised in Virginia.” “It was organized about a month since, by Dr. Chambliss, from the employees of the hospitals and served on the lines during the recent Sheridan raid.”<sup>135</sup> Major Thomas P. Turner subsequently raised another company of black Southerners, which was drilled daily in Richmond’s square by Lieutenant Virginius Bossieux.<sup>136</sup> On 27 March, the *Richmond Examiner* reported that the company numbered 35 men, with new members coming in every day. The men were busily recruiting their friends, and it seemed that “the knowledge

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<sup>133</sup> Quoted in Blackerby, *Blacks in Blue and Gray*, p. 27.

<sup>134</sup> Quoted in R. J. M. Blackett, ed., *Thomas Morris Chester, Black Civil War Correspondent*, (Baton Rouge: Louisiana State University Press, 1989), p. 248.

<sup>135</sup> *Richmond Sentinel*, 21 March 1865.

<sup>136</sup> Furgurson, *Ashes of Glory*, p. 313. Major Thomas P. Turner had been commandant of Libby Prison before volunteering to command black soldiers. Although it was Andersonville Prison in Georgia, that gained the infamous reputation among Union soldiers/veterans both during and following the war, Libby Prison was not far behind. It could be argued that Turner made a concerted effort to change his status from commandant to commander, as he for saw the fate that awaited him at the hands of the Union, and it would be harder for authorities to bring a field officer to trial. Such was the fate of Major Henry Wirz, commandant at Andersonville when Federal authorities hanged him for alleged crimes committed against Union prisoners. Bruce Klee, “They Paid to Enter Libby Prison,” *Civil War Times Illustrated*, vol XXXVII, no 7, (February 1999), p. 32; See also, Daniel Patrick Brown, *The Tragedy of Libby and Andersonville Prison Camps: A Study of Mismanagement and Inept Logistical Policies at Two Southern Prisoner-of-War Camps during the Civil War*, (Ventura, California: Golden West Historical Publications, 1980).

of the military art they already exhibit was something remarkable. They moved with evident pride and satisfaction to themselves. Their quarters in the rendezvous are neat, clean, warm, and comfortable, and their rations were cooked at Libby Prison."<sup>137</sup>

By late March 1865, a few black Southerners finally saw combat in authorized Confederate units. Some units were seen at various points during the retreat to Appomattox, and one even stood up to forward units under the command of Union General Philip Sheridan. One white lieutenant of a black company noted, "my men acted with the utmost promptness and good will. Allow me to state, Sir, that they behaved in an extraordinary suitable manner."<sup>138</sup> A Virginia private watched as one black unit, guarding a Confederate wagon train during the retreat was threatened by Federal cavalry, and witnessed that their initial defense made by the black soldiers proved successful. The Union soldiers retreated, but reformed on a nearby hillside, then proceeded to charge down on the wagon train, overrun, and capture the black Confederates.<sup>139</sup> An army courier further reported that on 4 April 1865 he saw black Southerners working on breastworks. "All wore good gray uniforms and I was informed that they belonged to the only company of colored troops in the Confederate service, having been enlisted by Major Turner in Richmond. Their muskets were stacked, and it was evident that they regarded their present employment in no very favorable light."<sup>140</sup> Despite these attempts at recruiting and utilizing slaves and free blacks as soldiers the Confederate authorities were too late to change the course of the war, or to produce a desired victory over a massive Federal presence.

### Conclusion

The Confederate armies that fired on Fort Sumter, marched into Pennsylvania in 1863, retreated through Georgia in 1864, and surrendered at Appomattox Court House had within the

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<sup>137</sup> *Richmond Examiner*, 27 March 1865.

<sup>138</sup> Austerman, "Virginia's Black Confederates," p. 53.

<sup>139</sup> R. M. Doswell, "Union Attack on Confederate Negroes," *Confederate Veteran*, vol. XXIII, no. 9, (September 1915), p. 404. The rear guard action in question occurred at or near Painesville, Virginia, on 2 April 1865. See also, Joseph A. Mudd, "The Confederate Negroes," *Confederate Veteran*, vol. XXIII, no. 9, (September 1915), p 411.

<sup>140</sup> Moses Purnell Handy, "The Fall of Richmond in 1865," *The American Magazine and Historical*

ranks slave and free black regimental support staff. This chapter examined through a variety of examples the roles that black Southerners held and duties they performed. The aim has been to provide a diverse picture of slaves and free blacks in the military, not merely a listing of roles as defined by the state and Confederate governments. The objective was to relate the evidence of slave and free black participation within the regimental infrastructure as background to the question of pensions and the supportive material found in the applications of black Southerners. The issues of memory, Lost Cause ideology, and white supremacy are the substance of the next chapter, as the focus will be on the legitimacy of black veterans' pensions as a source for substantiating the place of black Southerners in the Confederacy, and their military role.



## Chapter Five “Pensions for Our Faithful Negroes”

Several essential threads have run through this thesis: the pragmatic nature of slaves and free blacks during the Civil War; their reasoning relative to their military role; their use by state and national authorities within the Confederacy; and how their place as support staff defined them as soldiers. These issues of role, meaning, and definition resonated powerfully in the post-war era, informing veterans’ memories of faithful slaves and facilitating the adoption of the myth of black loyalty by white supremacists. Indeed, it was this myth of slave loyalty that motivated veterans to lobby for a system of black pensions in the former Confederate states.<sup>1</sup> The vast majority of white Southerners used these perceptions of loyalty, despite their questionable reasoning for such devotion, as a representation of white expectations toward a new generation of black Southerners. Each time a black pension application was approved it fed the memory of the Lost Cause and enabled white southerners to disconnect the war from the problem of slavery. Many veterans’ recollections about the war in general, and the loyalty of black Southerners in particular, were inextricably linked to the imagery of the Lost Cause.<sup>2</sup> Once pension legislation was passed, veterans continued to play a role in approving applications and overseeing amendments to the various pension systems; it was largely through their efforts that state governments, at various stages, developed the pension system as a whole.

This chapter examines three issues that tie the ideology of memory and white supremacy to the development of pensions. First, Sumner Archibald Cunningham, as editor of the *Confederate Veteran* magazine, was instrumental in the marshalling of efforts to establish a pension system for white Confederate veterans and, in turn, to extend this benefit to include “deserving” black Southerners. Second, state efforts in the development of a pension system for

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<sup>1</sup> David W. Blight, *Race and Reunion: The Civil War in American Memory*, (Cambridge, Massachusetts: Harvard University Press, 2001), pp. 289-291.

<sup>2</sup> Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South*, (New York: Oxford University Press, 1987), pp. 46, 136, Blight, *Race and Reunion*, pp. 289, 298, 344; Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, (New York: Alfred A. Knopf, 1998), pp. 206-208.

a minority of former slaves and free blacks,<sup>3</sup> the validity of the application, and how pensions were used to enshrine the distinctiveness of black support staff as a tool for white supremacists. Third, woven throughout the chapter is the importance of reasoning and perception for the legislative establishment of the black pension system, and how this was rationalized through constructions of the Lost Cause and racial supremacy.

Sumner Archibald Cunningham, a Confederate veteran in his own right, believed that the needs of the veteran were paramount, and sought first, state and later Federal, assistance in insuring for the care and comfort of veterans in their old age and indigence. His monthly magazine, the *Confederate Veteran*, became the voice of veterans and their representative organizations, specifically the United Confederate Veterans. Articles from veterans as well as Cunningham himself crafted a memory of the war where the Confederate soldier had fought for an honorable cause, where the institution of slavery was of secondary importance to the conflict. Stories by Cunningham, and others in the *Veteran*, supported, at first, a plan of state-sponsored investment in pensions, Confederate homes, and graves. While his efforts in these areas did achieve results, his yearly report cards on state efforts to care for aging veterans showed that the programs were woefully under-funded. This resulted in his appealing to veterans to petition the Federal government with their concerns. In addition, Cunningham infused the veterans' memories of the war, and of the supportive role black Southerners had held in the Confederacy, with his own brand of racial superiority to galvanize support and extend the pension system to loyal slaves and free blacks.<sup>4</sup>

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<sup>3</sup> As previously discussed earlier in the thesis, the term "minority" refers to the estimated number of those slaves and free blacks that had participated in the Confederate military as regimental support staff. The available source material places this number at some eighty to one hundred thousand individuals. This estimation was derived through a process laid out in the introduction, which was inclusive of, but not limited to counting muster sheets and approved pension documents, and a lengthy re-evaluation of all available materials. Despite this explanation, I believe that the "numbers issue," lessens the debate, and in turn presents limits to the language that can be used in the development of theory, as if one example of a black pensioner was insufficient to stimulate a discussion. The subject of numbers is important, but it is only one element of the story, and should not be a foundation for disputing the fact that former slaves and free blacks had participated as part of the Confederate military.

<sup>4</sup> For insight into Cunningham's views on black pension see, "Pension Slaves who Served in the War," *Confederate Veteran*, vol. XXI, no. 10, (October 1913), p. 481; Gary W. Gallagher, Alan T. Nolan, ed., *The Myth of the Lost Cause and Civil War History*, (Indianapolis: Indiana University Press, 2000), p. 43, Blight, *Race and Reunion*, pp. 277-278, 284, 286. See also, James M. McPherson, "What

The response of veterans towards black pensions specifically, and reminiscences of slave loyalty in general support my contention that there were two Souths with relation to white views towards black Southerners. In the first, black fidelity was re-interpreted in the mind of the veteran: their concern for this small minority of black Southerners reflected a white ideal of a mutually shared experience in the midst of a war. Veterans faced a dilemma concerning black fidelity, as their own white supremacist beliefs conflicted with a moderate opinion towards this minority of "black veterans." The second South used examples and stories of black loyalty to adopt the pension issue as proof that the Civil War was not about slavery, and that these particular black Southerners who were used in regimental supportive roles fed into white beliefs of an antebellum South where slaves were content. These examples of loyalty were used, especially by state legislators, as a message to the next generations of black Southerners about white expectations of their behavior.<sup>5</sup> Together these two groups, veterans and the larger white population, utilized Lost Cause nostalgia and ideology, and white supremacy to place the "faithful Negro" as a central figure, and this did much to redefine southern pride, as well as rationalized Civil War memory for the post-war generation.<sup>6</sup>

This thesis does not cover all the states that offered black Southerners a pension, as this is the material for a much larger piece of scholarship. This chapter examines in detail two states, Tennessee and South Carolina, as their legislatures were the first to have established specific measures for black pension applicants that were not inclusive of previously established

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Caused The Civil War," *North & South*, vol. 4, no. 1, (November, 2000), pp. 12-22.

<sup>5</sup> See, Litwack, *Trouble in Mind*, pp. 184-197, 359-360; Blight, *Race and Reunion*, pp. 284, 286-288.

<sup>6</sup> Veterans and especially Southern legislators adapted their political ideology be it liberal, moderate, conservative, or radical to promote the issue of black wartime loyalty, while simultaneously placing blacks under the yoke of white supremacy and racial segregation. Black fidelity was used as racial propaganda, and as an example of white expectations of black behavior. Joel Williamson in his book, *The Crucible of Race*, uses such political ideology to explain white Southern mentalities on race relations. For example, southern liberals were the smallest group by the turn of the century, but they carried over from the experience of Reconstruction a conspicuous, articulate faith in black capacities and the progress of race relations. Conservatives, the core of the Southern white mind, never relinquished the cardinal belief in Negro inferiority and sought myriad ways to fix the subordinate place, due to Jim Crow, of black folk in American life. The Radicals advanced a racial vision of America where blacks had no place in society where they would vanish, or be forced to vanish. All three of these mentalities, "evoked the past to meet the present." See, Joel Williamson, *The Crucible of Race: Black-White Relations in the American South Since Emancipation*, (New York: Oxford University Press, 1984), pp. 4-7, 36-39; Blight, *Race and*

white pension criteria in 1921, as the result of veterans' lobbying efforts.<sup>7</sup> As with similar white pension systems established in the South and Mid-West before 1890, these two states by 1920 had a well-organized system for assessing and regulating applications by the time black Southerners were permitted to apply.<sup>8</sup> This is seen clearly in the application procedure, process of verification, and supportive documentation, which were overwhelmingly similar for both races.<sup>9</sup> Another reason why these two states were selected is that they represent the two prevalent pension systems. In Tennessee, a state board of pension examiners centralized the entire process, whereas South Carolina, while adopting the model of a central governing body, established an approval process that began at the county level with an initial examiners board.<sup>10</sup>

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*Reunion*, p. 372.

<sup>7</sup> There are a few exceptions to this, which will be discussed later in the chapter. However, the first state to establish a pension system inclusive of black Southerners was Mississippi in 1888. A decade later the Louisiana legislature made several amendments to its white pension legislation. Although these changes did not specifically mention the acceptance of mulattos, Creoles, or black applicants, by 1899 members of the Native Guards regiments, as well as others do appear in the Comptroller General's pension report. However, their applications are not separated or classified by race as in other states. See, *Laws of the State of Mississippi, Passed at the Regular Session of the Mississippi Legislature, held in the City of Jackson, Commencing 3 January 1888, and Ending 8 March 1888*, (Jackson, Mississippi: R. H. Henry, State Printers, 1888), "Chapter 12, An Act for the relief for certain soldiers and sailors and servants of officers, soldiers and sailors of the late war between the states," approved 2 March 1888, pp. 30-33; *Acts passed by The General Assembly of the State of Louisiana at the Regular Session, Begun and Held in the City of Baton Rouge on 16 May 1898*, (Baton Rouge, Louisiana: State Publisher, 1898), "Act No. 125, An Act For the pensioning of indigent Confederate soldiers and sailors, veterans, and indigent widows of Confederate soldiers and sailors, as per Article 303 of the Constitution and to fix the fees of attorneys or agents for procuring pensions and fixing a penalty for the violation of same," approved 13 July 1898, pp. 184-186; Records of the Louisiana State Comptroller General, "Louisiana Confederate Pension Applications," Accession no. P1985-101, application for Charles F. Lutz #CP1.88, Jules Joseph Grappe #CP1.57, and Alphonse (Perret) Perot #CP1.109-3, Microfilm role no. 5, and 6, Louisiana State Archives, Baton Rouge, Louisiana.

<sup>8</sup> Other states that had provided a veterans pension system see, *Report of the Florida State Board of Pensions, Made Under the Provisions of Sections 291.01 to and Inclusive of 291.37*, "Florida Statutes of 1955 and Supplements, as of 31 December 1956," pp. 3-12, Tennessee State Library and Archives, Nashville, TN.

<sup>9</sup> The "equality" of the process and application procedure for both white and black applicants suggests that the establishment of racial segregation is in some way connected to the development of a "separate but equal" pension system. Although the 1896 US Supreme Court decision in *Plessy v. Ferguson* had strengthened this racial doctrine throughout the South, there is no evidence to support the contention that any of the states involved in the legislating of black pensions had used the case as a foundation in their development. In addition, not all the black pension programs were developed in the same way or on an equal footing as the white pensions were. See, Lee Epstein, and Thompson G. Walker, *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, (Washington DC: Congressional Quarterly Inc., 1995), pp. 658-664; See also, *Plessy v. Ferguson*, 163 US 537 (1896).

<sup>10</sup> Another example of a state that had a county level pension system was Virginia, which established separate black pension legislation on 14 March 1924. See, *Acts and Joint Resolutions (Amending the Constitution) of the General Assembly of the State of Virginia, Session Which Commenced at the State Capitol on Wednesday, 9 January 1924*, (Richmond: Davis Bottom, Superintendent of Public Printing, 1924), "Chapter 188, An Act to amend and re-enact an act approved 28 February 1918, entitled an act to

These governing bodies had broad discretionary power, which allowed them to make adjustments to the system when needed. In addition, the pension boards incorporated a process of verification that limited fraud by placing the burden of approval on the applicant through the use of the Federal War Department and its collection of Confederate muster sheets. In approving the black pension measures, state legislatures had determined that only former slaves and free blacks who had held regimental supportive roles would be eligible. Military laborers, unless approved by an oversight, were excluded from the process. Although this chapter focuses on how memory and white supremacy were used to establish and justify the black pension system, the military and legal definition of soldier during the war included regimental support staff, which permitted legislators to extend to the black Southerners the status of veteran.

Although not mentioned by race or specified duty, the pension boards in several states, such as Alabama, Arkansas, and Georgia, especially after 1920, had approved black pension applications regardless of supportive legislation. They based this on their discretionary powers laid out in the initial state pension guidelines. The acceptance of blacks was contingent on the expectation that the applicant had met similar criteria as had been established for white veterans. Verification of service was essential as was proof of indigence and that the applicant had met the state residency requirement, usually not less than one year.<sup>11</sup> As with Tennessee and South Carolina, sources – such as legislative minutes, and/or records from the state pension boards –

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amend and re-enact an act approved 21 March 1916, relating to Confederate Pensions,” approved 14 March 1924, pp. 294-303. The last paragraph of section 6 of the Virginia pension legislation states that, “Under the provisions of this act any person who actually accompanied a soldier in the service, and remained faithful, and loyal as the body servant of such soldier, or who served as a cook, hostler, musician, teamster or in another supportive capacity under any command of the army, and thereby rendered service to the Confederacy, shall be entitled to receive an annual pension of twenty-five dollars, proof of regimental service and right to be enrolled to be prescribed by auditor of public accounts.”

<sup>11</sup> For examples, see, Marie Bankhead Owen, *The Story of Alabama: A History of the State*, vol. II, (New York: Lewis Historical Publishing Co., 1949), pp. 712-716; Alabama State Department of Pensions and Security, *Annual Confederate pension lists, 1937-1974*, vol. 3, Accession no. ALAV86-A298, and SG6395-6397, Public Services Division, Microfilm Section, Alabama Department of Archives and History, Montgomery, Alabama; Alabama Board of Confederate Pension Commission, *Case files of Confederate veteran pensioners, 1868-1955*, Accession no. ALAV86-A416, Public Services Division, Microfilm Section, Alabama Department of Archives and History, Montgomery, Alabama; Frances T. Ingmire, *Arkansas Confederate Veterans and Widows Pension Applications*, (Little Rock, Arkansas: Arkansas Historical Commission Publishers, 1985), pp. 1-11.

are largely nonexistent which makes research into the specific reasons for acceptance of black pensions difficult. There are many examples where the approved form makes clear that the applicant was either “colored,” black, or had been a former slave, and despite this, these applicants were approved.<sup>12</sup>

There are three possible explanations for this acceptance without legislative backing: first, it is possible that the state board of pension examiners had overlooked the subject of the applicant’s race altogether; second, it may have been a misguided attempt to avert racial unrest.<sup>13</sup> Third, and more plausibly, they may have been trying to establish their own visible example of the “faithful Negro,” one that supported white beliefs in Lost Cause ideology and white supremacy. It is here where the questions of veterans’ memory and racial superiority were adopted to articulate a white perception of black fidelity, and it is around this third explanation where scholars like Joel Williamson, Gains M. Foster, David W. Blight and Leon F. Litwack concur.<sup>14</sup>

This chapter has drawn upon the secondary literature on memory, the place of veterans, and their relevance to black Confederates to support the argument that Lost Cause ideology and

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<sup>12</sup> See, Georgia State Division of Confederate Pensions and Records, *Confederate Applications and Supporting Documents, 1879-1960*, Accession no. GASV98-A15, Georgia Department of Archives and History, Atlanta, Georgia. Examples of this can be found in the pension materials that are divided by regiment and by race.

<sup>13</sup> These first two explanations on the acceptance of black pensions without legislative support, were voiced as part of a recent conference on black Confederates. Even though this is not the scope of the thesis, these are possible reasons for the existence of black pensions, and are some of the more prevalent questions raised with the emerging debate on the pension materials. The available evidence does not suggest that the state pension boards had ignored the issue of the applicant’s race, improperly submitted an incomplete application, or had made a mistake in processing the forms; neither was this a matter of fraud on the part of the applicant. Although any of these instances could have occurred all of the black pensions researched thus far contain a letter of service verification, which I argue is the focus of validity for the black pension materials themselves. As for the second reason, it has been suggested that the supposed “blanket approval” of black pensions in the 1920s was an attempt to quell black responses to segregation and Jim Crow. Although there was a sharp increase in racial tensions following World War I the offering of pensions to a minority of aging former slaves and free blacks was hardly proposed by whites as an answer. The conference in question was on, “The Debate Over Black Confederates Then & Now,” 28 March 2001, Museum of the Confederacy, Richmond, Virginia. For further information on the “Red Summer” of 1919 see, Cecilia Elizabeth O’Leary, *To Die For: A Paradox of American Patriotism*, (Princeton: Princeton University Press, 1999), pp. 217-219; Idus A. Newby, *Jim Crow’s Defense: Anti-Negro Thought in America 1900-1930*, (Baton Rouge: Louisiana State University Press, 1965), p. 157.

<sup>14</sup> See, Joel Williamson, *A Rage for Order: Black-White Relations in the American South Since Emancipation*, (New York: Oxford University Press, 1986), pp. 248-250; Foster, *Ghosts of the Confederacy*, pp. 136, 167, Blight, *Race and Reunion*, pp. 172-173, 273-274; Litwack, *Trouble in Mind*, pp. 193-197.

white supremacy had an equal place in the development of state pensions for a minority of black Southerners. Veterans and white legislators based their perceptions of black loyalty differently, but both groups collectively believed that wartime slave and free black fidelity had meant that the conflict had little to do with slavery. After the war, many white Southerners had taken as gospel the writings of Jefferson Davis and Alexander H. Stephens who had argued that the conflict was not about slavery, but the result of an attempt by the seceding states to vindicate state sovereignty.<sup>15</sup> The Confederate veteran was seen as a noble embodiment of the Lost Cause. In late nineteenth-century southern white thinking, veterans were the link that connected the “New South” to the romanticism of the antebellum South; they were in essence a living reminder of a once heroic time. In some ways, the “cause” was not lost as long as the veteran was not forgotten. For their part, the veterans had rationalized their own place in Southern history and the war, through a belief that they had not been defeated, as they had fought for liberty and what was right.<sup>16</sup> While white Southerners generally trivialized the slavery issue as a cause of the Civil War, the veteran appeared to remember only the loyal in a mythological rendering of black-white relations in wartime. The veteran had never recognized the issue of black pragmatism, and denied the effect of coercion. It was this mingling of Lost Cause nostalgia and perceptions of black loyalty that had brought the veterans to see these individuals as deserving a pension.<sup>17</sup>

From 1885 to 1930, when lobbying for black pensions and stories of faithful slaves were at their height, the language of white supremacy dominated the Southern vocabulary. Confederate veterans had chosen the middle ground, exhibiting a more moderate view towards those blacks whom they perceived to have shown wartime loyalty, while supporting a legislative and culture framework of racial superiority for a “new generation” of black Southerners. In

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<sup>15</sup> See, Jefferson Davis, *The Rise and Fall of the Confederate Government*. 2 vols., (New York: Da Capo Press Inc., 1881, reprint 1990), pp vol 1, 124-132, 144-147, 154-161, vol. 2, 380-384, Alexander H. Stephens, Myrta L. Avary, ed , *Recollections of Alexander H. Stephens*, (Baton Rouge: Louisiana State University Press, 1998), pp 190-198, 235.

<sup>16</sup> Foster, *Ghosts of the Confederacy*, p. 117; Blight, *Race and Reunion*, pp 172, 189-190.

<sup>17</sup> Gallagher, and Nolan, ed., *The Myth of the Lost Cause*, pp. 14-15, Blight, *Race and Reunion*, pp. 284, 286, 287, 288.

addition, State legislators, in their development of black pension systems had, through legislative practice, established two separate views on black Southerners, but for entirely different reasons. They were not interested in Lost Cause ideology in the same way as the veteran, but used these particular blacks as a propaganda tool to expunge the issue of slavery from the issue of causation for the war.<sup>18</sup>

### S. A. Cunningham: The Quintessential Southerner

The sporadic development of the southern state pension system for all white veterans, and those blacks who had served in specific supportive roles within the Confederate military, had at its core its most constant advocate and agitator, Sumner Archibald Cunningham, owner and editor of the *Confederate Veteran* magazine. From its conception in 1893, the monthly magazine became the voice of white veterans, and Cunningham saw to it that their objectives and concerns were heard until his death in 1913.<sup>19</sup> Veterans, and interested laypersons, readily submitted articles and stories of interest that with time retold a story clouded in memory. This mythic rendering of the war emphasized and reinforced Southern honor, heroism, and traditions, increasingly focused on white supremacy. In this context, black voices were seldom heard, as white authors usually reinterpreted stories of black fidelity in the third person. A few articles ostensibly written by former slaves were printed; heavily edited, these too reinforced the concept of loyalty.<sup>20</sup>

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<sup>18</sup> Litwack, *Trouble in Mind*, pp. 206-208; Blight, *Race and Reunion*, pp. 273-274, 290-291.

<sup>19</sup> When Cunningham died on 20 December 1913, the duties of editor for the *Veteran* were handed over to his personal secretary, Miss Edith D. Pope, who continued its publication until December 1932, the same year of the last Confederate reunion held at Gettysburg, Pennsylvania. In preparation for this chapter the *Confederate Veteran* magazine was extensively used in its original form. For issues of clarity and readability see the cumulative edition of the magazine by, Louis H. Manarin, ed., *The Confederate Veteran Magazine 1893-1932*, (Wilmington, North Carolina: Broadfoot Publishing Company, 1986). Along with these sources, details on the life of Cunningham were found in, John A. Simpson, *S. A. Cunningham and the Confederate Heritage*, (Athens: University of Georgia Press, 1994); Foster, *Ghosts of the Confederacy*, pp. 106, 110.

<sup>20</sup> There is no certainty as to the extent of editing done to the few stories submitted by black 'veterans', as the Cunningham papers do not reflect the day-to-day operation of the magazine. Charles A. Sherrill, an archivist with the Tennessee State Library and Archives, believes that the reason for this lies with Miss Pope, for when she closed down the operations of the magazine in January 1933, "most if not all of his editorial rewrites would have already been thrown away as there was no need to keep them." Therefore, it can only be assumed that these particular stories were edited to show the best side of slave loyalty. See, The Sumner Archibald Cunningham Papers, # 3257, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill. As for the accusation that those black authors

Tales of black fidelity were used to legitimate the white Southern social structure under Jim Crow, as well as to prove that the war was not caused by slavery.<sup>21</sup> Furthermore, stories like these, and the black pension applications that were to follow, served whenever possible as a lesson for Southern blacks about white expectations for their behavior in the New South. At the national level, examples of slave loyalty would be interpreted through the ideology of the Lost Cause as further evidence of an antebellum slave utopia, while in the southern state legislatures they were used as evidence for the establishment of black pensions.<sup>22</sup> I argue that while the exaggerated stories of slave loyalty reinforced the dominant white social order, not all white veterans held the exact same view. Memories of war also served to emphasize the mutually shared experiences of drilling, marching and combat. By 1897, the *Veteran* had become the

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involved may not have existed at all: an examination of the muster sheets for Tennessee and Virginia for example has verified the name(s) and race of several writers. The article by John "Black Hawk" Williams, of Woodstock, Virginia, is one example of a story written by a black author. See, "Gratitude of a Faithful Servant," *Confederate Veteran*, vol. XX, no. 9, (September 1912), p. 410. A photo also exists of the former body servant, Black Hawk see, "Senior Chaplain C. S. A. Cook," *Confederate Veteran*, vol. XIII, no. 8, (August 1905), p. 369. However, only the September 1912 article explains how and why he was photographed. A reading of the muster sheets for Chew's Battery of Horse Artillery, General Turner Ashby's Brigade C. S. A., shows a John Williams a.k.a. "Black Hawk" as regimental cook, belonging to Lieutenant James H. Williams of Chew's Battery. See, Virginia, Department of Confederate Military Records, *Confederate Rosters, 1861-1865*, 20 vol., Accession no. 27684, State Government Records Collection, The Library of Virginia, Richmond, Virginia. An other source for verifying the identity of some of these black authors see, Tennessee Civil War Centennial Commission, *Tennessee in the Civil War: A Military History of Confederate and Union Units with Available Rosters of Personnel*, 2 vol., (Nashville: Civil War Centennial Commission, 1965); Charles A. Sherrill, Director of Public Services, Tennessee State Library and Archives, interviewed by author, Nashville, TN, 30 March 1999. For a view of veterans ideals and beliefs concerning the reminiscence of Southern traditions see, Nina Silber, *The Romance of Reunion: Northerners and the South, 1865-1900*, (Chapel Hill: University of North Carolina Press, 1993), p. 121; Blight, *Race and Reunion*, pp. 158, 189, 209, 258.

<sup>21</sup> Prominent Southerners and historians of the post war era crafted the argument which stated that slavery had nothing, or very little, to do with the causation for the war. The former President and Vice-President of the Confederacy, Jefferson Davis and Alexander H. Stephens, introduced this idea, and wrote histories of the conflict with the objective of divorcing themselves and the South overall, from the issue of slavery, with the hope of regaining Southern honor and respectability. These arguments were taken a step further by the "Progressive school" of historians, which from the 1910s to the 1940s dominated the historiography of the war, and continued the belief that its cause had nothing to do with slavery. Consequently this retelling of the war came at a time when the lobbying for the establishment for black pensions was at its height. This school of thought was led by Charles A. Beard, and argued that the war was the result of the persistent antagonism of interest groups, and the competitiveness of class, which found its most convenient examples in plantation agriculture and Northern industrialization. For a succinct analysis for the causation of the war as interpreted from the post war period to the present see, McPherson, "What Caused The Civil War," pp. 12-22; Kenneth M. Stampp, *The Causes of the Civil War*, (New York: Simon & Schuster publishers, 1991); Charles A. Beard, and Mary R. Beard, *The Rise of American Civilization*, 2 vol., (New York: Macmillan Company, 1933), vol. 2, pp. 3-10, 53.

<sup>22</sup> Litwack, *Trouble in Mind*, pp. 184-197; Gallagher, and Nolan, ed., *The Myth of the Lost Cause*, pp. 13-15; Silber, *The Romance of Reunion*, pp. 4-5, Foster, *Ghosts of the Confederacy*, p. 4.

official organ of the United Confederate Veterans, United Daughters of the Confederacy, and the Sons of Confederate Veterans. Together the magazine and the three organizations took responsibility for the Lost Cause ideology in various ways. Using the magazine as his instrument, Cunningham was able to directly address matters of importance to veterans, while providing a blueprint for their associations to lobby state officials, and federal legislators.

As early as 1894, stories and editorial commentary began to appear in the *Veteran* about faithful slaves and devoted body servants whose participation in the war demonstrated that not all slaves ran away at the first opportunity. Cunningham's objective in the publication of these stories was to counter arguments that sought to expose the "darker side of slavery," while at the same time sending a message to the readership that reinforced white supremacy, by reminiscing about the imagined idyllic race relations of the antebellum South.<sup>23</sup> Unlike other, more sensitive, issues Cunningham did not press his own views on black fidelity as a means for engaging in a debate. He did not have to do this, as his arguments expressed the beliefs of many in the South.<sup>24</sup> His attention was focused on a campaign to gain federal assistance for the

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<sup>23</sup> See, Blight, *Race and Reunion*, pp. 284, 286-287. For relative examples from the *Veteran*, see, *Confederate Veteran*, vol. XX, no. 9, (September 1912), p. 410; "A Notable Colored Veteran," *Confederate Veteran*, vol. II, no. 8, (August 1884), p. 233; "Fidelity of Negro Servants," *Confederate Veteran*, vol. V, no. 3, (March 1897), p. 119; "Faithful Uncle Dave Hatcher," *Confederate Veteran*, vol. VI, no. 11, (November 1898), p. 520; "Tributes to Faithful Servants," *Confederate Veteran*, vol. VIII, no. 9, (September 1900), p. 399; "The Loyalty to Master of Reuben May," *Confederate Veteran*, vol. XI, no. 4, (April 1903), p. 172. Another source which addresses many of the assumptions on the resentment of slaves toward their masters, versus their fidelity during the war see, William C. Davis, *The Lost Cause: Myths and Realities of the Confederacy*, (Lawrence: University Press of Kansas, 1996), pp. 184-185.

<sup>24</sup> Aside from issues over veterans' pensions, graves and homes, Cunningham also used the *Veteran* as a means for debate on matters that he perceived to be direct slights to his definition of "Southern Honor." Articles on monuments to notable veterans, the conduct of southern armies, and the treatment of Federal prisoners of war, were all matters for his immediate attention. See, for example, *Confederate Veteran*, vol. VII, no. 7, (August 1899), p. 346, 371; "Andersonville and Other War Prisons," *Confederate Veteran*, vol. XV, no. 4, (April 1907), pp. 161-166. However, towards the end of his life, and especially after his death, the racial tone of many articles submitted and written for the *Veteran* became more extreme. Several editorial commentaries, written now by Miss Pope, and others, on black Southerners would appear to be contradictory, as tales touting slave loyalty, and bravery in "fighting" for the Confederacy, were placed alongside essays discussing "Negro inferiority." However, the racial theme behind these articles was the same, which was to feed the ideology of white supremacy and African-American subservience. Some examples where differing perspectives attempt to draw the reader to the same conclusions are: "Were Negroes in Earlier Wars?," *Confederate Veteran*, vol. XVIII, no. 2, (February 1910), p. 62; "The Inferiority of the Negro," *Confederate Veteran*, vol. XXIII, no. 3, (March 1915), p. 105; "Confederate States Negro Troops," *Confederate Veteran*, vol. XXIII, no. 6, (June 1915), p. 246-247; "The Confederate Negro," *Confederate Veteran*, vol. XXIII, no. 9, (September 1915), p. 404, 411; "The Failure of the Confederacy - Was it a Blessing?," *Confederate Veteran*, vol. XXIV, no. 3, (March 1916), p. 3.

Confederate veteran, in a form similar to one set up for Union veterans, because he believed that state efforts at securing veterans' pension legislation were inadequate and shortsighted. In spite of these efforts, his concerns for the South's black 'veterans' were not as forthcoming.

Although the *Veteran* printed requests from the readership for the establishment of a pension scheme for faithful slaves,<sup>25</sup> Cunningham's own lobbying to obtain state-funded black veterans' pensions first appeared in a 1913 editorial, and is worth quoting at length:

The South loved and revered the old darkies who formerly were servants in the homes and on the plantations of the white people. They will ever occupy a sacred place in the memory of the people of the Old South and their sons. If people ever deserved to be so revered, it is the old darkies.

The people of the South should do something material for the benefit of a particular class of old slaves. The servants who faithfully followed their young masters to the front during the War of the States and served as loyally as if they had been enlisted white men, doing their particular duties well and never tiring, should be allowed to draw pensions paid by the white people of the Southern States.

Behold the picture: Black, ignorant, yet faithful, the servant of the sixties, at the call of his master, was quick to leave the old plantation and go to the front to bear the burdens of the master, forage for him, and nurse him while sick or wounded, and in death lifted the body of his beloved master, bore it from the battle field, and took it back to the old plantation and family burying ground. The Negro slave delighted in serving his white folks.<sup>26</sup>

His first statements were typical of many of the stories written since the 1890s, which espoused the perceived "virtues" of the loyal slave who willingly carried on his master's burden from plantation to battlefield. Such tales catered to the magazine's vision, invoking the idea that the tie between master and slave was still strong; they were offered as proof that despite their "ignorance" the slave was happy in his service.<sup>27</sup> The editorial goes on to incorporate the pension issue with the belief in black fidelity:

Consider the irony of the situation. The darky knew that the first consequence of the war in case of victory for the enemy would be his immediate "freedom." He knew it because his master told him so. But no soldier in gray ever fought with greater vengeance than was felt in the heart of the black man with him. Administering to his every want in sickness and in health, seeking food

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<sup>25</sup> For examples of articles written by the readership which called for the establishment of black pensions see, "Give the Old Slave a Home," *Confederate Veteran*, vol. III, no. 3, (March 1893), p. 80; "Pensioning Old Slaves," *Confederate Veteran*, vol. XI, no. 3, (March 1903), pp 108-110, "Payment for Negroes Suggested," *Confederate Veteran*, vol XVIII, no 3, (March 1910), p. 120.

<sup>26</sup> *Confederate Veteran*, vol. XXI, no 10, (October 1913), p. 481.

<sup>27</sup> Blight, *Race and Reunion*, pp. 277, 286.

for his hungry body, and bearing him home in death - in every way the servant was loyal and faithful to his master.

He cannot live much longer, and we should pension him. There are not so many old Negroes who saw this kind of service in the war that the expense would be heavy. We are sure than not a normal human being in all the South would begrudge the old darkies who served their masters at the front a pension commensurate with their great services and the capacity of the State to pay.

[The foregoing is almost literally an editorial in the Montgomery Advertiser. It deserves consideration. Our people are all right. They concur in the sentiment and would approve action by State legislation with such unanimity that if anybody objected he would be ashamed to say so. But we have been talking about this thing for a generation, always approving but never acting on the subject. By this prolonged delay of showing appreciation, the records will not convince other generations that the people who should act on this subject were sincere, yet they truly are. Such action is as sacred a duty as can be conceived by Southern people. It is right and politic, then, next to the woman's monument, that there should be a statue of a typical slave in every Southern city. A duplicate would suffice, and by cooperation, much economy would thereby be exercised. Let Camps and Chapters take up the subject now.]<sup>28</sup>

Overall the editorial reaffirmed what Cunningham believed to be the proper place for blacks in the white South, but its central theme was to bring forward the debate on the question of pensions for loyal slaves. This lengthy article spoke volumes to the veteran on the subject of race within the structure of white supremacy, playing upon long cherished racial fallacies and stereotypes held by many Southerners at this time. Cunningham played to the sympathies of his white readers, asking them to mobilize their efforts to lobby lawmakers to establish black pensions. However, despite his expressed motives in providing faithful slaves with an early mode of social welfare, a cause earnestly taken up by many white veterans, its underlining thrust reinforced the message of racial superiority.<sup>29</sup>

Through efforts focused on the needs of the veteran, Cunningham earned the respect and devotion of his peers for the particular brand of personal journalism he employed in the

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<sup>28</sup> *Confederate Veteran*, vol. XXI, no. 10, (October 1913), p. 481. Many stories in the *Veteran* catered to white ideas of widespread black loyalty, but some went further to connect their service with the word veteran, see, "A Notable Colored Veteran," *Confederate Veteran*, vol. II, no. 8, (August 1894), p. 233; "Faithful Slave, "Col. Robert", " *Confederate Veteran*, vol. XI, no. 10, (October 1903), p. 470; "Faithful Slave and Friend," *Confederate Veteran*, vol. XII, no. 3, (March 1904), p. 122-123

<sup>29</sup> Foster, *Ghosts of the Confederacy*, p. 140. For a discussion on the aspects of pensions as a form of social welfare see, Kathleen Gorman, "Confederate Pensions as Southern Social Welfare," in *Before the New Deal: Social Welfare in the South, 1830-1930*, ed. Elna C. Green, (Athens, Georgia: University of Georgia Press, 1999), pp. 24-29 Although the issue of pensions as a form of social welfare is neither the subject of this chapter or of the thesis overall, the topic is part of an emerging debate. See Jennifer Lynn Gross, "Good Angels or Dangerous Women: Confederate Widowhood in the Postbellum South," (Ph.D. dissertation, University of Georgia, 2001).

columns of the *Veteran*. He reported, with special vigor, on three charitable issues: Confederate homes, graves, and pensions. The inequities of the pension system raised Cunningham's ire as few other subjects did. During the first five years of the magazine, the readership made compassionate appeals to the *Veteran* for financial assistance. Cunningham sympathized with the urgency of these individual appeals. At the state level, North Carolina was first to change over from a system centered on the disabled veteran, to one based on financial need in 1879, but other Southern states were slow to follow suit.<sup>30</sup> As a veteran himself, Cunningham fully recognized the serious nature of the problem in his own state of Tennessee, and appealed to a special UCV Committee on Charities to examine ways which assistance could be brought to the most desperate cases. Years later, he would serve on a state committee, based in Tennessee, known as the Confederate Veterans Association, or "Cheatham Bivouac," whose lobbying efforts resulted in the establishment of the Confederate Veterans Home.<sup>31</sup>

By contrast, within the first two years of the war, Federal authorities had begun to address needs of their own veterans. This support for white, and later black, Union veterans expanded with the conclusion of the war, but requests to aid indigent Confederate veterans, with

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<sup>30</sup> The first accounting of the Southern State pension system was submitted to the *Veteran* for publication in 1910. At that time, only eight states had established pension budgets in excess of over \$100,000. *Confederate Veteran*, vol. XVIII, no. 3, (March 1910), pp. 108-109, 120. A second report showed little change. "What the South is Doing for her Veterans," *Confederate Veteran*, vol. XXIII, no. 6, (June 1915), p. 255. However, these reports ignore the fact that by the 1890s half of the war's veteran populations had died so that by the time of this first report that statistic was considerably less. State governments devoted less of their budget to veterans in part because of their dwindling numbers, and on stricter controls on applications, which prevented fraud. See Blight, *Race and Reunion*, p. 194.

<sup>31</sup> *Confederate Veteran*, vol. III, no. 5, (March 1895), p. 100; *Nashville Tennessean and Nashville American*, 4 March 1911. Tennessee's Confederate Veterans Home, 1890-1933, was built on acreage belonging to the Hermitage plantation, which was purchased from a relative of President Andrew Jackson. For the life of the Confederate home system black pensioners were discouraged from becoming residents, but there were exceptions. Ralph Ledbetter, 1841-1939, was a body servant to Captain William Ledbetter of Company D 1<sup>st</sup> Tennessee Infantry. In the post war era Ralph continued his service with William until his death, when he was granted a pension for his "service to the State" in 1921, and at the time lived and "worked" at the Veterans Home. Within months of Ralph Ledbetter's death his body was re-interred at the Confederate veterans cemetery in the grounds of the former home. See, Pension application for Ralph Ledbetter #54, *Tennessee Confederate Pension Applications*, Tennessee State Library and Archives, (TSLA), Nashville, TN; *Index to Confederate Pension Applications*, TSLA, Archives Division, Nashville, TN; *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, TSLA, Nashville, TN. Hereafter individuals will be noted with just the person's name and a number indicating their place on the state pension rolls, i.e. Ralph Ledbetter, #54, Microfilm roll 1, TSLA; Judith A. Strange, *The Tennessee Confederate Soldiers Home: "Marching out of the Mist into the Light,"* (Nashville: Tennessee Tracers Publishers Limited, 1996), p. 130; R. B. Rosenberg, *Living Monuments: Confederate Soldiers' Homes in the New South*, (Chapel Hill: University of North Carolina Press, 1995).

the most basic of accommodation, had, in the minds of Congress, been “rightly refused.”<sup>32</sup> By default the responsibility for the South’s veterans rested with the states, and in this regard, each state gradually established its own procedures. Most of these state-funded efforts first took the form of legislation for the purchase of an artificial limb, or similar prosthesis.<sup>33</sup> However, by the mid 1890s, eleven states of the former Confederacy including Maryland, Missouri, Kentucky, California, and Oklahoma, had developed either a Veterans Home and/or a pension scheme, which in some states would later include their widows.<sup>34</sup> Although, much of the structure for these pension schemes had been established prior to the first edition of the *Veteran*, Cunningham believed that they offered wholly inadequate amounts. With the organizational wing of the UCV well in place by 1894, Cunningham pushed the issue of veterans’ relief by

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<sup>32</sup> On 14 July 1862, the Federal Government established a “general law pension system,” for both white and black veterans, provided that the applicant could show that their injury and/or disease was the direct consequence of military service. In addition, widows and dependent relatives could apply for this benefit provided that the applicant could show that the injury, or disease, leading to the death of the soldier was the result of military duty. Payment was made irrespective of race, but dependent on the type of disability, and ranged from eight to thirty dollars a month. In 1890, the pension system was changed to “The Disability Pension Act.” This measure provided a pension to those veterans who had reached a certain age, or whose infirmity had rendered them dependent. Widows and children could receive a pension regardless of the cause of the soldier’s death. From its beginning, the 1862 pension act was periodically amended in respect of the payment amount and structure. See, William H. Glasson, *Federal Military Pensions in the United States*, (New York: Oxford University Press, 1918), pp. 124, 234; Edward A. Miller Jr., *The Black Civil War Soldiers of Illinois*, (Columbia: University of South Carolina Press, 1998), pp. 174-175. There were loopholes in this legislation as Confederate privates who were knowledgeable in the law could apply for a pension reflecting their service in either the Mexican War, or in one of the antebellum Indian wars which were covered under separate pension legislation. Fraud was also a concern among members of the state pension board. To combat this, subsequent amendments strengthened verification requirements. At the Congressional level, Federal legislation for the Confederate veteran was not focussed around issues of reunification, but for several decades centered on the denunciation of the South’s veterans as traitors. See, Blight, *Race and Reunion*, p. 194. Further discussion on the legislative course of pensions is in, Patrick J. Kelly, *Creating a National Home: Building the Veterans’ Welfare State 1860-1900*, (Cambridge: Harvard University Press, 1997). Concerning Mexican War pensions see, “Discussing United States Pensions,” *Confederate Veteran*, vol. X, no. 10, (April 1902), p. 174.

<sup>33</sup> Virginia, Georgia, and North Carolina, to name but a few of the states involved, all had laws for the assistance of those veterans who required an artificial limb. However, South Carolina was the first state to take up this practice in 1866. See, Patrick J. McCawley, *Artificial Limbs for Confederate Soldiers*, (Columbia: South Carolina Department of Archives and History Publishers, 1992).

<sup>34</sup> See, *Report of the Florida State Board of Pensions*, “Statutes of 1955 and 1956,” pp. 3-12, Tennessee State Library and Archives, Nashville, TN; “Care of Confederate Veterans,” *Confederate Veteran*, vol. II, no. 10, (October 1894), pp. 292; “Pensions for Veterans and Widows,” *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp. 485-486; William H. Glasson, “Federal and Confederate Pensions in the South,” *South Atlantic Quarterly*, vol. 9, no. 3, (July 1910), pp. 280-285.

highlighting the need to enforce Article II of its Constitution – a clause that stipulated that the UCV would see to the needs of the veterans “in every degree.”<sup>35</sup>

Cunningham never accepted the insensitivity of the Federal government or the conspicuous neglect of southern state governments concerning the care and treatment of indigent Confederate veterans. An 1896 editorial from the *Veteran* stated that twenty thousand Federal veterans received thorough care at a cost of \$38 million. Although he was “gratified to see such liberal provisions for the maimed old men,” Cunningham deplored the lack of comparable provision for destitute Southerners.<sup>36</sup> In a subsequent editorial he went on to argue that political restoration of the South had demonstrated the region’s unwavering loyalty to the Union. “The South of 1898 is as firm in its devotion to the Union as the South of 1850,” he wrote, adding, “I am sustained in the position that it is the duty of the Federal government to

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<sup>35</sup> “United Confederate Veterans: Constitutional and By-Laws for their Government,” *Confederate Veteran*, vol. II, no. 10, (October 1894), pp. 296-303. The United Confederate Veteran, founded in 1889, was officially established as an organizational body through its Constitution on 25 April 1894 with an inaugural reunion held in Birmingham, Alabama. Although there were a few Confederate reunion groups throughout the South prior to this, the UCV was the first attempt at a national representative body for the veteran. Their first President was the controversial former Confederate General John B. Gordon. See also, *Constitutional and By-Laws for the Government of the United Confederate Veterans of North America 1894*, (Chicago: Rand McNally & Company, Printers, 1894), Tennessee State Library and Archives, Nashville, TN; For further insight into the development of the UCV, and rival veterans organization see, Foster, *Ghosts of the Confederacy*, pp. 52-53, 91-94, 104-107; Blight, *Race and Reunion*, pp. 158, 267, 272; For background on the first president of the UCV see, Allen B. Tankersley, *John B. Gordon: A Study In Gallantry*, (Atlanta, Georgia: The Whitehall Press, 1955), pp. 368-370.

<sup>36</sup> See *Confederate Veteran*, vol. IV, no. 2, (February 1896), p. 48; Matthew Josephson, *The Politico's 1865-1896*, (New York: Harcourt, Brace, & Co., 1938), p. 434; Mary R. Dearing, *Veterans in Politics: The Story of The Grand Army of the Republic*, (Baton Rouge: Louisiana State University Press, 1952), pp. 393-395. Southerners never comprehended the resentment of the Federal Government towards them in general or the veteran in particular, which had dated back to the “Billion Dollar Congress” of 1889. In that year the Head Commissioner for the Federal Board of Pensions, “Corporal” James Tanner, distributed the treasury surplus to the Union veterans, an act which by 1893 had depleted Federal coffers. Veterans groups from the South including members from the Grand Army of the Republic, (GAR), which was the organizational body for northern veterans, charged Tanner, and, by implication, the Federal Government with fraud. Cunningham on the other hand took a more moderate view toward Tanner. In a letter to William L. DeRossett, Cunningham said: “I have wanted to say to you in reference to Tanner that I have known him well for years. . . . I believe that when he was so liberally dispensing the pension fund he would have been glad to share it with Confederates as well.” Sumner A. Cunningham to William L. DeRossett, 13 August 1896, William L. DeRossett Collection, William R. Perkins Library, Duke University, Durham, N C. For other contemporary southern views on the pension system, see *Arkansas Gazette*, 3 May 1895, 16 May 1895; *Memphis Commercial-Appeal*, 24 June 1896; *New Orleans Times-Picayune*, 12 November 1897; William H. Glasson, “The South and Service Pension Laws,” *South Atlantic Quarterly*, vol. 1 (1902), p. 360.

take care of the indigent and disabled Confederate soldiers."<sup>37</sup> Many southerners shared Cunningham's sense of outrage and objected to what they considered to be a double standard.<sup>38</sup>

One possible explanation for the Federal government's reluctance in establishing a pension system for Confederate veterans lies in the logistical difficulties inherent in the implementation of such a policy. In a 1902 speech, reprinted for the *Veteran*, Congressman Washington Gardner explained that if a pension system could be devised, "by which the deserters, bounty jumpers, camp followers, or coffee coolers on the pension roll can be detected, he can rely on the assistance of the great body of the Union soldiers to make that system effective to the removing of the last one of the unworthy from that column of heroic, battle scarred men who quarterly answer to a roll call of a nation, glad to remind its defenders of its unfailing gratitude."<sup>39</sup> Although many Southerners, including Cunningham, praised Gardner for his efforts to admit Confederate veterans into the Federal Soldiers' Home system, the congressman's concerns over extending this to pensioners were matched by congressional fears over the probability of fraud – fears that would prevent legislation of this type from gaining passage. Similarly, southern state governments would later amend their white pension laws and implement stricter guidelines as a means to both prevent fraudulent claims and divert a possible deluge of applications from former slaves. In the speech Gardner further stated that, "by its own statements the South is confronted by the same difficulty in more than one State whose

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<sup>37</sup> *Confederate Veteran*, vol. VI, no. 9, (September 1898), p. 412.

<sup>38</sup> Examples of these sentiments from Cunningham and others are printed throughout the *Veteran*, see *Confederate Veteran*, vol. VI, no. 1, (January 1898), p.38; *Confederate Veteran*, vol. VI, no. 12, (December 1898), p. 555; no. 12, (November 1904), p. 548; *Confederate Veteran*, vol. XVI, no. 2, (February 1908), p. 81. One veteran wrote: "The defeated in modern wars have usually paid the penalty, but this (pension system) is the most ingenious, insidious, and enormous penalty ever laid on a defeated people." *Confederate Veteran*, vol. XX, no. 5, (May 1912), pp. 227-229. In the post war period there was already a well-established legislative tradition of providing pensions to veterans starting with the American Revolution, followed through to the War of 1812, and the Mexican War. The GAR was sporadic in its early organization history, and so sources on the views of its membership on the question of offering Confederate veterans a Federal pension are non-existent. A probable answer for this was that the funds for such a scheme would not have been derived from those monies set aside for its veterans. However, Union veterans did support legislative efforts in 1884 to provide for Mexican War veterans to apply for a pension, and use of the Veterans National Home system, provided that they had not fought for the Confederacy, but this last provision was usually overlooked. See, Kelly, *Creating a National Home*, pp. 93, 128, 203-204 n. 3; Silber, *The Romance of Reunion*, pp. 5, 58-60.

<sup>39</sup> *Confederate Veteran*, vol. X, no. 10, (April 1902), p. 173. Washington Gardner was a Republican Congressman from Michigan.

generosity seeks to care for the disabled and needy Confederates.”<sup>40</sup> Limited state resources, external economic conditions, and the depth of the applicant pool were reasons for a re-evaluation of the system throughout the South at the turn of the century, with the result of an increased reliance on the muster sheets as the deciding factor of acceptance.

In his condemnation of southern state pension systems, Cunningham was relentless in his pursuit of the truth, especially with those legislatures, which showed a consistent lack of understanding when it came to administering the meager pensions for their veterans. For example, in 1899, the combined total of those monies spent on veterans in the six largest southern states was less than one million dollars. Tennessee, in particular, had spent “a shameful \$60,000 per year”.<sup>41</sup> Early issues of the *Veteran* were filled with articles from destitute veterans who wrote describing their desperate plight.<sup>42</sup> In response, Cunningham obtained evidence that highlighted the inadequacies of the qualification requirements and payment structures of the different Southern State pension systems. He concluded that this lack of uniformity hindered the process for deserving individuals.<sup>43</sup>

The United States’ declaration of war against Spain on 25 April 1898 spurred further demands by Cunningham through the *Veteran* for the equal treatment by the federal government

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<sup>40</sup> Ibid.

<sup>41</sup> *Confederate Veteran*, vol. VII, no. 1, (January 1899), p. 27. Tennessee’s pension system offered the smallest monthly allotment for its white pensioners for the next ten years. See, *Nashville Banner*, 2 January 1909.

<sup>42</sup> By 1895 several states, Tennessee, Arkansas, and South Carolina to name a few, had budgeted less than \$15 per pensioner, per month. See, *Confederate Veteran*, vol. II, no. 10, (October 1894), p. 292; *Confederate Veteran*, vol. III, no. 4, (April 1895), p. 108

<sup>43</sup> Ibid., See also, “Pensions for Veterans and Widows,” *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp. 485-486 Cunningham’s 1908 report on the status of Southern State pension systems was particularly damaging as it made extensive commentary on those states that in his opinion were not doing their share for the Southern veteran. The exception was Florida, whose legislature was the first to propose and approve the standardization of veterans’ pension requirements in 1897. This measure was endorsed by the United Confederate Veterans reunion held at Evansville, Indiana in 1899, as the standard by which other states should follow. See *Minutes of 9th United Confederate Veteran’s Reunion*, pp. 108-109; See, *Regular Session, 1897. Acts and Resolutions Adopted by the Legislature of Florida at the Sixth Regular Session, Under the Constitution A. D. 1885*, (Tallahassee, Florida: Floridian Printing Company, 1897), “Chapter 4521, [No. 7] An Act to Amend an Act Entitled an Act to Amend Sections 568 and 570 of the Revised Statutes of the State of Florida, Concerning Annuities for Disabled Soldiers and Sailors of the State of Florida, Approved 2 June 1893, [date of first veteran’s pension act],” approved 15 June 1897, pp. 22-24, *Laws of the State of Florida, Acts and Resolutions Adopted by the Legislature of Florida at its Regular Session, 1899, Under the Constitution A. D. 1885*, (Tallahassee, Florida: Floridian Printing Company, 1897), “Chapter 4670, [No. 9] An Act to Provide Annuities for Disabled Soldiers and Sailors, and Wives of Deceased Soldiers and Sailors of the State of Florida,” approved 2 June 1899, pp. 17-21.

for the South's war veterans. Many Civil War veterans, some of whom were now veterans of this latest conflict, saw victory over Spain as the result of a patriotic cohesion, a reconciliation of the Blue and the Gray in establishing a new era of American imperialism. For the white South, the symbolism of the war stressed a militaristic bonding made all the more sweeter by the knowledge that at least two former Confederate Generals - Joseph Wheeler and Fitzhugh Lee - had set aside their differences with the North to join in the campaign against Spain.<sup>44</sup> Cunningham saw that this war had brought together an overwhelming majority of the white population as nothing else had. He believed this reunification now needed to focus on the deteriorating plight of the aging Civil War veteran.

Through Cunningham's urging, the UCV and the Daughters of the Confederacy (UDC), by 1900 had established a policy whereby lobbying efforts focused on obtaining federal assistance for the development of a pension scheme for Confederate veterans. However, in the face of congressional resistance two further objectives increasingly dominated the agenda: first the establishment of standard state pension applications, and second the termination of concerns over fraud in the application pool. Although their efforts in dealing with the first goal met with failure, the second issue of developing application criteria, by which the chance for illegalities were minimized, did achieve significant results. In 1903, United States Secretary of War, Elihu Root suggested compiling an accurate list of southerners that had fought in the Civil War through the use of all available muster sheets. Although Cunningham misinterpreted Root's proposal as a first step toward providing Confederate veterans with a Federal pension, the resulting project became the basis from which the state level black pension system was founded.<sup>45</sup>

The Southern veterans' compilation project dragged on for five years with no result, but then Cunningham proceeded to bring the proposition to the next level. He urged all veterans,

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<sup>44</sup> Ezra J. Warner, *Generals in Gray*, (Baton Rouge: Louisiana State University Press, 1981), pp. 178-179, 332-333, Silber, *The Romance of Reunion*, pp. 178-185; Foster, *Ghosts of the Confederacy*, pp. 145-149, Blight, *Race and Reunion*, pp. 291, 351, 353.

<sup>45</sup> See, *Confederate Veteran*, vol. X, no. 4 (April 1902), pp. 173-175; *Confederate Veteran*, vol. XI, no. 4, (April 1903), p. 151; *Confederate Veteran*, vol. XVI, no. 11, (November 1908), pp. 573-574.

and their organizational bodies, to write directly to Marcus J. Wright in the War Department to ask for verification of their Confederate service, a process, which could be done only by going through the muster sheet collections held by the department.<sup>46</sup> At the time, Wright, who was the federal agent for the collection of Confederate records, was busy compiling documents for the *Official Record of the War of the Rebellion*, which had taken more than twenty years to complete. In response to Cunningham's appeal, letters flooded Wright's War Department office, forcing Wright to contact him and ask that the *Veteran* tone down similar public statements.<sup>47</sup> In what could only be considered a response tinged with sarcasm, Cunningham wrote to Wright that, "the foregoing is most significant as showing the influence of the *Veteran*. Think of two issues overtaxing the capacity of the United States government to supply information about the records of Confederate soldiers!"<sup>48</sup> Although Cunningham delighted in jabbing at Wright, he was a realist, and saw in 1908 that southerners were no closer to receiving a federal pension than they had been in 1865. However, with the completion of the compilation project in 1917, future pension applicants, white and black, in accordance with relevant State level legislation, had to obtain verification of their service in the Confederate army from the War Department in Washington D.C.

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<sup>46</sup> Marcus J. Wright was a Tennessee native, a lawyer, and journalist by profession. He had been one of Cunningham's chief competitors in the battle for the soul of the veteran. A Confederate General during the war, Wright had been hired in 1878 as an agent for the War Department responsible for the collection of Confederate records, a post he would hold until his retirement in 1917. Following the final version publication of the *Official Records* in 1902, Wright was placed in charge of the Confederate veterans compilation project, but he preferred to continue gathering documents in a hope of equaling those records completed by the Union during the war. Nevertheless the compilation would be completed in 1910, with subsequent additions to 1917, a copy of which was submitted to the Manuscript Division of the Library of Congress in 1918. Cunningham's request that veterans write to Wright via the War Department for verification of service, struck a precedent whereby Southern state pension boards required all future applicants to obtain similar endorsement. Warner, *Generals in Gray*, pp. 346-347; *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp. 485-486; Ralph W. Donnelly, "Confederate Muster Rolls," *Military Affairs*, vol. 16, issue 3, (Autumn, 1952), pp. 132-135.

<sup>47</sup> *Confederate Veteran*, vol. XVI, no. 11, (November 1908), p. 596. For more on the history behind the compiling of the *Official Records*, see, Alan C. Aimone, Barbara A. Aimone, *A User's Guide to the Official Records of the American Civil War*, (Shippensburg, Pennsylvania: White Mane Publishing Co., 1993), pp. 1-13, *The Official Records of the Union and Confederate Armies 1861 to 1865*, (Washington, D. C.: Government Printing Office, 1901).

<sup>48</sup> *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp. 485-486, *Confederate Veteran*, vol. XVI, no. 11, (November 1908), p. 596. Cunningham saw Wright as nothing more than a Republican lackey, and a journalistic competitor, and harbored a personal dislike for the man. With a streak of vindictiveness, he had both sides of the correspondence reprinted in the *Veteran*.

Cunningham continued to lobby for the Confederate veterans until his death in 1913. Through the *Veteran*, he was responsible for instilling the idealism, which the UCV, UDC, and the Sons of Confederate veterans would follow. He spearheaded a drive to make the pension issue the top priority of Cheatham Bivouac and the Association of Confederate Soldiers in Tennessee.<sup>49</sup> However, it still remained a matter of personal shame to Cunningham that Tennessee ranked lowest among southern states in its per capita support for its veterans. He saw merit in a plan, suggested by a resident of Alabama in 1911, to seek Federal restitution for the cotton tax elicited from the southern states between 1865 and 1869 as a means of adding to the Tennessee pension system.<sup>50</sup> Cunningham consulted fellow Tennessee veteran and pension board member John P. Hickman; together they drafted a resolution asking the federal government to return the revenue, which they claimed it had collected illegally.<sup>51</sup> Although their proposal received favorable coverage in the Nashville press, and was subsequently adopted by the UCV, the document was greeted with silence in Washington, D.C. Overall, the question of acceptance of the Confederate veteran into the federal government's pension scheme went unresolved until 1957, when legislation enabled those few veterans still living to apply under the plan that had existed for Union veterans.<sup>52</sup>

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<sup>49</sup> See *Nashville Banner*, 2 January 1909.

<sup>50</sup> Many southerners believed that the \$68 million obtained from Tennessee's farmers by Federal authorities in 1865, and again in 1869 through the levying of a tax on cotton was illegal, it was believed that the acceptance of the Cunningham-Hickman letter in Washington would see a return of these funds to state coffers. See *Confederate Veteran*, vol. XIX, no. 2, (February 1911), p. 73; *Confederate Veteran*, vol. XX, no. 3, (March 1912), p. 120; *Memphis Commercial-Appeal*, 20 April 1905.

<sup>51</sup> *Nashville Tennessean*, 4 January 1913. John P. Hickman, a Confederate veteran would become first secretary and later President of the Tennessee Board of Pension Examiners. During his tenure many of the black pension applications would come across his desk. See Tennessee State Library and Archives, Manuscripts Division, *Notes on Record Group 3, Board of Pension Examiners*, Box 18, File no. 180, 229, 233, 238, 240-241, Tennessee State Library and Archives, Nashville, TN. These records also contain information and correspondence by both relatives and applicants inquiring on the status of their application.

<sup>52</sup> United States Congress, *Veterans' Benefits Act of 1957*, in *U.S. Statutes at Large* 72, (1958): pp. 133-134; US. Congress, Committee on the Judiciary, *Veterans' Benefits Act, in U.S. Code, title 38, 7: sec. 510*, (1958), p. 6240. The language of the legislation does not mention whether Confederate widows or black veterans could apply. See also, *Report of the Florida State Board of Pensions*, "Statutes of 1955 and 1956," pp. 3-12, Tennessee State Library and Archives, Nashville, TN. This document represents the state's annual audit of the Confederate pension expenditure. The state extended the report to include a brief statistical chart on the number of pensioners and widows receiving veterans' benefit in the other twelve states. There was no separate category for black Confederate veterans, and it is unknown if they are included in the total. For the year 1955 only four veterans were listed along with 1,981 widows.

### **“Faithful Negroes who were in the war”: Pensions in Tennessee**

On 9 April 1921, the state legislature of Tennessee adopted a “veterans pension” scheme for “colored men who acted as servants and cooks in the Confederate Army.”<sup>53</sup> This legislative act brought about similar measures in other southern states during the 1920s, which consisted of offering a pension to those blacks who took part in supportive regimental roles during the war. However, this was not the first instance where African-Americans could apply for a Confederate veteran’s pension. Under older state measures, black Southerners applied for and received pensions from a system assumed to be only for white veterans.<sup>54</sup> In August 1921, the *Confederate Veteran* took up the issue of Tennessee’s addition to its pension legislation, in a favorable editorial.

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<sup>53</sup> *Public Acts of the State of Tennessee passed by the Sixty Second General Assembly, 1921*, (Jackson, Tennessee: McCowat-Mercer Publishers, 1921), “Chapter No. 129, An Act to be entitled an Act to provide pensions for those colored men who served as servants and cooks in the Confederate Army in the war between the States: 1861-1865,” approved 9 April 1921, p. 351. Signed into law by Governor Alfred A. Taylor. Born in 1848, Taylor was from East Tennessee, and had no involvement with the Confederacy during the war. State Senator Edgar J. Graham, 1879-1954, authored the bill for Tennessee’s black pensions. His background and residence strongly suggests that he was a member of the Sons of Confederate Veterans. See *Senate Journal of the Sixty Second General Assembly of the State of Tennessee which convened at Nashville, Monday, 3 January 1921*, (Jackson, Tennessee: McCowat-Mercer Publishers, 1921), p. 1407. The bill passed the Tennessee State Senate on a vote of 24 to 0 with no amendments at the time of passage; *House Journal of the Sixty Second General Assembly of the State of Tennessee which convened at Nashville, 3 January 1921*, (Jackson, Tennessee: McCowat-Mercer Publishers, 1921), p. 1489. The House vote on Senate bill no. 1342 passed with no discussion and no amendments, the yes votes were 60, there were 6 no votes and 5 members abstained. For material on Governor Alfred A. Taylor see, Stephen V. Ash, *Messages of the Governors of Tennessee 1921-1933*, vol. 10, (Nashville: Tennessee Historical Commission Publishers, 1990), pp. 7-23; *Tennessee Confederate Pension Applications*, Tennessee State Library and Archives, Nashville, TN: Index to Confederate Pension Applications, Tennessee State Library and Archives, Archives Division, Nashville, TN. Those black applicants who received, and/or were declined are listed separately in the volume as “Colored Applications.” Each applicant corresponds to a folder containing a completed application, affidavits, and at least one letter from a “white patron.” The patron was not required to have been a veteran, but by law had to file a letter on behalf of the applicant in order to have a completed file. These materials can be read on microfilm. *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, TSLA, Nashville, TN; William H. Glasson, “Military Pension System of Tennessee,” *Annals of the American Academy of Political and Social Sciences*, vol. 18, (November 1901), pp. 485-488.

<sup>54</sup> South Carolina on 24 December 1887 had established pension legislation so ambiguous on issues of eligibility that several African-Americans were able to apply, and were approved before amendments were drawn up the following year to provide specifics as to who was eligible. On 2 March 1888, Mississippi signed into law a pension bill inclusive of body servants, soldiers, and sailors who had been in Confederate service. This action had occurred prior to the first stories of slave loyalty, and calls for black pensions being articulated in the *Confederate Veteran*. See, *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Regular Session of 1887*, (Columbia, South Carolina: Charles A. Calvo Jr., State Printers, 1888), “Act No. 412, An Act to Provide for the relief of Certain Soldiers and sailors, and Widows of Soldiers and Sailors of the Late War Between the States,” approved 24 December 1887, pp. 826-829; *Laws of the State of Mississippi, 1888*, “Chapter 12,” pp. 30-33.

A new feature in the pension appropriation of Tennessee makes an allowance for pensions to the faithful Negroes who were in the war with their masters and served them to the end. There are a number of these still left, and out of eighty-five applicants, forty-seven have been able to prove their eligibility for this pension. This allowance of ten dollars per month will mean a great deal to them in their old age, and disability. Of the many injuries reported as received in their war service, one old fellow testified to losing both legs in the activities around Port Hudson, "both shot off by a cannon ball." Another applicant, Osborne Cunningham, a faithful servant in Dr. McNeilly's family at present, ran away as a boy of twelve years to be with his master, William Cunningham, of Williamson County, and served him loyally during the war and since.

Doubtless, other States of the South will make similar provision for their old Negroes, whose loyalty under the circumstances showed a fine sense of honor not apparent in later generations of the race. For several years, Virginia carried on her pension roll the name of Levi Miller, whose death early this year brought out public tribute to his worth as a citizen. His life before, during, and since the war exemplified the best traits of the human race. To the faithful servants of this type is due our tribute of gratitude and appreciation.<sup>55</sup>

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<sup>55</sup> "Pensions for Faithful Negroes," *Confederate Veteran*, vol. XXIX, no. 8, (August 1921), p. 284. The story of Levi Miller is of particular interest, as he had obtained a Virginia Confederate veteran's pension in 1907, long before the legislation of 14 March 1924. Miller entered regimental service as a body servant to Captain John J. MacBride of Company C, 5<sup>th</sup> Texas Infantry Regiment. The muster sheets for Company C have him listed at the bottom of the sheet in the area designated for cooks, servants, and musicians, but by 31 May 1864 he is listed as a private. A *Veteran*, article from the September 1921 issue, explained that the reason for the "change in status" had resulted from an "example of exceptional loyalty to his master," during the Wilderness Campaign of 5-7 May 1864, "where upon he was unanimously elected to the rank of private." His 1907 pension application explained that he was "engaged in combat with the Army of Northern Virginia in their operations in Tennessee, Georgia, as well as in Virginia until surrendering with the rest of the company at Appomattox." Miller had applied for veteran's benefit in Frederick County, Virginia, in April 1907, and was approved for a full Confederate pension under preexisting legislation on 7 September 1907. The affidavit supplied of his company commander, Captain J. E. Anderson spoke affectionately of their wartime experiences, as though they had always been comrades at arms. "Levi Miller stood by my side and [no] man never fought and better than he did, and when the enemy tried to cross our little breastworks, and we clubbed and bayoneted them off, no one used his bayonet with more skill and effect than Miller." Upon his death on 25 February 1921, the *Winchester Evening Star* published the following tribute. "Levi Miller, one of the few colored men regularly enlisted in the Confederate army during the civil war... was affectionately known among the white as well as colored people of this section as the grand old man of his race. He always had a deep love for everything southern, and although born a slave, it was his loyalty to his state that led him to enter the southern army and fight through the four entire years of war." Both the affidavit and the subsequent newspaper article provide further evidence as to how memory is used by both veterans and other whites to substantiate and/or exaggerate claims of black fidelity. There is no doubt that Miller had a role within the company, as the limited primary source evidence supports it, but there is some question as to what that role could have been. Harold B. Simpson, an authority on the 5<sup>th</sup> Texas, does not have a listing for Levi Miller. However, he does show Captains MacBride and Anderson, which raised more questions than answers about his supposed election to the rank of private. "Levi Miller, Confederate Veteran," *Confederate Veteran*, vol. XXIX no. 8, (September 1921), p. 358; "Confederate Pension for a Colored Man," *Winchester Virginia, Evening Star*, 17 June 1908; "Levi Miller Has a Good War Record," *Winchester Virginia, Evening Star*, 25 February 1921, "Levi Miller, Colored War Veteran, Dead," *Winchester, Evening Star*, 26 February 1921. See also, *Virginia, Department of Confederate Military Records, Confederate Rosters, 1861-1865*, 20 vol., Accession no. 27684, State of Virginia Government Records Collection, The Library of Virginia, Richmond, Virginia, *Index to Confederate Pension Applications Filed by Virginia Confederate Veterans and Widows*, Levi Miller, application number 26, The Library of Virginia, Richmond Virginia; Harold B. Simpson, *Hood's Texas Brigade: A Compendium*, vol. 4, (Hillsboro, Texas: Hill Jr. College Press, 1977), pp. 168, 188-189

The article makes particular reference to a clause where a pension allowance was made for “faithful Negroes who were in the war with their masters and served them to the end.”

Although Cunningham had long since passed away, his paternalistic version of white supremacy, and romantic reminiscence for the race relations of the antebellum period, is placed well within the editorial by its emphasis on black fidelity. However, this is not what is stated in the actual text of the legislation. The bill did not require the applicant to show proof of service, but this does not concern perceptions of loyalty to his owner, as here the use of the word “service” is in reference to the army and the applicant’s place in the regiment and “proof of their service” was the same criterion expected of white veterans. It could be inferred that the article in the *Veteran* was written merely for propaganda purposes. Black Southerners in 1920 did not subscribe to the *Veteran*; whites are translating this information to them, and thus aggrandizing themselves with their concern for blacks “in their old age, and disability,” while enforcing their notions of racial superiority. The notice, written by the magazine’s new editor, Edith D. Pope, shows her linguistic prowess in linking the views of the majority of white Southerners to those of the veterans. As Cunningham’s private secretary, Miss Pope had certainly been influenced by the *Veteran*’s founder, but growing up in the first generation following the war, her opinions on questions of black fidelity were most assuredly shaped by white society overall.<sup>56</sup>

Cunningham certainly would have applauded the extension of the state’s pension laws to

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<sup>56</sup> *Confederate Veteran*, vol. XXIX, no. 8, (August 1921), p. 284; *Public Acts of the State of Tennessee passed by the Sixty Second General Assembly, 1921*, “Chapter No. 129, p. 351. A Board of Trust, composed of Representatives of various Confederate associations, met in Nashville on 24 January 1914, where it was decided that the *Veteran* would continue as the voice of the veteran, with Miss Pope as editor. There is nothing known of Miss Pope other than her views as expressed through the *Veteran*. It appears though that through a thorough examination of the magazine from the years 1912 to 1922 that the tenor and message of the publication, while not changing drastically in content, was becoming more racial in tone. Following the death of Cunningham in 1913, an increasing number of articles contain the message of white supremacy, lost cause ideology, and an argument for Southern nationalism. In addition, women’s voices, through the sponsorship of the United Daughters of the Confederacy, (UDC) were wading into these debates on the side of racial supremacy in increasing numbers. There are two reasons for this, first, the place of Miss Pope as editor is presenting women with an incentive to write to the previously male based publication, and second, the influence of the UDC to get things achieved. See for example, *Confederate Veteran*, vol. XXIII, no. 6, (June 1915), p. 255, “The Ku-Klux Klan and “The Birth of a Nation”,” *Confederate Veteran*, vol. XXIV, no. 4, (April 1916), pp. 157-159; Foster, *Ghosts of the Confederacy*, pp. 136-137, 172-174, 178-179.

include black Confederate veterans, but it is open to speculation as to whether he would have been as concerned about the disparity in payments between white and black veterans.

The legislative process for Tennessee's pension system had been firmly established in 1891, when provisions were made for the care of disabled and/or aging veterans. The concept for a more formalized plan had its roots in the veterans' disability acts, which were begun in 1883.<sup>57</sup> Originally, the 1921 legislation set the monthly payment for black pensioners at ten dollars a month or thirty dollars per quarter, which was considerably less than their white counterparts. An amended bill for veteran soldiers' and sailors' pensions passed the same year, raising the payment for white applicants to between twenty and twenty-five dollars a month depending on the classification of the disability.<sup>58</sup> Aside from the application's title, "Colored Man's Application for Pension," and a question related to whether the applicant had an owner, the process and requirements for Tennessee's black and white 'veterans' were virtually the same.<sup>59</sup> The application form itself consisted of questions concerning the applicant's place of birth, enlistment with respect to company and/or regiment, commanding officer(s), marital

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<sup>57</sup> *Public Acts of the State of Tennessee passed by the Forty Third General Assembly, 1883*, (Nashville: Albert B. Tavel, Publishers, 1883), "Chapter 242, An Act to provide relief for soldiers from Tennessee in the army of the late Confederate States, who lost their eyes while engaged in battle; also Federal soldiers from Tennessee in like condition who are not pensioners under the United States Government," approved 30 March 1883, pp. 323-324. Signed into law by Governor William B. Bate. *Public Acts of the State of Tennessee passed by the Forty Seventh General Assembly 1891*, (Nashville: Albert B. Tavel, Publishers, 1891), "Chapter 64, An Act for the benefit of the indigent and disabled soldiers of the late war between the States, and to fix the fees of attorneys or agents for procuring such pensions and fixing a penalty for violation of the same," approved 12 March 1891, pp. 150-152. Signed into law by Governor John P. Buchanan. State Senator William L. Brown, 1840-1922, had authored and proposed the legislation. Brown had served with the Confederacy, and although there is little available concerning his service record, it is probable that he was active in veterans' affairs.

<sup>58</sup> *Public Acts of the State of Tennessee passed by the Sixty Second General Assembly, 1921*, "Chapter No. 129," p. 351; *Public Acts of the State of Tennessee, 1921*, (Jackson, Tennessee. McCowat-Mercer, 1921), "Chapter No. 114, A Bill to be entitled An Act to provide for the increase of pensions for Confederate Soldiers and to appropriate sufficient funds from the State Treasury to meet said increase in addition to the amounts now appropriated or to be hereafter appropriated for paying the pensions now allowed by law," approved 9 April 1921, pp. 278-279

<sup>59</sup> Originally the pension application form for whites for 1891 was quite lengthy but over time changes in the rules of the pension board, and a reliance on verification through the muster sheets had simplified the process. The argument in this part of the chapter is not stating that these differences in the application are not important, they are, but I do not believe that two questions make the document a law simply sponsored on race. There is, however, more to this legislation than just its language, as it could be argued that these qualifiers imposed on the law take into account the racial dogmas and segregationist attitudes. See, *Tennessee Confederate Pension Applications*, soldiers applications are listed on 113 reels, Tennessee State Library and Archives, Nashville, TN; Strange, *The Tennessee Confederate Soldiers Home*, pp. 147-150.

status, value of assets, attorney in charge of processing the application, and home address. A letter from the applicant, and at least two affidavits were required to verify the reliability, and to attest to the applicant's character and/or service. However, by 1920 all that was required was a witness's signature on a pre-printed statement affirming the applicant's integrity.<sup>60</sup> The final part of a completed application was a letter from the United States War Department verifying that the applicant's name appeared on the muster sheet for the company and/or regiment in which the person applying claimed to be enlisted.<sup>61</sup>

Throughout its legislative history, Tennessee's black and white pension acts were heavily amended with further appropriations and reductions that were largely influenced by and dependent on state revenue. Further legislation was also enacted to establish a Confederate Veterans' Home and veterans' cemetery, but few blacks were permitted into these areas.<sup>62</sup> However, the basic process and requirements for both legislative packages remained the same. In addition, the 1891 act established the Board of Pension Examiners, consisting of the State Comptroller, the Attorney General, and three ex-Confederate soldiers who were recommended by the Tennessee Division of the United Confederate Veterans and appointed by the Governor.

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<sup>60</sup> The change in the 1920 pension application form for Tennessee, in its change from the use of affidavits to a signature on a pre-printed statement, is reflective of the streamlining achieved in verifying the applicant's service in the Confederate military through the use of company and regimental muster sheets. This change in the structure of the form, and reliance of the board in its use of service verification was determined solely by the pension board and not through legislative amendment. Witnesses could if they wished, still submit affidavits that attest to the applicant's service, but the notes and correspondence contained in the pension board files do not mention the influence of these testimonials, only in the necessity of the applicant to obtain verification of their service in the Confederate military. After 1920, the pension files in Tennessee do continue to include the occasional affidavit, and/or letter either written by the applicant, or transcribed and countersigned by a relative. However, these letters do more to broaden our understanding of the role of African-Americans in the Confederacy than they attest to their ability to sway the decision of the board.

<sup>61</sup> See, Samuel Sistler, ed., *Index to Tennessee Confederate Pension Applications*, (Nashville: Byron Sistler & Associates, 1995); *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, TSLA, Nashville, TN; For an example see, *Tennessee Colored Pension Applications*, Ralph Ledbetter, #54, Microfilm roll 1, TSLA.

<sup>62</sup> One notable exception is Ralph Ledbetter, served as a body servant during the war, Ledbetter was both a resident of the home and upon his death was buried in the Confederate cemetery. Legislatively established and built in 1891 the home lasted until 1933 when its few remaining veterans were transferred to a local Nashville hospital. In 1935-1936 the Works Progress Administration demolished parts of the home, and in 1953 the last of the home was razed, and the bricks used to build added tourist facilities at the Hermitage, while the cemetery is still located on this land. *Public Acts of the State of Tennessee passed by the Forty Seventh General Assembly 1891*, (Nashville: Albert B Tavel, Publishers, 1891), "Chapter 20, An Act for the benefit and support of the Tennessee Confederate Soldiers' Home," approved 4 March 1891, pp. 48-49; Strange, *The Tennessee Confederate Soldiers Home*, pp. 119, 130, 136, 153-

However, over time the board's position and membership would broaden and change by state amendment.<sup>63</sup> These individuals had the authority to adapt the pension laws to make the best use of state resources. They first did this by ascertaining whether the applicant was incapable of supporting himself, and second by determining that his service in the Confederate army was both verifiable and honorable. The burden of proof rested with the veteran, who was obliged to prove his disability and/or need, and that, "his separation from the service was under honorable conditions."<sup>64</sup> By 1920, one year before the introduction of black pensions in Tennessee, applicants, either through the state pension board, or by their own efforts, were required to obtain verification of service from the War Department.<sup>65</sup>

Unlike other state-activated pension systems, the 1891 act permitted both white Federal and Confederate veterans to apply for benefit provided they were residents of Tennessee for at least one year before submitting their application, as well as meeting certain income and/or disability qualifications. The inclusion of Union veterans in the legislation was part of a

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155; See also, *Public Acts of the State of Tennessee, 1891*, Chapter 64, p. 152.

<sup>63</sup> The three ex-Confederate veterans were appointed on the board for two years without pay. It could be argued that the purpose for these individuals was to ensure the objectivity of the decision making process, but materials concerning their specific role are not available in either the legislative dicta, or in the minutes of the board that still exist as part of the documentary record. However, veterans were not limited to only these posts, as the positions of State Comptroller, Attorney General, as well as the subsequent positions of Board President and Secretary were open to either veterans, or their sons. These latter positions were developed as a result of the board's discretionary powers. In general, the place of the veterans on the board meant that their influence was proportionally felt throughout its lifetime. See, *Public Acts of the State of Tennessee, 1891*, Chapter 64, pp. 150-151.

<sup>64</sup> The concept of honor flows throughout the 1891 act, as well as the subsequent amended laws and legislative dicta. It is an issue seen in both the white and black pension measures that were enacted throughout the South. As with Tennessee the language of the legislation argued that, "their character as soldiers must have been free from dishonor," meaning that they could not have deserted the army. See, Mark A. Weitz, *A Higher Duty: Desertion among Georgia Troops during the Civil War*, (Lincoln, Nebraska: University of Nebraska Press, 2000), pp. 16-18, 139-145, 175-176.

<sup>65</sup> The verification requirement is not a specific stipulation imposed anywhere in the 1891, 1921, or concurring legislative amendment, which was included in the public acts of the state. However, in 1891, the board was, "invested with the authority to prescribe such rules and regulations as they may deem necessary." The additional requirement had been implemented by the Tennessee Board of Pension Examiners, who increasingly relied on the measure as a means to fight fraud, and with regard to black Southerners, distinguish them from those employed as military laborers. For an example of this see, Mrs. Mary B. Gamble, Director Division Confederate Pensions to Mr Leon B. Gridley, 29 March 1939, Tennessee State Library and Archives, Manuscripts Division, *Notes on Record Group 3, Board of Pension Examiners*, Box 15, File no. 1-Hn, Tennessee State Library and Archives, Nashville, TN; Donnelly, "Confederate Muster Rolls," pp. 132-135; Elmer O. Parker, "Confederate Army Muster Rolls," *Military Affairs*, vol. 28, issue 2, (Summer 1964), pp. 79-82; Dallas Irvine, "The Archive Office of the War Department: Repository of Captured Confederate Archives, 1865-1881," *Military Affairs*, vol. 10, issue 1, (Spring, 1946), pp. 93-111; See, *Public Acts of the State of Tennessee, 1891*, Chapter 64, p. 150.

compromise package, as it reflected the wartime status of Tennessee – citizens from the state had fielded regiments for both sides during the war. Black Union veterans could not apply under the 1891 bill, and although this was never articulated in the legislation, there was an implied message that African-Americans should not even make the attempt.<sup>66</sup> Generally, Tennessee's Union veterans did not have need to apply for the state pension, nor did those who had served both sides at one time or another, as the federal government's pension system was more liberal and paid at a higher rate of remuneration. In addition, a common agreement existed among the states, whereby applicants had to apply only to the pension board of the state they resided in, even if that state was not the state in whose regiments he served.<sup>67</sup>

The black pension applications under the 1921 act have several features that help to illustrate the character of the applicant pool. Almost all were slaves who either went to war with their owners, or had permission to do so, and served almost exclusively as body servants, regimental musicians or cooks. Few free blacks served in the Confederate Army of Tennessee or applied for pension benefit, having either served in another state, with the Union army as laborers, or not at all.<sup>68</sup> The black applicants represented counties from across the state, but naturally, the counties around Memphis, and those in the western half of Tennessee, which had larger slave populations, had the highest concentration. The average applicant was under eighteen years of age when the war began, suggesting that masters left their more experienced slaves at home. Over thirty-five per cent of the applicants were born outside Tennessee. A majority of the applicants had been born or originated in Virginia, South Carolina, and Kentucky in that order. This suggests that many of the applicants were either moved to the state

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<sup>66</sup> Glasson, "Military Pension System of Tennessee," pp. 485-486. Because the 1891 legislation had a clause providing that the applicant could not be receiving a pension from any other state or the Federal government, it seems unlikely that Union veterans would apply for the state pension in the first place. As the application for a pension required that the applicant needed to be free from dishonor it was inferred that black Union veterans could not apply. However, by that time black Union veterans in Tennessee had been applying under the Federal pensions act of either 1862, or 1890. See, Müller, *The Black Civil War Soldiers*, p. 174.

<sup>67</sup> *Public Acts of the State of Tennessee, 1891*, Chapter 64, pp. 150-151.

<sup>68</sup> The data derived from the black pension applications are not exclusive to Tennessee, but are an example typical of many I have read in the development of this thesis. Concerning Tennessee's free black population, see, Lester C. Lamon, *Blacks in Tennessee: 1791-1970*, (Knoxville: University of Tennessee Press, 1996), pp. 26-29; *Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2,

by owners during the war, had settled in the state sometime after the war, were free blacks that had moved to the state, or were recruited from other states by units of the Army of Tennessee.<sup>69</sup>

The majority of the African-Americans who applied for a veteran's pension had not prospered economically as freedmen in the post-war South. The average income of many black Southerners in the 1920s was extremely low. Some had been sharecroppers; and many of these elderly pensioners suffered from the gradual debilitating conditions that occurred with age and decreased ability to work.<sup>70</sup> However, a few of these pensioners did enjoy a modest degree of economic success. James Dunn, for example was a free black man who had been conscripted into service as an assistant to a Confederate surgeon. Following the war he settled in Huntsville, Tennessee, where he was able to purchase eighty acres of land, valued at \$1,600 in 1921. Griffith Butler, who had been initially rejected for a pension, owned 87 acres of land, which was worth \$2,000. Ceasar Hays was granted a pension in June 1921, even though he owned 68 acres of land assessed at \$2,880. Yet, some black veterans like Jim Butler of Moscow, Tennessee, remained destitute and returned from the war to continue working for his former master.<sup>71</sup>

Questions concerning motivational factors behind an applicant's pension and participation in the Confederate military overshadow any examination of the black pension materials. At first glance the existing records offer little in the way of answers. Irrespective of the applicant's race, the most common reason for applying for a pension was financial need. Until the administration of Franklin D. Roosevelt, there was little in the form of social welfare. There were charitable organizations, but little was offered in the way of help for the elderly, and there was nothing in the form of retirement pensions, especially for black Southerners. The

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#112-385, TSLA, Nashville, TN.

<sup>69</sup> Ibid., This information was derived from an examination of all available black pension applications.

<sup>70</sup> Litwack, *Trouble in Mind*, pp. 18-20, 335-338. Even those few black farmers who had prospered economically in the South had to be careful how they acted, as whites could easily accuse them of being "uppity" or "prosperous." Such accusations could have dire consequences for black landowners, and frequently led to violence.

<sup>71</sup> *Tennessee Colored Pension Applications*, James Dunn #77, Microfilm roll 1, TSLA; Griffith Butler #228, Microfilm roll 2, TSLA; Ceasar Hays #18, Microfilm roll 1, TSLA; Jim Butler #119, Microfilm roll 2, TSLA.

monthly payment that a state pension offered, no matter how small the amount by today's standards, would have been essential in the care of an aging father, in maintaining a basic subsistence, or to supplement the family income.<sup>72</sup>

Throughout this thesis, I have attempted to illustrate the different types of slave and free black reasoning that connected them with the Confederate military in general, and participation as regimental support staff in particular. It is this minority of individuals who held company level support positions, and made up the vast bulk of the black pension application pool. They were not military laborers, but legally defined in their support role as 'soldiers,' and it was this criteria, which structured the development of the black pension acts, and determined the acceptance of an application. The overwhelming majority of these individuals were coerced into their military role. One exception to this was the case of Louisiana's Native Guards, where some free blacks did volunteer, but their reasoning did not arise out of wholehearted support for the Confederacy. Some black Southerners, used in areas of regimental support stayed with their owner, or company, for more pragmatic reasons, (or an attempt for greater autonomy) than out of a loyalty to the South and its economic institutions. Others, held on to the security of a familiar way of life, but used the growing labor shortage as a lever to win concessions from their owners.<sup>73</sup>

The African-Americans who applied for Tennessee's veterans' pensions were not for the most part former field hands, as they were kept behind or hidden from Confederate conscription and impressment officers whenever possible since they were highly valued for their agricultural role. The majority of applications were made by individuals whose antebellum life was that of house servants, cooks, drivers, and skilled craftsmen — individuals who worked in

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<sup>72</sup> Gorman, "Confederate Pensions as Southern Social Welfare," pp. 24-37; Strange, *The Tennessee Confederate Soldiers Home*; Rosenberg, *Living Monuments*, pp. 31-34, Kelly, *Creating a National Home*, pp. 74-76, 91-93; Herbert G. Gutman, *The Black Family in Slavery and Freedom, 1750-1925*, (New York: Pantheon Books, 1976), pp. 221-229, Eugene Genovese, *Roll, Jordan, Roll: The World The Slaves Made*, (New York: Pantheon Books, 1974), pp. 522-523.

<sup>73</sup> William C. Davis, *A Government of Our Own: The Making of the Confederacy*, (Baton Rouge: Louisiana State University Press, 1997), pp. 290, 332-333

areas other than in the field. The following examples from the Tennessee pension files show some of the variety of explanations given for their motives.

Sam Collier explained that he and his master, Col. William Edwards, “both grew up together, [in the home of William R. Collier] and for this reason I was the house boy and body servant of the Colonel, and nursed him from the time he was wounded until he died.”<sup>74</sup> Alex Porter, who was hired out to Capt. Killis Clark in Nathan Bedford Forrest’s command was said to have, “stuck to Captain Clark like a brother, and was held in the highest esteem because of his faithfulness and devotion to the officer.”<sup>75</sup> James Reeves listed himself on his application as “free born,” he explained that, “I went off with John Reeves, Tom New and John New, I had lived with them all my life and went off to war with them.”<sup>76</sup> Lee Webber, who grew up with Thomas B. Webber and William R. Webber, was body servant to these two brothers from June 1862 until June 1865. The three were part of two Tennessee brigades led by General George G Dibrell as part of Jefferson Davis’ escort into Georgia in April-May 1865. Following the Confederate President’s capture on 9-10 May 1865, the three Webbers and 75 other Confederate soldiers headed for Texas to join General Edmund Kirby Smith, only to receive the news that his army had also surrendered, “we simply went home and never bothered to surrender ourselves.”<sup>77</sup>

It is possible that some of these black applicants deliberately gave information that matched white ideas of slave and free black loyalty in the hope that such expressions would favorably incline the pension board towards their applications. However, the legislative amendments and pension board memoranda clearly show that these devotionals were meaningless without the verification of service from the muster sheets held in Washington. The pension board, and especially the Comptroller General, was intent on seeing that the State’s

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<sup>74</sup> Sam Collier #257, Microfilm roll 2, TSLA.

<sup>75</sup> Alex Porter #38, Microfilm roll 1, TSLA. The affidavit was submitted with the applicant’s file, but the name of the witness was not listed on the accompanying document.

<sup>76</sup> James Reeves #33, Microfilm roll 1, TSLA.

<sup>77</sup> Lee Webber #84, Microfilm roll 1, TSLA; Michael B. Ballard, *A Long Shadow: Jefferson Davis and the Final days of the Confederacy*, (Athens: University of Georgia Press, 1997), pp. 88, 119, 122, 137-141; Warner, *Generals in Gray*, pp. 72-73, 279-280.

limited finances were cared for, and this was achieved in part through the prevention of fraudulent claims. Every approved black pension application, as well as those for white soldiers and widows submitted after 1920, includes a letter from the War Department, which was placed in evidence of their service.<sup>78</sup> Both the approved, and rejected pension application files submitted at this time contain verification letters, and it seems that the board's decision was based squarely on the evidence relating to the applicant's service.<sup>79</sup> Much of Tennessee's legislation can be traced to the rhetoric of nostalgia and Lost Cause ideology, but the scheme was also used as a banner to wave in the face of the South's critics as proof that slavery was not the cause for the war.<sup>80</sup> Nevertheless, these supportive details, whether submitted by black Southerners themselves or written by veterans and/or noteworthy individuals, illustrate the applicants' wartime experience as well as provide further verification of their role within the regiment.

The line between soldier as military support staff and combatant was a fine one and was occasionally crossed in the heat of battle. While a total for those slaves and free blacks that were used as support staff in Tennessee is difficult to place, the pension application materials reveal that some of the applicants actually witnessed combat conditions. At least thirteen individuals reported battle experience, in which two had been seriously wounded, but a further fourteen applicants claimed wounds as a result of hostile fire. In addition, seventeen of Tennessee's black applicants wrote as a part of their file that they had been captured by Federal

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<sup>78</sup> Sistler, *Index to Tennessee Confederate Pension Applications, Tennessee Colored Pension Applications*, Microfilm roll 1, #1-111, and roll 2, #112-385, TSLA, Nashville, TN, Tennessee State Library and Archives, Manuscripts Division, *Notes on Record Group 3, Board of Pension Examiners*, Box 18, File no. 180, 229, 233

<sup>79</sup> *Ibid.*, throughout this research, countless hours have been spent in an attempt to discover the motivational factors for the pension board's decisions in the acceptance or refusal of an application. I have placed the process for pension application in Tennessee, under the microscope of race, white supremacy, and lost cause ideology. While I can easily show that the reasoning behind the establishment of the legislation was largely based on these factors, the application process does not fall within the same structural constraints. The process for acceptance or decline consistently relied on verification from the War Department. If the clerk in question knew that the letter was concerning a black man, because the muster sheets noted their name with a "c" for "colored," why not decline them all? It is one of the objectives of this thesis to use these questions as a means to engage in the debate on white motivational factors for the approval of black pension applications.

<sup>80</sup> Blight, *Race and Reunion*, pp. 9-10, 231, 259-260; Foster, *Ghosts of the Confederacy*, pp. 85-86.

forces, but six of these men claimed to have later escaped their captors and returned to either their own regiment, previous owner, or joined another company entirely.<sup>81</sup>

The application letter submitted by Henry Neal recalled that, “both of my young masters were killed in the battle of Shiloh while I was shot in my left leg.”<sup>82</sup> The free black musician, William Easley, of Company B, 16<sup>th</sup> Tennessee Infantry, likewise had been wounded at that battle, as was the body servant Taylor Kinnard, with a “severe wound to the arm, and the loss of his owner(s).”<sup>83</sup> An affidavit placed in the file of Henry Gore stated “I knew him before the war and have known him since the war. I know that he was with Colonel Gore during the war. He was the servant of Col. Gore, and when in battle, he would engage in the fighting.”<sup>84</sup> Ned McCullough had claimed that, “he was wounded in the Battle of Murfreesboro and again at Chattanooga, and have holes in my body even now.”<sup>85</sup> Monroe Jones had both legs shot off at the knees at Snyder’s Bluff in the Vicksburg campaign in 1863.<sup>86</sup> Ike Anderson wrote that he had been, “captured by the Federals soon after the battle of Ft. Donelson in 1862 and was shot in the leg and badly wounded by them [Federal forces].” He went on to write that, “I was

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<sup>81</sup> For example see, *Tennessee Colored Pension Applications*, Sam Kirk #125, Microfilm roll 2, and James Maney #164, Microfilm roll 2, TSLA. An examination of the muster sheets for their respective companies did not show a break in service, or notation of their status as captured. However, muster sheets for the Confederate army were filled out on a bimonthly schedule, and because these instances did not include specific dates, it is entirely possible that their capture and escape fell within this time. Parker, “Confederate Army Muster Rolls,” pp. 80-81. Concerning the other eleven applicants, their status as “captured,” and the connotation that they did not return to Confederate service when released apparently did not deny them a pension on the basis of “dishonorable” service. On the contrary, it is examples such as these that lend credence to the argument that the letters occasionally submitted by black Southerners to attest to their “loyalty” were less important than the documents relating to the applicant’s verification of service.

<sup>82</sup> Henry Neal #130, Microfilm roll 2, TSLA.

<sup>83</sup> William Easley #10, Microfilm roll 1, TSLA, Taylor Kinnard #227, Microfilm roll 2, TSLA. Verification of the wound was derived from the War Department letter, which was a part of both the Easley and Kinnard application files.

<sup>84</sup> Henry Gore #132, Microfilm roll 2, TSLA. Affidavit submitted as part of applicant’s file.

<sup>85</sup> Ned McCullough #137, Microfilm roll 2, TSLA. The battle of Murfreesboro took place from 31 December 1862 to 2 January 1863, while the battle for Chattanooga occurred from the 19<sup>th</sup> to the 20<sup>th</sup> of September 1863. McCullough was a musician with Company A, 8<sup>th</sup> Tennessee Infantry, and as listed on his service verification letter, was wounded in the “upper thigh” at Murfreesboro on 31 December. He returned to duty on 28 January 1863, and was subsequently wounded in the shoulder at Chattanooga on 20 September 1863, but there is no date or mention anywhere in his file of his return to duty.

<sup>86</sup> Monroe Jones #41, Microfilm roll 1, TSLA.

carried to Nashville Tennessee by them where I was kept till the close of the war and then released.”<sup>87</sup>

The legislation that established the pensions system for Tennessee’s black veterans carried with it strong connections to the prevailing contemporary rhetoric of white supremacy and Lost Cause ideology. In addition, every approved application held within it a verification of slave fidelity, and a reaffirmation that the causation for the war was based on economic and political factors separate from slavery. Tennessee’s black pension system ushered in a renaissance of idealism, where racial superiority was intertwined with a paternalistic benevolence towards loyal slaves. These concerns animate the language of the pension legislation.

**“I reproach myself for my inactivity:” Black Pensions in South Carolina**

The significance of the legislative efforts in Tennessee in the development of black pensions resulted in the establishment of similar state led measures concerning the care of former slaves and free blacks elsewhere in the Confederacy. Despite a wealth of pension legislation, there is a significant lack of supportive materials – minutes of the assembly, floor debates, and voting criteria – which might shed light on the reasons why state lawmakers chose to enact black pension legislation. At best, and this is especially true of South Carolina, conclusions have to be drawn from the legislative language and process, the timing and place of amendment, and from the broader context of race relations in the South. Black pension legislation provided southern legislators with a propaganda tool, and an example of how all blacks were expected to behave. The development of these laws was the result of lobbying efforts largely instigated by the United Confederate Veterans, (UCV), United Daughters of the Confederacy, (UDC), and the Sons of Confederate Veterans. In South Carolina, many veterans spoke in more moderate terms than segregationist ideologues concerning this minority of black Southerners, whose actions were remembered as having been loyal. The *Confederate Veteran* put these feelings and perceptions into words.

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<sup>87</sup> Ike Anderson #95, Microfilm roll 1, TSLA.

In December 1921, the UCV State Commander for South Carolina, James Fitz James Caldwell, stated his beliefs on the question of establishing black pensions in a speech made to the membership of the James D. Nance Camp at Newberry.<sup>88</sup> Again, this is a document worth quoting at length.

In providing for pensions to Negroes who served faithfully during the war of secession, the States of Tennessee and Mississippi have discharged a duty incumbent on every State embraced in the Confederate States of America. The other States are blameworthy for their neglect to do likewise. I reproach myself for my inactivity, for I had personal knowledge of Negroes serving with the Army of Northern Virginia who not only performed their menial tasks with fidelity, but also risked their lives for their masters or employers. One of these, a hired free Negro, insisted on accompanying me in the battle of Gettysburg; and I had, literally, to drive him back. And after I was shot down, he was the first man to come to me, and that while rifle balls were still humming around. He, however, needs no pension, for he died several years ago.

Col. M. M. Buford, of South Carolina, who served under [General Wade] Hampton, [General James Ewell Brown, or "Jeb"] Stuart, and [General Robert E.] Lee, was one of the first persons I know of to urge this provision for Negroes by articles in the newspapers. I am sorry to say that we still have it not in South Carolina. A bill providing for it was passed by our State Senate, last winter, but did not reach a vote in the House of Representatives. We are confident of the passage of the measure at the next term, which begins in January. Such pensions will cost little; for very few of those faithful servants survive. And it is a duty which we should discharge without further delay.<sup>89</sup>

Commander Caldwell, like Sumner Cunningham before him, had distilled through memory and Lost Cause ideology his views of black fidelity into a genuine concern for this particular minority of black Southerners. His speech defines and distinguishes these black Southerners from those who were used as military laborers. He implicitly berates other state legislatures for

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<sup>88</sup> James Fitz James Caldwell was a lieutenant in the 1st Regiment South Carolina Infantry or Orr's Rifles. Following the war he became active in the United Confederate Veterans, eventually becoming the state UCV commander for South Carolina. See, James Fitz James Caldwell, *The History of a Brigade of South Carolinians: First known as "Gregg's" and subsequently as "McGowan's Brigade"*, (Dayton, Ohio: Morningside Press, 1992).

<sup>89</sup> "Pensions for Faithful Negroes," *Confederate Veteran*, vol. XXX, no. 2, (February 1922), p. 77. In his speech, Caldwell is incorrect when he announces that, "A bill providing for it was passed by our State Senate, last winter, but did not reach a vote in the House of Representatives." Within the *Acts and Joint Resolutions of the General Assembly of the State of South Carolina*, for the 1866 to 1922 there is no debate or the issuance of a resolution concerning the subject of black pensions. It was not until 1 February 1923 that legislative discussion commenced on the topic of offering pensions to "faithful Negroes." This legislation passed with only one objection, and this concerned the language used not the premise or intent of the act. See, *Journal of the Senate of the General Assembly of the State of South Carolina, Being the Regular Session Beginning Tuesday, 9 January 1923*, (Columbia: Gonzales and Bryan, State Printer, 1923), pp. 204, 212, 219, 241, 735, 912; *Journal of the House of Representatives of the First Session of the 75<sup>th</sup> General Assembly of the State of South Carolina, Being the Regular Session Beginning Tuesday, 9 January 1923*, (Columbia: Gonzales and Bryan, State Printer, 1923), pp. 338, 421, 459, 916, 917, 996,

their dereliction of duty in establishing a system of pensions.<sup>90</sup> The language used to describe black Confederates had been successful in galvanizing political support and furthering lobbying efforts by state chapters of the UCV and the Daughters of the Confederacy. Now, these efforts were ignited again to produce a strong influence on state lawmakers in the development of black pension legislation.<sup>91</sup>

On 16 March 1923, the South Carolina legislature adopted, through the efforts of state Senator Alan Johnstone and other legislators, a pension measure for former slaves and free blacks who had held supportive regimental roles within the Confederate military. The legislation specified that the pension was to be inclusive of those duties “that such Negroes as were engaged for at least six months in the service of the State... as servants, cooks, and attendants on the side of the Confederacy.”<sup>92</sup> Although the bill addressed the issue of black loyalty in several places, stating at one point that their role in the military, “proved faithful throughout said war,” the law contradicted itself with the provision that black applicants had to have a minimum six-month term of military service in order to apply for a pension. However,

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<sup>90</sup> Blight, *Race and Reunion*, pp. 286, 287-288; O’Leary, *To Die For*, pp. 130-132, 134-135.

<sup>91</sup> Gaines M. Foster has written that the United Confederate Veterans prohibited the discussion of politics, but added that veterans sometimes violated the ban. However, by implication Foster argues that the UCV was not politically active as an organization. This was not so. Their public speeches, local and national meetings, and their lobbying efforts addressed political issues of importance to them such as, pensions, graves and homes. In addition many of the members of the state and general assemblies throughout the South were veterans or belonged to the Sons of Confederate Veterans, and provided at least a minority element of legislative support. Foster, *Ghosts of the Confederacy*, p 140.

<sup>92</sup> Although the bill specified the roles for which blacks were able to apply for a pension, subsequent amendment, and the discretionary powers as enacted by the office of the Comptroller General, made allowances for the list to be extended into other areas of regimental support. Governor Thomas G. McLeod signed both the 1923 and amended 1924 acts into law. Politically a Democrat, the Governor did have several relations that had fought for the Confederacy, and was himself a member of the Sons of Confederate Veterans. Senator Alan Johnstone, 1848-1929, had authored the bill. Johnstone left no papers, and in general there is little in the way of biographical material on him. Alexia Jones Helsley, State Archivist, South Carolina Department of Archives and History, interviewed by author, Columbia, SC, 6-7 April 1998; Dr. J. Tracy Power, State Archivist and Historian, South Carolina Department of Archives and History, interviewed by author, Columbia, SC, 8 April 1998; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session of 1923*, (Columbia, South Carolina: Gonzales and Bryan, State Printers, 1923), “No. 63, An Act to Provide for Pensions for Certain Faithful Negroes who were Engaged in the Service of the State in the Late War Between the States,” approved 16 March 1923, pp. 107-108; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session of 1924*, (Columbia, South Carolina: Gonzales and Bryan, State Printers, 1924), “No. 550, An Act to Amend an Act to Provide for Pensions for Certain Faithful Negroes who were Engaged in the Service of the State in the Late War Between the States.

this codicil law was imposed to address problems that had occurred during the war concerning the role of black Southerners and the conflicting legislative priorities that had plagued both state and Confederate authorities.<sup>93</sup> Planters in South Carolina resented the Confederacy's plans for military impressment and conscription, and in turn looked to the state legislature to protect "their property" against the manpower needs of the Confederacy.<sup>94</sup>

The specificity of the 1923 act lies in stark contrast to the initial 1887 pension bill, which assumed that only white veterans would apply. However, the law had unintentionally provided black Southerners, who could show they participated in Confederate service, the opportunity to use the pension system. While not specifically addressing the issue of race, legislators had in all probability assumed that the very title of the law, "An Act to Provide for the Relief of Certain Soldiers, Sailors, and Widows... of the Late War Between the States," would have been a sufficient determiner for eligibility. However, up until 1890 former slaves and free blacks who had been used as both critical combat support staff and as military laborers had believed that they were eligible to apply under the existing pension law. This suggests that this minority of black Southerners held ideas about the definition of a veteran that were broader than those used by state legislators.<sup>95</sup>

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Approved 16 March 1923, so as to Further Define Those Entitled to Said Pension," approved 8 March 1924, pp. 936-937; See also, Columbia, South Carolina, *The State*, 13 March 1923.

<sup>93</sup> *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1923*, "No. 63," p. 108

<sup>94</sup> For examples of this conflict between the states and national government during the Civil War, see, *Official Records*, series I, vol. XLIV, pp 981-984, series IV, vol. III, pp 963, 979.

<sup>95</sup> The 1887 pension law was confusing in that it made no distinction for the applicant's race, and it was this oversight that created a backlog of applications submitted by former slaves and free blacks. This flood of applicants, and the difficulty the Comptroller General's office had in handling them, at least until 1890, had much to do with the enormity of the task, and in developing mechanisms designed to deal with possible fraud. The resulting changes to the pension system included, among other things, a county board of pension examiners and an interview procedure which were enacted through the board's use of its wide ranging interpretive powers. Nowhere was race mentioned in either the 1887 or amended 1888 act, and not until 1923 would the legislation specify this issue. It is my contention that in South Carolina changes in the organization of the pension system occurred more frequently as the result of actions by the office of the Comptroller General than through legislative amendment. State Governor John P. Richardson III, 1886 to 1890, himself a Confederate veteran, had signed both the 1887 and the amended 1888 acts into law. Before the advent of this legislation, South Carolina had established a form of disability compensation for veterans in need of an artificial limb, which was enacted in 1866, and later revoked in 1909, largely due to a reallocation of funds to the pension board. The veterans pension acts and disability compensation were separate sets of laws that allowed "veterans" to make application and receive benefit from each. See, *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session of 1887*, (Columbia, South Carolina: Charles A. Calvo, Jr., State Printer, 1888), "No.

Whether the language of the bill was in itself a sufficient deterrent is not certain, but either through sheer ignorance or arrogance it seems that state authorities did not consider that black Southerners might possibly apply for a pension under the 1887 or 1888 amended act.<sup>96</sup> It is hard to determine the reasons for this legislative oversight, especially when the state's pension legislation was developed under the shadow of Jim Crow. However, from the language of the law it appears that the subject of the applicant's race was not an issue. To be sure, white legislators in South Carolina were concerned over instances of black assertiveness and through the use of the law had made certain the continued subordination of the African-American population. However, in this instance it seems that the issue of black Confederate pensioners had not occurred to lawmakers, as it was unthinkable that this minority of black Southerners would embark on such a bold move as to apply for a white pension.<sup>97</sup>

The motives for blacks who applied for a veteran's pension in the late 1880s are equally uncertain, except as a matter of economic necessity. However, there is more to this than the relieving of debt and poverty for a minority of aging former slaves and free blacks.<sup>98</sup> Concurrent pension legislation in Mississippi – which was inclusive of veterans, body servants, and regimental support staff – could also have been the impetus for some blacks to apply for the

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412, An Act to Provide for the Relief of Certain Soldiers, Sailors, and Widows of Soldiers and Sailors of the Late War Between the States," approved 24 December 1887, pp. 826-829; McCawley, *Artificial Limbs for Confederate Soldiers*, pp. 2-7, 19.

<sup>96</sup> *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1887*, "No. 412," pp. 826-829. The 1887 pension legislation for South Carolina made no reference to the race of the applicant, and this includes the amended 1888 act, nor was the subject mentioned in the Comptrollers' reports for those years. In the case of July Galluchat, for example, the only indication that he was black was that he had stated as much on the form. Not until the enactment of the 1923 legislation was the issue of the applicant's race made apparent. Although the 1923 black pension act, as with state-led efforts enacted elsewhere, adopted a parity in procedure and process, the monthly pension allocation was based on race, i.e. white veterans consistently received more per month than blacks. See, *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session of 1888*, (Columbia, South Carolina: James H. Woodrow, State Printer, 1889), "No. 14, An Act to Amend an Act Entitled An Act to Provide for the Relief of Certain Soldiers, Sailors, and Widows of Soldiers and Sailors of the Late War Between the States," approved 24 December 1888, pp. 26-31; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1923*, "No. 63," p. 108; July Galluchat #55, Microfilm role no 9, South Carolina Department of Archives and History.

<sup>97</sup> There is a rich literature on the issues of Jim Crow, segregation, and white supremacy. On the political and social uses of Jim Crow in South Carolina during the decades of the 1880s and 1890s, see, Williamson, *A Rage for Order*, pp. 96-97; Litwack, *Trouble in Mind*, pp. 218-219, 232-233, 237-238, 329-330.

<sup>98</sup> See, Gorman, "Confederate Pensions as Southern Social Welfare," pp. 24-37; Gutman, *The Black Family in Slavery and Freedom*, pp. 445-447.

perceived benefit being offered in South Carolina. This would suggest that black Southerners from different states and communities were able to share information on issues of direct importance to them, and thereby deploy this knowledge for their own advantage.<sup>99</sup> It may be that some blacks might have had a more positive perception of their role in the Confederate military, possibly equating their contribution to that of white veterans.<sup>100</sup> Under the 1887 pension act, white authorities, interested laypersons, and veterans, aided several black Southerners with the preparation of their application forms. It is through these examples that it is possible to argue that some whites, veterans in particular, held a more moderate racial view towards “their faithful Negroes,” than the southern population as a whole.<sup>101</sup>

As with matters concerning the applicant’s race, there were implementation and procedural problems endemic in the 1887 legislation, and these created difficulties in the development of the state’s pension system. Firstly, the state’s Comptroller General was

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<sup>99</sup> *Laws of the State of Mississippi, 1888*, “Chapter 12,” pp. 30-33; Blight, *Race and Reunion*, pp. 333-334.

<sup>100</sup> See, Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*, (Charlottesville: University Press of Virginia, 1995), pp. 190-191, 196-197, 200; Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery*, (New York: Alfred A. Knopf, 1979), pp. 39-45; Blight, *Race and Reunion*, p. 289; Litwack, *Trouble in Mind*, p. 193.

<sup>101</sup> One example worth mentioning is that of July Galluchat of Clarendon County, South Carolina. A slave during the war, Galluchat made an application for the “Value of an Artificial Limb” on 29 July 1882 as a result of the amputation to his leg and lower arm during the war. His affidavit stated that he had been pressed into Confederate service for work at Fort Sumter, Charleston harbor, in July 1861, and had been wounded in the leg and hand in 1863. This occurred as the “result of actions taken in its [the forts] defense,” which resulted in the amputation of both limbs. He applied for two artificial limbs under the amended 1879 act, which were approved the following month. On 26 March 1889, Galluchat made a further application for a Confederate veteran’s pension, which was also approved on 16 April 1889. There is no indication that the pension granted to him was either overturned or later revoked by the Comptroller General’s office in their reassessment of the pension system in 1890. Both applications were prepared by Joseph Galluchat, who may have been his former owner, who was at the time a partner in the law firm of, Galluchat and Hirsch, in Manning South Carolina. Until the reorganization of the pension system was completed by the office of the Comptroller General in 1890, it appears that several other black Southerners were able to apply for and receive a pension. See, Benjamin Chisolm #47, of Berkeley County, South Carolina, M. F. Wharton #114, of Abbeville County, and Andrew Richardson #189, of Richland County. These individuals were indicated on the Comptroller General’s report, but even so their pensions were not revoked. *Reports and Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session Commencing 27 November 1888*, vol. 1, (Columbia, South Carolina: James H. Woodrow, State Printer, 1889), “Report of the Pension Board for 1 November 1888,” p. 506, *Artificial Limb Applications (Act of 1879), 1880-1887*, application folder no. 73-419, and 74-420, South Carolina Department of Archives and History, Columbia, SC.; *Records of the South Carolina Comptroller General, South Carolina Confederate Pension Applications*, “South Carolina Confederate Pension Applications 1888 to 1906,” application for July Galluchat #55, Microfilm role no. 9, South Carolina Department of Archives and History, Columbia, SC.. Hereafter individuals will be noted with just the person’s name and a number indicating their place on the state pension rolls.

responsible for administering the veteran's pension system, and his office had neither the resources nor the staff to do the job. This lack of resources presented an obstacle to the standardization of policies, so that the processing and assessing of applications and the distribution of payment could be dealt with effectively. Second, the application process was loosely based on a set of procedures that assumed that all the applicants would, "as veterans of the late war, present the completed application in good faith, and on the most honorable of intentions."<sup>102</sup> As neither the 1887 nor the amended 1888 pension legislation provided for a clear procedure by which the applicant could apply, the result was that the whole system was open to fraud. At the start, veterans only had to submit their forms to the office of the Comptroller General, with the prescribed affidavits and a doctor's certificate to show proof of disability as a result of either age or military service. There was no verification procedure for screening out any possible fraudulent claims and the state board of pensions had neither the opportunity to visually ascertain the status of the applicant nor determine their race. The result was that the ambiguity of the 1887 and 1888 pension acts created a flood of applicants, which included black as well as white Southerners.<sup>103</sup>

In the state Comptroller General's report for November 1888, John S. Verner, while not detailing the nature of the frauds that had been committed, made it clear that there was a problem with bogus claims. He suggested that a possible solution lay in amending the 1887 pension act to include a "County Board, before which the applicants should be compelled to appear to be examined in reference to all matters set forth in his or her application."<sup>104</sup>

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<sup>102</sup> *Reports and Resolutions of the General Assembly of the State of South Carolina, 1888*, vol. 1, "Report of the Pension Board for 1 November 1888," pp. 427-428.

<sup>103</sup> The South Carolina legislature appropriated a sum of fifty thousand dollars for veteran's pensions in 1887, a figure that would remain until 1908. By the completion of the fiscal year, 1887-1888, 2,623 applicants had applied for a pension of which 2,025 were approved at an expenditure of \$49,688. See, *Reports and Resolutions of the General Assembly of the State of South Carolina, 1888*, vol. 1, "Report of the Pension Board for 1 November 1888," pp. 427-511; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1887*, "No. 412," pp. 826-829; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1888*, "No. 14," pp. 26-31; *Confederate Veteran*, vol. II, no. 10, (October 1894), pp. 292, *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp. 485-486

<sup>104</sup> While the Comptroller General's report for 1888 did request these changes to the law the amended act for 1888 did not impose such a change directly, and in so doing removed the implementation of the changes to the discretionary powers of the board. See, *Reports and Resolutions of the General*

However, what actually occurred was that his recommendations were implemented through the use of discretionary powers, which had been spelled out in the 1887 pension act, and liberally interpreted by Verner and/or staff from the Comptroller General's office. By 1890, most of the problems concerning the procedure and implementation of the pension act had been addressed, largely through the creation of the county board of pension examiners and the introduction of a personal interview as part of the application process. This finally confronted the possibility of fraudulent claims by a more specific screening of new applicants, which assessed their level of need as well as settling all future questions concerning race. In practice, the interview imposed criteria by which only white veterans could apply. This additional layer of state bureaucracy did not create a further burden on the state taxpayers. On the contrary, legislators saw the role of the pension board as a necessary safeguard to the treasury, as well as supplying a benefit to the veteran. The board's duties were placed under the budgetary subheading of an added job responsibility, which was now part of the offices of the Comptroller General, Secretary of State and the County Auditor, as well as volunteers who in most cases were veterans themselves. Only the state's Clerk of Pensions was to be paid, and this salary was set at one hundred dollars a month, to come out of the "Governor's Contingency Fund." Both the 1887 and amended 1888 pension acts had what could only be considered as a low level check to assess the suitability of an applicant for pension. These were ineffective in comparison to the later personal interview, which was instrumental in determining applicants' eligibility.<sup>105</sup> By 1920, and before the introduction of black pensions, the interview process had been replaced as a result of subsequent changes to the pension act, as implemented by the board of pensions, which required verification of service to be obtained from the Federal War Department.<sup>106</sup>

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*Assembly of the State of South Carolina, 1888*, vol. 1, "Report of the Pension Board for 1 November 1888," pp. 427-428.

<sup>105</sup> The 1887 and 1888 pension acts, as written, stated that an applicant for pension was to be assessed on the evidence supplied in the doctor's examination report, and further witness affidavits. See, *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1887*, "No. 412," pp. 826-829; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1888*, "No. 14," pp. 26-31.

<sup>106</sup> *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session of 1923*, (Columbia, South Carolina: Gonzales and Bryan, State Printers, 1924), "No. 152, An Act to Provide a Pension Fund for Confederate Veterans and their Widows and to Provide for

Any comparison of the 1887 and 1923 pension legislation shows that the application process, the needs of the applicant, verification requirements, payment of legal and court costs, and penalties for fraudulent claims were the same for both races. However, this parity in the development of veterans' pension schemes occurred over time, as the problems were gradually addressed. By the time blacks were able to apply for a veteran's pension under the 1923 act, previous loopholes in the law had been amended by discretionary changes made by the board of pension examiners and advances in the process of service verification.

With the advent of the 1923 black pension legislation, as with the 1887 act, many black Southerners believed that they could apply for this benefit regardless of whether their status was classified as military labor or as support staff. The law, however, was intended to recognize the efforts of those "faithful Negroes" who were in positions of regimental support during the war. In this, legislators followed the example set by Tennessee. The black pension acts amplified the ideology of the Lost Cause with beliefs in white supremacy. They sought to utilize perceptions of black loyalty as an example of white expectations about proper black behavior. Black Southerners' confusion about eligibility was again the result of ambiguous language about issues of eligibility and the meaning of the term "servant." Accordingly, the 1924 amended legislation included the restriction that only former slaves and free blacks who were residents of South Carolina and had served the state at least six months as either, "body servants or as male camp cooks on the side of the Confederacy" could apply.<sup>107</sup> This legislative change was reinforced further through a procedure of verification of regimental service, a practice long established by the board of pension examiners.

Although the amended legislation eliminated military laborers from the pension rolls, the bill also excluded black women from applying, even though during the war many had been

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the Distribution thereof," approved 26 March 1923, pp. 229-232. Section 10 of this act abolished the State Board of Pension Examiners, but continued the place and role of the board at the county level. The Comptroller General, and the Clerk of Pensions maintained their duties in overseeing and regulating the pension applications. After 1920, pension boards throughout the South, and supported through legislative amendment had taken the position that placed increased emphasis on the Federal verification of Confederate military service, confirmation that could only originate through War Department records.

hired or impressed as company cooks. In addition, some previously approved pension applicants under the 1923 bill were retroactively made ineligible. For example, Jake Gantt, of Aiken County, who served as a “day laborer” with the 4<sup>th</sup> Tennessee Infantry, was redefined as “not consistent as part of either a company or regimental structure.” Likewise, Alfred Grant, of Laurens County, South Carolina, was granted a pension under the 1923 act, but a short time later this was revoked as it was discovered that he too was a military laborer during the war.<sup>108</sup>

From 1887 until the turn of the century, South Carolina’s annual allocation for veterans and widows pensions was between fifty and one hundred thousand dollars dependent upon the year and various economic factors. However, by 1908 the legislature increased this allocation to two hundred and fifty thousand dollars (five thousand of this amount had been apparently spent annually on artificial limbs). In 1915, this figure was augmented further as the state’s pension rolls listed 4,130 veterans and 4,732 widows receiving benefit at an annual allotment of thirty-six dollars per pensioner. The total expenditure for that fiscal year was \$258,528, which takes into account those pensioners who had died during the year or had moved to another state. The details of these allocations were a part of scathing reports issued by the *Confederate Veteran*, where the states were graded on the care of their veterans and widows. The *Confederate Veteran* chided the South Carolina legislature for its lack of concern.<sup>109</sup> By contrast, the annual appropriation for pensions in 1924 was expanded to meet the increase in the

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<sup>107</sup> *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1924*, “No. 550,” pp. 936-937.

<sup>108</sup> During the war both by policy and by legislation, impressed military laborers were seen as separate from those holding a supportive regimental role. Military laborers were therefore excluded from applying for a veteran’s pension under the 1923 act. However, a loophole in the language of the legislation was discovered, and subsequently amended under the revised 1924 act by changing the word “servant” for “body servant.” Subsequent changes were also made at the county level, but this did not stop black military laborers from fraudulently obtaining a pension. For example, R. Burton Hicks, probate judge for Spartanburg County, South Carolina, wrote to the Comptroller General’s office on 17 June 1924, requesting that they strike off from the rolls Simpson Alexander, Simp Foster, Albert Gray, Darty Winn, Prince Reeder, and Dave Cunningham, “As these men were impressed into Confederate service as laborers, and were not listed on the muster sheets as either cooks, servant, or as part of another branch of service.” *Records of the South Carolina Comptroller General, South Carolina Confederate Pension Applications*, “South Carolina. Confederate Pension Applications 1919 to 1926,” Box #1111 b, South Carolina Department of Archives and History, Columbia, SC ; *Acts and Joint Resolutions of the General Assembly of the State of South Carolina, 1924*, “No. 550,” pp. 936-937.

<sup>109</sup> *Confederate Veteran*, vol. XXIII, no. 6, (June 1915), p. 255, *Confederate Veteran*, vol. XVI, no. 10, (October 1908), pp 485-486.

annual expenditure for white veterans and widows, and to accommodate the inclusion of black applicants. The Comptroller General's reports for that year placed state appropriations at \$750,000 for white pensions of which \$744,872.85 was expended, while only \$3,000 had been designated for black pensioners of which \$2,840 had was spent.<sup>110</sup> Overall the annual allotment for black pensioners throughout the life of the 1923 black pension system in South Carolina exceeded no more than twenty-five dollars annually per applicant, an amount that was to stay fixed until the last black pensioner died in 1948. In that year, the final appropriation for those blacks still in receipt of a pension had been set at seventy-five dollars of which only nine dollars had been expended.<sup>111</sup> This difference in the yearly amount allocated between white and black pensioners is typical, and reflected the way in which legislatures throughout the South wove a cultural and political philosophy of segregation and white supremacy into every aspect of public life.<sup>112</sup>

Placed within their legal context, South Carolina's black pension applications say very little and offer only the most basic of information to the researcher. Most of the attached affidavits were written by members of the local community, or by the applicant's lawyer, and these remarks tend to reflect less about shared experiences in the war than about the character of the applicant.<sup>113</sup> In many cases these authors, by their own admission, had been either too young to participate in the conflict, born after the war, or learned about the events through the stories told by older veterans. This view of the war, crafted by the memory of the veterans,

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<sup>110</sup> It is difficult to ascertain the average per capita expenditure for black pensioners because the number approved for 1924 is not known. One reason for this is that the Comptroller General's reports list white pensioners by name and county, but did not do the same for black recipients. *Reports and Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session, 1924*, (Columbia, South Carolina: State Printer, 1925), "Annual Report of the Comptroller General for 1924," pp. 342-358

<sup>111</sup> Located in the 1945 allocation for pension funds is the final record of proposed monies to be spent for black pensions. *Reports and Oral Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session 1947*, (Columbia, South Carolina: State Printers, 1947), "Annual Report of the Comptroller General for 1947," pp. 375-390; *Reports and Oral Resolutions of the General Assembly of the State of South Carolina, Passed at the Regular Session 1948*, (Columbia, South Carolina: State Printers, 1948), "Annual Report of the Comptroller General for 1948," pp. 415-421.

<sup>112</sup> See, for some examples, Litwack, *Trouble in Mind*, pp. 215-219, 256-279.

<sup>113</sup> The increased use of laypersons in support of an applicant's pension claim was due to the lack of other veterans who either resided in the same county, or were from the same regiment. This was also reflected in the make up of the pension board. Over time these areas of the system were taken over by

provided many white southerners with the ability to rationalize their own supremacist attitudes. Generally, the pension applications provide the usual information about the type of service, duties performed, and regimental designation, all of which was verifiable from the muster sheets.

Of all the applications, those written by former body servants are the most telling, as they offer information that can be used to determine the validity of their affidavits. Although the statements of the applicant's service, as described by either the claimant applicant and/or their witnesses were secondary in importance to the muster sheets and other verification documents, the affidavits do provide a descriptive element that broadens the overall picture. The state pension system was by no means a perfect one, as there are examples where applicants who had been impressed, conscripted, or hired as laborers were approved for a pension.<sup>114</sup> There are also instances where the supportive documentation relating to service had been either lost, or misplaced. Anthony Watts from Laurens County, South Carolina, served as a body servant to, Captain David W. Watts, 15<sup>th</sup> South Carolina Infantry until his death from wounds sustained at Gettysburg on 2 July 1863. Watts then apparently helped transport his owner's body home. However, during his personal interview, the notes of the board attached to his file questioned him on his activities in 1864 and 1865. His answer appears to have been that he had run away.<sup>115</sup> Zack Brown of Fairfield County, was servant to Lieutenant Robert F. Coleman

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members of the Sons of Confederate Veterans, and the Daughters of the Confederacy.

<sup>114</sup> Several of the South Carolina pension applications are of questionable approval. Louis Pou of Orangeburg County, "hailed supplies from the Livingston Mill at Beaver Creek for shipment to troops at Charleston." William Hook, also from Orangeburg, constructed breastworks at James Island, Sullivan's Island, and at "Hampton's race track near Columbia." A letter accompanying the petition of Ben P. Griffin of Pickens County mentions that Griffin was sent by his master "at the request of Governor Francis Pickens for the purpose of labor at Fort Sumter." While Henry Williams of Greenville "served with Major William Hay at Charleston, South Carolina making salt for distribution among the people of upper South Carolina." It is difficult to determine, given the available evidence, why these applications were approved, and although they do not contain a letter from the Federal government, these are the exceptions, and are not an example of what was done throughout the South. See, *Records of the South Carolina Comptroller General, South Carolina Confederate Pension Applications*, "South Carolina. Confederate Pension Applications 1919 to 1926," application for Louis Pou #P000, William Hook #H200-9338, Ben P. Griffin #9667, and Henry Williams #5762 Microfilm role no. 9, South Carolina Department of Archives and History, Columbia, SC.

<sup>115</sup> His place as a body servant is supported through the muster sheets of the 15<sup>th</sup> South Carolina Infantry. See, Anthony Watts #7350, Microfilm role no 9, South Carolina Department of Archives and History.

Company B, 7<sup>th</sup> South Carolina Infantry until Coleman was injured at the battle of Cedar Creek Virginia on 19 October 1864. Brown had apparently “stayed with him in hospital until they and the hospital were captured.” Subsequently there is no further record for Brown’s whereabouts until his return to the state after the war. Jim Hampton of Anderson County, also from the 7<sup>th</sup> South Carolina Infantry, “stayed with his master Captain [Samuel] Wilkes until he had died in battle in July 1862, and following this Hampton returned home with his body.” Wade Childs, also from Anderson, served Captain Richard Cothran in Orr’s Rifles. When Cothran was wounded at Second Manassas on 29 August 1862, Childs apparently carried the Captain from the field and to the rear of the line.<sup>116</sup> There is no follow up record as to Childs’ whereabouts for the rest of the war, but it is possible as in so many cases, that he simply ran to Union lines.

In the post-war South veterans praised those black Southerners whom they considered to have been “faithful among the faithless,” body servants, cooks, musicians, and teamsters. Former slaves and free blacks who had taken part in these areas of regimental support were extolled in memory and nostalgia by veterans who believed in the loyalty of this minority of black Southerners. One veteran put the issue of black fidelity and pension in this context, “It is nothing but simple justice to give each one due credit for services rendered their owners during the war, for the majority of them were good and faithful servants. Those who . . . attend our annual reunions, are treated with the kindest consideration, and mix and mingle with the boys in the most cordial manner, and seem to enjoy the meetings fully as much as their white comrades. Several of them yet attend such meetings, and are honorary members . . . and take seats in our convention hall”<sup>117</sup>

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<sup>116</sup> Captain Samuel Wilkes Company C, 7<sup>th</sup> South Carolina Infantry, had died at Malvern Hill Virginia, on 1 July 1862. See, Zack Brown #3680, Jim Hampton #850, and Wade Childs #734 Microfilm role no. 9, South Carolina Department of Archives and History.

<sup>117</sup> Henry W. Thomas, *History of the Doles-Cook Brigade Army of Northern Virginia, C. S. A.: Containing Muster Rolls of each Company of the Fourth, Twelfth, Twenty-first and Forty-fourth Georgia Regiments*, (Atlanta, Georgia. The Franklin Printing and Publishing Company, 1903), p 615; See also the letters of James Graham Tate, 4<sup>th</sup> Virginia Infantry, for all of 1861, and for 21 December 1862. Graham-Tate Family Papers, 9232-N, box 1, Manuscripts Division, Special Collections Department, University of Virginia Library, Charlottesville, Virginia.

## Conclusion

The object of this chapter has been to examine the subject of black pensions, and their legislative development, and to understand how this process related to veterans' memories of the Civil War and their construction of a Lost Cause ideology. Veterans' memories functioned in two distinct ways in the era of the New South. First, their nostalgic belief in black wartime loyalty made them believe that aging black veterans deserved pensions for their service.

Second, the veterans held up black wartime fidelity as an example to the younger generation of black Southerners and by extension, used racial supremacy to determine their actions towards these African-Americans. They saw them as qualitatively different from the romanticized loyal slaves and free blacks of the war years, and believed they needed to be treated differently.

White supremacists used black fidelity to enforce and impose racial stereotypes of loyalty on black Southerners overall, while using the black pension system as proof that the Civil War had little to do with slavery. The black pension system underscored the wartime legislative definition of soldier, at least on paper, and enforced this by its exclusion of military laborers, as they were seen as not equal to the role a minority of blacks held as regimental support staff.

Although legislative pension developments differed depending on the particular state and governing board, questions concerning validity were handled in similar ways through the process of verification of service and overall application.

Sumner A. Cunningham was the quintessential southerner. As a veteran he was keenly aware of the issues that were important to all veterans, but as editor of the *Confederate Veteran*, he was the embodiment of the two Souths argument. His publication provided a forum whereby veterans could reminisce about the war and its meaning. On race, Cunningham like other veterans had fused memory with Lost Cause doctrine and white supremacy into a language that paid tribute to black fidelity, while at the same time used their loyalty as an example to a new generation of African-Americans of what whites considered to be "acceptable behavior." At the turn of the century, Cunningham wrote that the historical examples of black loyalty were lessons for "young Negroes whose aspirations for social equality will ever be their calamity." He went

further to explain that this younger generation should follow the example offered by the “old-time Negro who lives in the South today faithful to white people.” However, “well intentioned” his advice may have seemed, the majority of black Southerners held a different view, as many believed that the perceptions of black loyalty as espoused by many southern whites was aimed at diverting attention from racial hatred and segregation.<sup>118</sup>

Cunningham was himself no towering intellect, but he used the magazine in such a way as to connect the nostalgia of the Lost Cause to the more predominate racial prejudices of whites. Although he did not always agree with the leadership of veterans’ organizations like the United Confederate Veterans, until his death in 1913 he was tireless in his efforts to galvanize veterans behind the pension campaign and to maximize their political influence. He assisted in veterans’ efforts to lobby state and Federal authorities to relieve their indigence and, in turn, pressured officials to provide a system of pensions for former slaves and free blacks who had been loyal during the war. Cunningham believed in the Lost Cause and understood how this ideology supported black fidelity, but he denounced racial equality, and like most veterans saw a divided black culture, one based on a strong connection to the war and the antebellum period. The other black culture was younger, and to white Southerners more militant. It was this generation of black Southerners who needed to be held in check; black loyalty would be used as the example that would vindicate the place of the veteran, and teach blacks a lesson in behavior.<sup>119</sup>

When examining the black pension materials, scholars have been cautious in both using these sources and in accepting their validity. The skepticism associated with these materials is not unwarranted, as there is a strong argument to suggest that those blacks that applied filled out the application form did so in order to gain white acceptance. However, I argue that equal emphasis must be placed on the process of verification that was imposed universally on the pension system in 1920. Although most states required application affidavits, all states based

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<sup>118</sup> Foster, *Ghosts of the Confederacy*, p. 140; *Confederate Veteran*, vol. XIII, no. 9, (September 1905), pp. 421-423; Litwack, *Trouble in Mind*, p. 196, 241-243.

<sup>119</sup> Blight, *Race and Reunion*, pp. 277-278.

approval – irrespective of race – on proof of service obtained from the federal government. Although black pragmatism did govern the decision of many slaves and free blacks to aid the Confederate war effort, coercion was the main reason behind their place in the southern military. The black pension files provide a great deal of information on the movement, duties, and role of black support staff as seen by soldiers during the war, and by veterans afterward. In a legislative sense, the black pension system extended the legal definition that had been applied to their place as support staff during the war by granting pensions only to those black Southerners who held a regimental role, while excluding those that had been impressed or conscripted as military laborers. Black support staff was a “known quantity,” verifiable through the muster sheets, which gained credence through wartime memory, whereas black military labor had none of these things. It was this supportive role that could be further defined as an example of black loyalty, and this was what appealed to white supremacists as the “proof” that the war had little to do with slavery.



## Conclusion Slaves, Free Blacks, and the Confederacy

The objective of this thesis was to examine three overlapping topics that contribute to a broader understanding of the military role and place of slaves and free blacks during the American Civil War. First, the role black Southerners held within the Confederate regimental infrastructure, second, the legislative process that defined the place of slaves and free blacks in the Confederate army as support staff and later as soldiers; and third, the further development of legislative measures designed to define them as veterans. Overall, the thesis returned to two recurring themes in the development of this work and in the emerging debate of black Confederates.<sup>1</sup> The issue and problem of slave and free black reasoning loomed large here, as did the definition of a soldier relevant to black Southerners in supportive regimental roles however there is no comprehensive answer. Although the language defining a soldier within a nineteenth century context is modern, it is placed to further the debate overall, as well as to find some common ground between scholars and laypersons alike. This thesis has largely charted new ground academically, but the conclusions it draws are based in correcting the misconceptions that have emerged over the language of black Confederates while establishing their role in the Confederate military through the use of legislative sources.

Chapters two and four examined specific examples concerning the direct involvement of black Southerners within the Confederate military. Louisiana was placed as the focus due to its large free black community. The issues related to the historical development of the regiment, and the “voluntary structure” of the companies were placed in stark contrast to the wartime coercion of slaves, and the restrictive legislation that was placed upon the free black population of the antebellum era.<sup>2</sup> Reasoning about the involvement of slaves and free blacks was addressed to varying degrees in each chapter such as the case with Louisiana’s Native Guards

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See, Ervin L. Jordan Jr., *Black Confederates and Afro-Yankees in Civil War Virginia*, (Charlottesville: University Press of Virginia, 1995), pp. xii, 216-217.

<sup>2</sup> See for example, James G. Hollandsworth, *The Louisiana Native Guards: The Black Military Experience During the Civil War*, (Baton Rouge: Louisiana State University Press, 1995); Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South*, (New York: Pantheon, 1974), pp 316-318.

and the argument over the strength of volunteerism and the part coercion played in their organization. Of course to a degree coercion played a role, both externally from the surrounding white population, as well as internally from those free blacks who had “enlisted” their own slaves.<sup>3</sup> I argue that the overarching volunteerism shown here was the result of propaganda over the potential destruction resulting from a Federal invasion and the pragmatic/economic concerns related to the protection and autonomy of their free black communities.

Chapter four concentrated on an examination of the actual experiences, and historical instances of slaves and free blacks within the Confederate military, which assisted in their definition as soldiers. The objective was to broaden the understanding of black Southerners as critical combat support staff as it applied to the definition of a Confederate soldier. In addition, particular examples were used to analyze the specific nature of where black Southerners had directly participated in military operations, as a means to show that instances of actual massed combat on the scale experienced in the Union army were rare and limited. In general, these supportive duties were recognized through military regulation, and subsequent legislation provided the necessary support from which black pensions developed.<sup>4</sup>

Chapters one and three examined the legislative process that defined the role of slaves and free blacks in the Confederate army as support staff and later as soldiers. With the start of the war conflict ensued between the individual states and the national government over the issue of defense, and priority access to state resources, mainly the white and black male residents of the states. State governments believed that the Confederate government in Richmond was concerned primarily with the operational progress of the war in the Virginia theater. States

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<sup>3</sup> See, David O Whitten, *Andrew Durnford: A Black Sugar Planter in Antebellum Louisiana*, (Natchitoches, Louisiana: Northwestern State University Press, 1981); Larry Koger, *Black Slaveowners: Free Black Slave Masters in South Carolina, 1790-1860*, (Columbia: University of South Carolina Press, 1995); Berlin, *Slaves Without Masters*, pp 272-275.

<sup>4</sup> *Journal of the Congress of the Confederate States of America, 1861-1865*, VII vol. (Washington, D.C.: Government Printing Office, 1904-1905), 1<sup>st</sup> Congress, 2<sup>nd</sup> Session, vol II, pp 45, 113, 118, 145, 152, 174, vol. V, pp. 54, 79, 141-159, 199, 250, 262, James M. Matthews, ed., *Public Laws of the Confederate States of America, Passed at the First Session of the First Congress 1862*, (Richmond: R. M. Smith, Printer to Congress, 1862), 15 April 1862, p. 29; *Official Records*, series I, vol. IV, p. 1059, series I, vol. LII, no 2, p. 301.

governments in Tennessee, South Carolina, and Louisiana were first witnesses to Union invasion, but saw little in the form of support from President Jefferson Davis. Instead, they saw the depletion of their white male population due to volunteerism, conscription, and death, and the impressment of their slave population for labor in Virginia, as well as exodus by planters and slaves alike in areas of Federal occupation. In defense of their “human resources” the states in turn used legislative powers of detail as a means to thwart national efforts at conscription and impressment.

State Governors in Tennessee and Louisiana were quick to seize the potential in using their slave and free black populations for state defense. Although the majority of whites did not seem to concur, they were first to pass legislation designed to organize black Southerners for any duty that assisted in the protection of the state. In addition, the Confederate government followed the lead taken by the states by legislatively placing slaves and free blacks in supportive roles within the regimental infrastructure. This body of legislation, examined at greater depth in chapter three, was not enacted to broaden black roles in the Confederate military, nor was it focused on defining blacks specifically as soldiers. However, this is what occurred as a result of the government’s response to the need to infuse the army with fresh “white recruits” without disturbing white sensibilities with regard to the use of black Southerners in the army. By 1865, the use of black Southerners as support would be extended to incorporate them as soldiers, and bolster the army’s shrinking ranks, but this legal development came too late, was too limited, and too shortsighted by way of slave emancipation to be of much use to the Confederacy.<sup>5</sup> In the larger context this conflict between the states and national authorities did in effect assist in the destruction of the Confederacy as a political entity as their independent, sovereign actions weakened the nation in general, and its defense in particular.

Chapter five focused on the legislative process defining slave and free black regimental roles, which was used in the post war period as a basis for subsequent legal measures designed

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<sup>5</sup> Robert F. Durden, *The Gray and the Black: The Confederate Debate on Emancipation*, (Baton Rouge Louisiana State University Press, 1972); Ira Berlin, et. al. ed., *Freedom: A Documentary History of Emancipation 1861-1867, Series II, The Black Military Experience*, (Cambridge: Cambridge

to recognize their place as soldiers through a system of veterans pensions. Here the argument centered on how memory and Lost Cause ideology of veterans and white supremacy of state legislators had developed to incorporate a minority of black Southerners into a veterans pension system, and thereby feed white beliefs of black fidelity during the war.<sup>6</sup> In addition, the chapter embarked on the introduction, and analysis of the black pension application as a relevant source, deserving of further examination.

As a source, evidence contained in the black pension application, primarily the affidavits, has been viewed with hesitation and suspicion because of the implication that the black applicant would say whatever was necessary in order to obtain a pension. In addition, white authorities would approve the pension based on that evidence as a means to tout black wartime loyalty. However, by 1920, the place of muster sheet verification of service through the United States Government provided proof of the applicant's place and role within the regimental infrastructure. With the advent of state sponsored black pension legislation in the 1920's, muster sheet verification was standard practice among the pension boards, and while the affidavits were still required to a limited degree their importance was lessened overall. I argue that the place of the black affidavits has a much broader meaning as a window into the experiences and role of black Southerners in the Confederate military.

Interwoven throughout the thesis are some broader thematic issues. Problems and questions revolved on a reevaluation of a nineteenth century definition of a soldier, and slave and free black reasoning for their role within the regimental infrastructure. The question of why a minority of black Southerners participated as support staff looms large, but of equal importance are issues related to the comparative nature of supportive personnel, and the Confederate soldier. These issues and their relevance to the role and place of slaves and free

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University Press, 1982), pp. 282-289.

<sup>6</sup> See for example, David W. Blight, *Race and Reunion: The Civil War in American Memory*, (Cambridge, Massachusetts: Harvard University Press, 2001), pp. 289-291, 298, 344; Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South*, (New York: Oxford University Press, 1987), pp. 46, 136, Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, (New York: Alfred A. Knopf, 1998), pp. 206-208.

black in supportive roles within the military cannot be emphasized enough, as it is a part of the emerging, and somewhat heated debate on the experience of black Southerners in the war.

### **The Definition of a Soldier**

Some scholars have voiced the concern that the definition of soldier, and its connection to slaves and free blacks is not the issue and the debate lies in the areas of slave and free black reasoning. Others perceive the connection between black Southerners and the definition of a soldier as central to any discussion surrounding their role within the military, as later pension legislation would rely on such qualifiers. In an article by Eric Foner, the definition of the black Confederate soldier was the underlying basis from which he argued the non-existence of black roles within the military.<sup>7</sup> Although the article did acknowledge the role of body servants, the underlining issue was that the debate lies with whether black Southerners held a combat function. I would argue that whether slaves and free blacks carried a gun, or took part in a battle is not the central issue, as it could be proven for example that body servants sent to forage for the company did carry a rifle. The conditions of war reversed many antebellum restrictions and other legal methods as blacks within the regiment had a different set of criteria and regulation that governed their activities. Combat roles, although largely anecdotal, were not the deciding factor or dividing line that determined the category of soldier in the nineteenth century context, regulations and legislation did. Examples, such as the Foner article demonstrate the need for a broader understanding of this term within the context of the war, and with relevance to the legislative developments that provided the framework that placed black Southerners in the military.

The term soldier in its modern context is inclusive of a combat role, but this terminology has become problematic when used to refer to those slaves and free blacks that worked in a supportive capacity within the Confederate military. Other terms have been recommended in the development of this thesis, each ending with a similar connotation to slaves and free blacks as combat soldiers. Enlistment is an example of one such term, but the majority

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<sup>7</sup> Eric Foner, "Rebel Yell," *The Nation*, vol. 270, no. 6, (14 February 2000), pp. 4-5.

of black Southerners did not enlist as they were conscripted, impressed, or coerced into service. Enlistment also contains implications to volunteerism and the draft. While a minority of free blacks did volunteer for military duty early in the war, black Southerners were not drafted; they were conscripted, as this was the terminology universally accepted within the legislative dicta at the start of the war. I argue that just as modern military infrastructures contain different dimensions within the army, the term soldier should not be confined to the strictest understanding of the definition. Within the Confederacy, the use of the word soldier in the language of the law and military regulation held a much broader meaning, which was inclusive of a supportive role just as it is in the language of the modern military. Critical combat support staff is a phrase utilized in this language, but in this context its use is placed to rebut this prescribed narrow definition of soldier while establishing the groundwork from which further discussion on this issue can begin. Subsequent research and understanding into the way nineteenth century field officers defined these supportive roles as soldiers is necessary before an acknowledgment of the term in its broader connotation can be accepted. This thesis is a step in that direction. However, given the contentious nature of this definition, and its use in determining the legislative structure of the pension system, some repetition is unavoidable, and so further inquiry into these issues was presented throughout the thesis.

The issue of slave and free black support staff, once separated from the presumption that this group was inclusive of military labor, has created considerable controversy and debate among historians. Military regulation and Confederate legislation provides strong evidence that black support staff were defined as soldiers, both during the war, and later with the establishment of black pension legislation, but the meaning behind the term, and its connotation to black Southerners places it within an area of contention. Although a minority of slaves and free blacks were legislatively defined as soldiers, this does not mean that they had exclusively volunteered to serve with the Confederate army, or that they were loyal to any aspect of it, as the evidence overwhelmingly shows that coercion was central to their participation.

## Slave Reasoning

There is no definitive answer that can either resolve why slaves stayed on the plantation, or why a small minority of black Southerners participated in regimental supportive roles. Coercion and threats of violence were for many slaves and free blacks the initial reason for their place in the Confederate military, but with such opportunities to runaway during the war; this thesis has shown that some black Southerners stayed in the ranks. I would argue that central to the issue, and to a degree problem, of slave and free black reasoning was pragmatism. Black Southerners took into account their surroundings and acted accordingly, if they had the opportunity to runaway the overwhelming majority took advantage of it. If some blacks believed, as did occur in 1861, in the same propaganda of the devastation that came with Federal invasion, as did many white yeomen, they took actions sensible for the time, which included the defense of their families and communities. If a small minority of black support staff stayed in the regiment because they perceived that a final Confederate victory over the Union would bring about limited autonomy, and even greater freedom these men stayed for reasons that were expressed as pragmatic.

Coercion, either by force, or in the case of some free blacks, pressure from whites within the local community to support the Confederate war effort resulted with few options for their place in a military supportive role. The most prevalent example of this occurred with the introduction of black body servants and although the antecedents for this began with the War of 1812, in 1861 enlisted personnel of all ranks were permitted to bring a long a slave or two “to attend to their masters needs.” However, by the time of the battle for Seven Pines, 31 May 1862, the use of body servants had largely become the primacy of commissioned officers, where their responsibilities could cover not only their owner, but also several individuals.

During the period 1861 to 1863, slave and free black pragmatism was exhibited, with the belief that participation in the military would provide them with improved status and rights that would be expanded with the end of the war. These beliefs among a minority of black Southerners, of rewarding “loyal service,” with increased rights ended with the realization that

the South would not obtain its independence. One of the side effects in this new realization of inevitable Confederate failure was an increase of white desertions, and black runaways as witnessed in official reports and communications. With the postwar development of black pension systems in the South, white veterans, whose memories of the war were clouded in an ideology of the “lost cause,” embraced concepts of black loyalty as a confirmation that blacks in general supported the war. Some veterans like Sumner A. Cunningham, editor of the *Confederate Veteran Magazine*, and their second-generation sons, saw this loyalty as a visual message to other black Southerners that this was an example of the behavior that was expected in the “New South.” Although documentation, in the form of legislative minutes, is scarce, it can be surmised that much of the impetus behind the establishment of black pensions, by white legislators is in part a means to reinforce this “message.”

The focus of this thesis was to analyze three interrelated aspects of black involvement in the Confederate war effort: the nature of slave and free black involvement in the military; the legislative process that shaped their role as soldiers; and the campaign to recognize their role as veterans through the provision of state pensions. While building upon, and critically engaging with, the existing scholarly literature on slave and free black participation within the Confederate army, this thesis breaks new ground by contributing to our knowledge and understanding of scale, extent, and precise nature of this participation in the military.

Overall, the thesis contributes to the broader legislative history of black Southerners in the period between the antebellum era and reconstruction period. New light is shed on the nature and process of black impressment through a detailed examination of Confederate conscription policy, and placing this evolving policy within the context of the fraught political relationship between the states and the central government. Finally, the thesis charts new scholarly territory in its illumination of the deteriorating conditions of the South’s free black community during the war.



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