

limits of the Constitution; I imagine the people of this State will submit to it, so great is their regard for law, but, if it be adjudged on the contrary to be in violation of that instrument and revolutionary in itself, it will be resisted." He earnestly advised the President that should it become a law he, President Davis, would "be ohary of exercising the powers" with which it would invest him, and suggested that for a while, at least, he would simply try "holding this power over the heads of the discontented men" for the "moral effect" it would produce. He revealed the fact that there was a dangerous movement in North Carolina for a convention and that there were good conservative citizens at work against it. He, himself, he said, "expected to take the field as soon as the proprieties of my position will allow me, and shall exert every effort to restrain the revolutionary tendency of public opinion." He believed that the revolutionary tendency would be checked if "civil law remains intact and people are left untouched by the arm of military violence," but, he feared, "to trust the issue now to these potent weapons in the hands of such men as will wield them next summer." He expressed the belief that the loyalty of North Carolina had been suspected by the Government (the President in particular) "because of the reluctance with which they gave up the old Union." He felt that this "was clearly shown by the exclusion of the anti-secessionists from all the more important offices of the Government - even from these promotions in the Army which many of them had won with

their blood."⁵⁹ He insisted that there were no people on earth more "amenable to reason and regardful of their plighted honor" than the people of North Carolina, but that they must be ruled by reason and not by force. He wrote all this, he said, because he felt it was his duty "to warn the Confederate Government that it was doing a dangerous thing to suspend the writ" in his state.⁶⁰ President Davis's reply to Governor Vance was very tactful, but very firm. He expressed regret that Governor Vance had brought charges against his official conduct which could not be sustained by proof. He assured the governor that arbitrary measures were not congenial to his nature, but that he felt he would be "derelict in his duties" if he did not use them "when the public safety demanded their employment," and he expressed confidence in the "support of the mass of good people of North Carolina" should necessity require the suspension of the writ. Mr. Davis emphatically denied the charge that either he or the Confederate Government had looked with suspicion upon North Carolina and assured Governor Vance that, on the contrary, he did not hold "ought but respect and admiration for the people of North Carolina and her gallant sons who have on the battle fields of this war won for her so glorious a name." However he told the governor

59. Governor Vance went to Richmond in March, 1864, and succeeded in getting the President to appoint some of his friends as brigadiers. Jones Diary, v. 2, p. 176

60. D. R., I, v. 51, pt. 2, pp. 818-820

in no uncertain terms that he did "suspect a knot of traitors who have been conspiring at home while the mass of the state's true sons were at their posts of duty in the army."⁶¹ The quarrel dragged on for some time⁶² and widened the breach between the State and Confederate Government which was disastrous to the cause. The legislative and judicial departments of the state government and the press all came to the support of the governor. As if to smooth the troubled waters, Secretary Seaton urged Bragg "not to detain any in North Carolina in custody against whom there was no valid cause for arrest or detention,"⁶³ but this clemency on the part of the Confederate Government fell on deaf ears. Without heeding any conciliatory moves on the part of the Confederate Government, Governor Vance continued his opposition. He soon prevailed upon the legislature to join in opposing the act, and that body passed resolutions condemning the act. It claimed that the law violated all the principles of liberty and freedom and that "instead of a democracy of free and sovereign states, we have established a most powerful military despotism." To protect its people against any military regime, the legislature finally passed a law making it compulsory for the judges to issue the writ of habeas corpus.⁶⁴ Even before the legislature took this last step, Judge Pearson questioned the "constitutionality of so

61. Ibid, pp. 824-827

62. Ibid, pp. 830-833

63. O. R., IV, v. 3, p. 268

64. Owsley, State Rights in the Confederacy, p. 181

much of the habeas corpus act as suspends the writ in cases of attempts to avoid military service by suing out the writ."⁶⁵ Now that the courts were supported by the legislature of North Carolina, conscripts, deserters, and principals of substitutes sought an asylum under its wings, and Judge Pearson released them all if he could find even a shadow of excuse for so doing. At this point the Secretary of War appealed to Governor Vance to help remedy the evils growing out of the decisions of the Courts of North Carolina. He pointed out that, according to General Lee, desertions were more frequent among North Carolina troops than any others and that the cause was "the impression very generally prevailing, and, perhaps, by designing persons disseminated among the troops from your State, that, by the decision of your highest judicial authorities, the conscript law has been held unconstitutional, and that they cannot justly or legally be detained in service. They think they have only to come within the jurisdiction of your courts to be permanently exonerated from the perils and hardships of military life."⁶⁶ Instead of giving the help which was requested, Governor Vance wrote that the idea that North Carolina had more deserters than any other State was born of political prejudice . . . and a too ready disposition to believe evil of the State." He explained that "heavy penalties . . . are annexed to the refusal of a judge to grant the writ of habeas

65. Ibid, pp. 213, 214. Both other judges of the Supreme Court of North Carolina refused writs of habeas corpus after the passage of the law. Ibid, p. 201

66. O. R., I, v. 51, pt. 2, p. 714

corpus and an upright judge must deliver the law as he conceives it to be, whether it should happen to comport with the conceived notions of military authorities or not. He emphatically asserted that instead of "aiding in restraining or controlling that branch of the Government" that it was his firm determination to sustain the judicial authorities of the land, and the rights and privileges of the citizens to the utmost of his power. As if to close the matter and settle once and for all the rights of the State, he pointed out that "no appeal lies from the Supreme Court of a State to that of the Confederate States, and the decisions of the Supreme Court of North Carolina when formally rendered will be binding upon all parties."⁶⁷ The Bureau of Conscription ordered its enrolling officers to ignore Judge Pearson. This brought forth the threat from Governor Vance "that the result will be a direct and unavoidable collision of State and Confederate authorities." He warned the Secretary of War that if the process of the court is resisted, "I am forced by my oath of office to summon the military power of the State to enforce it."⁶⁸ In answer to this threat, Secretary Seddon wrote: "It cannot be presumed that any judge will be guilty of the judicial usurpation of disregarding an attempt to enforce the writ but should such assumption be practiced . . . it would be the plain duty of the President to see to the due enforcement of

67. Ibid., p. 715

68. O. R., IV, v. 3, p. 176

the laws and the protection of Confederate officers acting in uniformity to them."⁶⁹ This firm stand taken by the Confederate Government seems to have silenced Governor Vance because after that there seems to have been no sharp conflict in North Carolina between the Courts and the Confederate officers.⁷⁰

While the controversy was being waged between the State of North Carolina and the Confederate Government, the press of that state was doing all it could to create a spirit of dissention. The list of those exempted through the courts appeared in the press columns and anti-war propaganda seemed the order of the day. A native North Carolinian expressed the belief that Holden in the Raleigh Standard, by encouraging desertion and every possible form of disloyalty to the Confederacy, probably did as much as Grant or Sherman to defeat Southern independence.⁷¹

The most well-organized and far-reaching opposition to the suspension of the writ of habeas corpus came from Georgia. Vice-President Stephens, who was perhaps the most disgruntled person in the country because of his lack of power, had consistently opposed the Acts of Congress and had used his personal enmity toward the President to create political strife throughout the Confederacy, but especially in Georgia. He violently opposed

69. Ibid., p. 198

70. Benjamin H. Hill in a letter to Vice-President Stephens said that "I see Governor Vance has announced his determination to submit to the act." Toombs, Stephens, Cobb Correspondence, p. 637

71. Blackmall, "Why the South Lost," Confederate Veteran, March, 1917, v. 25, p. 118

the suspension of the writ of habeas corpus in 1862, and used this to point out evidences of absolute military despotism "creeping out from Richmond."⁷² Subsequent acts passed by Congress since that time convinced him that the President's "whole policy on the organization and discipline of the Army is perfectly consistent with the hypothesis that he is aiming at absolute power."⁷³ While the law suspending the writ was pending, he planned to overthrow the entire administration in order to protect the people's liberties. His brother Linton, and his friends, General Toombs and Governor Brown, were to be used to help him and they had been in constant correspondence about it. On February 13, 1864, Governor Brown wrote to Stephens asking the Vice-President to meet him at his brother Linton's "where we can compare notes on the subject of which we have lately corresponded." He expected to call the legislature together early in March and he was "anxious to have the benefit of his suggestions" in his message to that body since he wanted to "act with caution and prudence."⁷⁴ On February 20, Stephens wrote Brown that he would meet him on the Thursday following. Stephens confessed that he contemplated "with horror the suspension of the habeas corpus" and felt that "every state in the Confederacy should denounce and

72. Owsley, State Rights in the Confederacy, pp. 184, 185

73. O. R., IV, v. 3, p. 280

74. Toombs, Stephens, Cobb Correspondence, p. 633

condemn the wicked act."⁷⁵ Between this time and the meeting of the legislature on March 10, all their plans were made, the messages all written, and the aid of Senator Benjamin H. Hill solicited. The message which Brown delivered "was full of hatred of the administration and hostility to the entire Confederate policy, with particular emphasis upon the military despotism portended by the late act suspending the writ of habeas corpus."⁷⁶ When Senator Hill received a copy of the governor's message, he wrote Vice-President Stephens: "I know I must thank you for it. The whole country will owe you an everlasting debt for it. Governor Brown can never pay you in kind for the great benefit you have bestowed upon him. You have given him a grandeur of conception, an enlargement of views, and a perspicuity and power of style to which he never could have reached. His only trouble can be the footprints are too plain not to be recognized." Mr. Stephens did not get the full support from Hill which he had desired, especially in regard to the suspension of the writ of habeas corpus which, Mr. Hill said, "I can plainly see is your work." Mr. Hill agreed to the legal principles announced by Mr. Stephens and said that he would "never agree that the military, as such from the commander-in-chief down can take charge of and control the citizen. Civilians must be governed

75. *Ibid.*, p. 633

76. Owsley, State Rights in the Confederacy, p. 186

and governed only by civil tribunals. But to a certain extent and for proper cases, I think the public safety did demand the suspension of this writ." He believed that there were some in and some out of the army who were interfering who should be "arrested by military order, held without warrant, and tried without a jury."⁷⁷

Immediately following Governor Brown's message, Linton Stephens introduced his famous resolutions setting forth the belief "that all seizures of the persons of the people by any officer of the Confederate Government without warrant . . . are unreasonable and unconstitutional," and "that the recent act of Congress to suspend the privileges of the writ of habeas corpus in cases of arrest ordered by the President . . . is a dangerous assault upon the constitutional power of the courts and upon the liberty of the people, and beyond the powers of any possible necessity to justify it."⁷⁸ This was followed up on March 16, by a long impassioned speech delivered by Vice-President Stephens, himself, in which he claimed that such procedure as that in suspending habeas corpus proceedings was "not only unwise, impolitic, and unconstitutional, but was exceedingly dangerous to public

77. Toombs, Stephens, Cobb Correspondence, pp. 634-637. Mr. Hill pointed out that the difference between them was that he had confidence in Mr. Davis. He said, "I have not agreed with him in many things, but I think his heart is right and that nothing could tempt him to be a dictator." Ibid.

78. O. R., IV, v. 3, pp. 234, 235

79. Ibid., April 15, 1864

80. James Pierz, p. 2, p. 127. Mr. Pierz comments, "If we gain our independence this speech will ruin Mr. Stephens, if we do not, it may save his and his friends."

safety."⁷⁹ The conceit law, he claimed, put all men between seventeen and fifty directly under the President's control; then the habeas corpus law conferred on him "the power to order the arrest and imprisonment of any man, woman, and child in the Confederacy on a bare charge, unsupported by oath, of any Act for which arrests are allowed to be made. Could the whole country be more completely under the power and control of one man? . . . Coming events often cast their shadows before. Could art or ingenuity have devised a shorter or surer cut to that end than the whole policy adopted by the last Congress?"⁸⁰ He went so far as to say that independence without liberty was of no value to him, and if he must have a master he cared not whether he were Northern or Southern.⁸¹ Hon. H. V. Johnson, in a letter to Vice-President Stephens upheld the authority of Congress to suspend the writ and denied the accusation that it was an attempt to confer upon the President absolute power. He expressed the belief that Stephens was responsible for the resolutions of the Georgia legislature and that he was prompted throughout by his "personal antipathy" to the President. Mr. Stephens replied that he had no antipathy to Mr. Davis, nor was he hostile to him. However, because of the President's recent actions he was beginning to "doubt his good intentions"; certainly he had awakened his "suspicion and watchful jealousy." Mr. Stephen insisted: "My

79. The entire speech is printed in the Whig of April 15, 1864

80. Whig, April 15, 1864

81. Jones Diary, v. 2, p. 187. Mr. Jones comments, "If we gain our independence this speech will ruin Mr. Stephens; if we do not, it may save him and his friends."

hostility and wrath (and I have enough of it to burst ten thousand bottles) is not against him, or any man or men, but against the thing; the measures and the policy which I see is leading us to despotism.⁸²

Governor Brown's speech and his action in convening the legislature in extra session was denounced by General Anderson and his entire brigade. But Governor Brown seemed to thrive on controversies and replied to Anderson in language such as only he could use. "Whatever," he said, "may be the opinion of those officers who managed this meeting over which you presided, I venture to say not one private soldier in ten in your brigade believes it is the right of Congress to suspend the privilege of the writ of habeas corpus and authorize the President to arrest people and send them in irons to the islands or dungeons of other States and confine them at pleasure . . . This is not the constitutional liberty which so many Georgians have died to defend." He concluded his letter to General Anderson by begging him to assure the men under his command that he should continue to do everything in his power to protect and defend the great principles of constitutional and personal liberty for which they were fighting.⁸³

Very convincing evidence that Stephens, Brown, and Toombs were trying to effect an overthrow of the administration is

82. O. R., IV, v. 3, pp. 278-281

83. Ibid., pp. 372-375

proved by the fact that Governor Brown sent copies of his message and of the resolutions to the captain of each company in the Georgia regiments that he could reach, and a copy to the clerk of the court of every county in the Confederacy within their lines.⁸⁴ Governor Brown also wrote Stephens that he was having his speech printed in pamphlets at private expense - part of which he himself would bear - and he was going to have them distributed to the army "by sending them to a Lieut. of each company, as I sent my message to the captain of each. If the captain is against us and does not let the company have the one, the Lieutenant may let them have the other." Since Brown had sent his speech to the clerk of each county, he planned to send Stephens's speech to the sheriff of each county in the Confederacy that could be reached.⁸⁵

The effect of such well organized opposition was so very far reaching that Congress attempted to repeal the law of February 15, 1864.⁸⁶ On May 14, 1864, the House passed resolutions requesting the President to inform them whether the reasons for suspending the writ still existed, and to give additional reasons why the public safety required the continuance of the suspension. The President advised the House that the original reasons given still existed in "undiminished force" and that the present

84. Toombs, Stephens, Cobb Correspondence, p. 639, 640

85. Ibid., pp. 640, 641

86. Journal of the Confederate Congress, v. 7, pp. 101-111

junction especially required the suspension. He explained that the increased efficiency of the military preparations which enabled the armies to beat back the invading forces was entirely due to the law, and that in his judgment "it would be perilous, if not calamitous to discontinue the suspension" while the armies of the enemy pressed them on all sides. The President further explained that the effect of the law "in restraining those engaged in treasonable practices with the enemy and in preventing the abuse of the writ for the purpose of avoiding military service by men whose plain duty it is to defend our country could hardly be overestimated." He was convinced that "if those who have expressed dissatisfaction with the law had been in possession of the information which he was going to communicate to the House that they would fully have approved the exercise of the power suspending the writ."⁸⁷ Because of the influence of this information, Congress was not able to get enough votes to override the President's veto, but when the law expired in August, that body refused to pass another law in its place.

Nothing could have been more calamitous than the failure of Congress to cooperate with the President. The nation wide propaganda dispersed throughout the army by Brown and his followers, the opposition of the press, and the failure of Congress to suspend the writ made it impossible for the Bureau of Conscription

⁸⁷. O. R., IV, v. 3, pp. 429-430

to enroll new recruits for the army and led to wholesale desertions from the army whose thinning ranks could not stand any such strain. All a conscript or deserter had to do was to appeal to the courts and he would be dismissed immediately. Some of the judges of Virginia, particularly Judge Meredith and Judge Thomas, became as defiant of Confederate authority as Judge Pearson of North Carolina, and possibly dismissed just as many men from service as that recalcitrant judge had done. Lieutenant-Colonel Walker complained to General Lee that one, Vaden, claimed discharge from the army because he had been elected justice of the peace, and that Judge Meredith had issued a writ of habeas corpus and discharged him. Colonel Taylor believed that if this practice should continue, plenty of able-bodied men would be elected magistrates and thus get out of service. "with enrolling officers to exempt and detail and judges to discharge," wrote Col. Taylor, "we are in a sad way."⁸⁸ As a result of the information given by Gen. Taylor, General Lee wrote to the Secretary of War on September 10, 1864:

The drain upon the strength of the Army by the exemption of civil officers, postmasters, clerks, and mail-carriers, added to the details made for other purposes is more than I can bear. I suppose there is no remedy for this particular case but a reversal of the decision of Judge Meredith, or if that failed, a change of the law. If that be necessary, I trust you will bring it to the attention of Congress at its meeting. A large number of able-bodied men are taken from the Army or kept out as mail contractors. In many instances these contracts are made for the sole purpose of evading service in the Army. The case of one,

88. O. R., IV, v. 3, p. 660

Leftwich, of Richmond, has been reported to me as a flagrant instance of this kind. He has a contract to convey the mails on an unimportant route in Alabama. He resides in Richmond, where he is carrying on his business and has never seen his route as I am informed. Yet the court has discharged him.⁸⁹

Later in September General Early wrote the Secretary of War:

If the writ of habeas corpus is not suspended immediately, Judge Thompson will discharge all my recruits. Please send counsel to Staunton to attend cases and carry them to the Court of Appeals or remove them to the Confederate Courts.⁹⁰

Just how much damage was done by the courts and other opposing forces in discharging conscripts and encouraging desertions would be very hard to estimate, but certainly it must have been very great, for all during the fall, desertions increased with alarming frequency. General Pemberton, it was said, proclaimed "a thirty day furlough to all his paroled army - a virtue of necessity as they had all gone to their homes without leave." From General Lee's army, it was reported that within two weeks, more than a thousand deserters from North Carolina regiments had crossed the James River at one place.⁹¹ This seems substantiated by a report from General Lee which stated that there was "an alarming frequency of desertions from the Army, as many as fifty-six from one corps alone in three days," and by a report from General Grant to Secretary Stanton, which is as follows:

Deserters from the enemy are on the increase. Ninety-one arrived in the last twenty-four hours and their testimony is that

89. Ibid, pp. 660, 661

90. O. R., I, v. 43, pt. 2, p. 924

91. Jones Diary, v. 2, pp. 3, 4

more go home than come within our lines. Twenty-seven came with their arms from one company alone and they say an entire company will come over tonight.⁹²

Mr. Stiles claims that "the drifting away began in August, when one hundred and fifty were reported to have gone over to the enemy, one hundred and eighty in September, one hundred and seventy-one in October, three hundred in November, and four hundred in December. After the holidays, the rush season set in an earnest when they departed in the following numbers: forty-five, fifty-four, fifty-seven, seventy-four, seventy-six, seventy-nine, ninety-one, one hundred and fourteen and finally one hundred and seventy-two, the greatest number reported in any twenty-four hours. The greatest number of these felt that they could never take up arms against their comrades but to their everlasting shame at least one thousand of these renegades were formed into a regiment called the First United States Volunteers. Grant had them sent to the Northwest Department to fight Indians under John Pope, who had been sent to Minnesota to cool off after the Second Manassas Campaign." General Grant did not have any confidence in these men for he wrote of them:

While there are some good men among these Rebel deserters, there are many desperate characters, who do not hesitate at the commission of any crime or outrage and desert whenever they have a chance. I have now between two hundred and three hundred here, and it requires about an equal number of good men to guard and keep them in order. Many are out-spoken traitors who do not

92. Stiles, "Disintegration of Lee's Army," Confederate Veteran, Dec. 1916, v. 24, p. 556

attempt to conceal their sentiments.⁹³

During December, 1864, General Lee became so very much disturbed that he wrote President Davis:

Desertion is increasing notwithstanding all my efforts to stop it. I think a rigid execution of the law is mercy in the end. The great want in our army is firm discipline.⁹⁴

The President seemed rather incensed over this criticism from General Lee and sent this rather curt reply: "When deserters are arrested, they should be tried, and if the sentences are remitted, that is not a proper subject for the criticism of a military commander."⁹⁵

With the military authorities unable to control desertions, with a state of anarchy existing in many parts of the Confederacy where there was no civil law, with governors and state legislatures exempting whomsoever they pleased as state officers, and with the courts exempting conscripts and releasing deserters, "it is not a mere coincidence," says Mr. Owsley, "that in 1863 - when there was no law to suspend the writ, was the turning of the tide against the Confederacy; and that after August 1, 1864, when the last act suspending the writ had expired, the fortunes of the South never rose again."⁹⁶

Besides the troubles in organizing an efficient army occasioned

93. Ibid, p. 556

94. Jones Diary, v. 2, p. 343

95. Ibid, p. 344

96. Owsley, State Rights in the Confederacy, p. 202

by the opposition to conscription and the failure to suspend the writ, another serious obstacle - that of exemptions - presented itself to the Confederacy. Just as soon as the law allowed those engaged in public service to be exempted, immediately a great demand for details was called for. Colonel Preston complained that:

The various bureaus of Government ask over 12,000 able-bodied men. The railroads ask at least one brigade, beyond the allowance of exempts. The express companies demand nearly a regiment, and State authorities fully 10,000. Wherever a contract is made with the Government in which a large profit is provided, the government is immediately called upon to do the work for which it pays. Thus a railroad, an express, telegraph, or manufacturing company, contracts with the Government and lays its profits; it then asks the Government to detail from the Army or abstain from the military use of all the labor necessary to fulfill the contract. The evil is an enormous one. The authority of this Bureau is not competent to the remedy.⁹⁷

Since only necessary exemptions were allowed, the allegation of public necessity accompanied each request.

The farmers and industrialists were just as quick to put in their bids for exemption as other classes. All those who had any chance of being exempted at once put in their claims. Those who could not claim to be landed proprietors, skilled, artisans, or experts, thought that they might come in under the class of "indispensables," and put in a petition for exemption as soon as they enrolled. Even if their claims were not approved,

97. O. R., IV, v. 3, p. 358

98. O. R., IV, v. 3, pp. 180, 240

99. 1864, 23, 200, 201

it certainly delayed their being sent into the army as they were allowed to remain at home until the applications were sent forward and returned. In case any original application for detail was not approved, and a conscript was sent to the camp of instruction, he returned in a few days to stay at home until his appeal to Richmond could be heard from.⁹⁸ The endless red tape through which each application had to go, and the inability of the Bureau to attend promptly to this great mass of petitions (many of which were improper) resulted in many conscripts staying at home many months when they should have been in service in the field. Superintendent Preston complained that the needless complexity of the machinery of the system of conscription rendered it "cumbersome and dilatory in the transaction of business." He observed that "when cases are gotten into this routine it seems to be the hardest of all possible things to get the men into the army, for while the cases are dragging their slow length along, the applicants often change their residence or occupation, or somehow their status, or appear to be buried beneath the accumulated office matter."⁹⁹ The War Department attempted to remedy this evil of delay by issuing a circular which refused furloughs to applicants while their applications were pending. Under the new ruling all applicants were to be promptly forwarded to the camps of instructions and at once assigned to commands in the field. If

98. O. R., IV, v. 3, pp. 539, 540

99. Ibid, pp. 860, 861

their applications were approved, then they were to be released from service.¹⁰⁰ Mr. Preston believed that the efforts to guard against delay created more serious evils than had already been created, because manufacturing plants were shut up, mills were stopped, and the capacity of railroads for transportation was limited.¹⁰¹ This necessitated the reintroduction of the old system with some slight change. Under a second ruling, applications for detail were to be sent from the local enrolling officer to the district enrolling officer. If the officer approved the application he could grant the applicant a furlough for sixty days.¹⁰²

The evils of dishonesty which existed under the old system still existed under the new. Many of those who could not find a legal cause for detail or exemption attempted to escape service by illegal means. Bribery was the order of the day and seemed to have found its way even into the offices of the Confederate authorities. Many, because of the money they could receive or their willingness to protect their friends, exempted from the service those who should have been in the ranks. Inspector Walker claimed that there were many healthy young men in his section, but that he could not send them to the army because every time he approached a detail, in every appearance sound,

100. Ibid, p. 534

101. Ibid, p. 732

102. Ibid, p. 578

he thrust into his face a certificate of disability. "The disease," he said, "is occult, the name scarcely known to me. He looks strong enough to brain an ox with his knuckle and eat him afterward."¹⁰³ Mr. Walker claimed that the number of skulkers under detail was very large and that every post was filled with them.

As a whole the small farmer did his share in filling the ranks. Colonel Preston believed that this class had been drained of men to the point that the country could not safely spare more than a very small additional draft. In fact, he believed that the cause would be strengthened if more laborers were added to this group. However, what was said of the small farmer could by no means be said of the landed gentry. Among the large land-owners there was a great deal of opposition to the government. General Lee complained that in Louisa County a young man who was the son of wealthy parents had received a contract to carry mail from an obscure post-office, and that he had thereupon been exempted from service. This same young man then stayed at home and had someone else carry the mail for him.¹⁰⁴ In September, 1864, over 100,000 landed proprietors and most of the slave owners were then out of the ranks as a result of the

103. Ibid, p. 977 (Mr. Walker expressed the opinion that there had been great improvement in the medical department in the two years and that the medical profession was as free from corruption as any other group.)

104. Ibid, p. 661

pernicious policy of partiality and exclusiveness which recognized distinction in ranks. It was feared that the practice of the higher classes staying at home, of the farmers of certain counties making fortunes by speculation, and of the poor being thrust into the trenches would result in having an army that would not fight.¹⁰⁵

By the fall of 1864, it was very evident that the system of exemptions and details had failed to accomplish the good which had been anticipated and that it needed complete revision. General Preston in a letter to the President took occasion "to reiterate upon the basis of thirty month's experience that for the uniform, impartial, and thoroughly efficient administration of conscription," that all exemptions by classes should be absolutely abolished, and that conscription should be made independent of the regular military authorities, and the President authorized to assign to the service such officers as he might select, or to appoint for this special duty from civil life, either with rank or salary, such persons as he might select.¹⁰⁶ General Lee in a letter to General Bragg said: "As the system of exemptions and

105. Jones' *Diary*, v. 2, p. 281 (General Lee also asked the Secretary of War to direct an enquiry into alleged charges that the bureaus were getting able-bodied men details that should be in the army. He complained that rich young men were elected magistrates just to avoid service in the field. Jones looked for other and more disastrous defects unless the wealthy class was put in the ranks.) Ibid, pp. 281, 288

106. O. R., IV, v. 3, p. 864

details is now conducted, I do not expect any material increase of our strength." General Lee had been informed by General Kemper so he wrote, that in Virginia alone there were no less than forty thousand exempts, details, and applications for details yet undecided, and he expressed the opinion that the greater part of the applicants had furloughs. He urged that something should be done at once as there was urgent need in the field for every able-bodied young man in the Confederacy.¹⁰⁷ One patriot felt that the way to put in the field all the able-bodied men that General Lee was asking for was to popularize the army and to reinspire the enthusiasm that had characterized it at the beginning. He believed that the only way this could be done was to restore to the ranks the wealthy and educated classes which had abandoned the field for easier employment. "The indigent men of the South" he said, "will fight shoulder to shoulder with the wealthy for Southern independence; but when the attempt is made to debase them to a servile condition, they will hesitate."¹⁰⁸

As a result of the general discontent throughout the Confederacy and the dire need for many more men in the army before the spring campaign would begin, President Davis in his message to Congress on November 7, 1864, asked for some rather drastic legislation. He urgently requested the abolition of class exemption and the extension of the system of Executive details. He

107. Freeman, Lee's Dispatches, p. 298

108. Jones' Diary, v. 2, p. 43

argued that the exemption from military service then accorded by law to all persons engaged in certain specified pursuits or professions was shown by experience to be unwise and that it was not defensible in theory. Mr. Davis felt that the "defense of the country was the political duty of every member of society" and that in a government where all enjoyed the same rights and privileges "nothing could be more invidious than an unequal distribution of obligations and duties." He did not believe that any person by virtue of his pursuit or position should be exempted unless his services were "more useful to the defense of his country in another sphere." All classes mentioned in the laws could not "in the nature of things be equally necessary in their several professions nor distributed throughout the country in such proportions that only the exact numbers required" were found in any locality. Nor did he think it could be "everywhere possible to replace those within the conscript age by men older and less capable of active field service." Mr. Davis strongly advocated that exemption from service of entire classes should be wholly abandoned because it offered great facility for abuses, afforded the temptation as well as the ready means of escaping service by fraudulent devices, and was one of the principal obstructions to the efficient operation of the conscript laws.¹⁰⁹ When the Congress settled down at once to the consideration of the

109. O. R., IV, v. 3, p. 796

110. *Journal of the Continental Congress*, v. 4, p. 308

proposals made by the President in his message, but not until March 11, 1865, did a law pass relating to exemptions and details. This belated law did lessen the number of each, but it practically revoked all details previously made by the President and the Secretary of War and put exemptions back on the old bases.¹¹⁰ The President at once vetoed the bill because he said, "The act contains two provisions which would in practice so impair the efficiency of the service as to counterbalance if not outweigh the advantages that would result from the other clauses contained in it." Since many of the details and exemptions were used for local defense, he believed that should all skilled artisans and mechanics in the employment of the government be exempted from all military service, it would be necessary to detach many troops from the armies in the field to guard the towns and workshops where they were employed. President Davis felt that an evil even greater than the first would result if all the details and exemptions heretofore granted by him and the Secretary of War should be revoked, and if they were prohibited from granting thereafter any further details and exemptions. There is little hazard in saying that such a provision could not be executed without so discouraging the public service as to produce very injurious results. The President felt that it would throw the whole machinery of government into confusion to withdraw the experts at once from public service throughout the whole country.

110. Journal of the Confederate Congress, v. 4, p. 686

especially since their duties could not be performed except by men instructed and trained for those positions. He assured Congress that it was "the desire of the Executive and the Secretary of War to obtain for the Army the services of every man available for the public defense" and "that nothing but imperative public necessity could induce the exercise of any discretion vested in them to retain men out of the army." He concluded by expressing the earnest hope that Congress would amend the bill to eliminate the objections which he had pointed out.¹¹¹ In a later message to Congress, President Davis again reiterated that even though his recommendation to abolish all class exemptions had not met with approval, he still deemed it a valuable and important measure. He believed that "a law of a few lines repealing all class exemptions would not only strengthen the forces in the field, but be still more beneficial by abating the natural discontent and jealousy created in the Army by the existence of classes privileged by law to remain in places of safety while their fellow-citizens were exposed in the trenches and the field."¹¹²

The vetoed exemption bill went back to Congress and was turned over to the Committee on Military Affairs. On March 17, 1865, the House Committee reported the following:

111. O. R., IV, v. 3, pp. 1128, 1129

112. Ibid, pp. 1131-1133

The recommendations of the President to abolish all class exemptions, to confer upon him alone the unlimited power of detail, or the Executive shall decide what persons shall constitute the Army in the field and what persons shall remain at home in pursuits indispensable to the vital interests of the country . . . Experience has demonstrated that the power of detail as heretofore exercised has afforded more unnecessary immunity from military service than the well-guarded legislation upon the subject of exemptions. The Committee entertained the opinion that serious abuses had been developed under the system of detail; that this opinion was general and tended to create "discontent and jealousy in the Army" and in the country, which it was advisable to abate by further limitation of power.

At the same time, the select committee of the Senate reported that the Conscrip Bureau showed the fact that east of the Mississippi River 22,035 men had been detailed by Executive authority, and expressed surprise that the bill which originated in the Senate exempting skilled artisans and mechanics did not meet the sanction of the President since it "was actually prepared in one of the bureaus of the War Department." The select committee further stated that the Executive message of November last on the subject of class exemptions had been "carefully considered and an act was passed expressive of the views of the legislative department of the Government." They regretted, they said, that the views of the legislative department of the government had not met the favor of the Executive, and that he should deem it both necessary and proper to express dissatisfaction with the natural opinion of Congress.¹¹³ By amendments passed on March fourteenth, sixteenth, and seventeenth, Congress did repeal part of the new

113. Ibid, pp. 1145, 1149, 1150

114. Journal of the CONFEDERATE SENATE, V. 4, PP. 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115

exemption law,¹¹⁴ but it would not accede to the President's wish and adopt a system of executive details. Instead, it restored the old system of class exemptions which had been adopted in February, 1864, with the numbers reduced. Thus while the last days of the Confederacy were drawing to a close, and while General Lee was begging frantically for more men, Congress and President Davis were engaged in a bitter controversy over class exemptions and details.

The controversy over exemptions and details was only one of the many difficulties which the President was having with Congress during these last days. Many of the measures which the President urged upon Congress to pass were absolutely essential, but propaganda had done its work so effectively that even Congress felt that Mr. Davis was aiming at absolute power and either refused to grant his requests or was so dilatory in acting that the laws passed were too late to do any good. In the same message on November 7, 1864, in which President Davis had urged the abolition of exemptions, he also had urged the passage of a general militia law. Since the Constitution had imposed on Congress the duty of providing for, organizing, arming, and disciplining the militia and for governing such part of them as might be employed in the service of the Confederate States, he felt that a general militia law was necessary in the interest of public defense. Because of the great diversity in the legislation of the several states on the subject, and the absence of any provision establishing an exact method for calling the

114. Journal of the Confederate Congress, v. 4, pp. 735, 739, 741; C. R., IV, v. 5, pp. 1149, 1176

... militia into Confederate service, many embarrassing situations had arisen which ought not to have been allowed any longer to impede defensive measures.¹¹⁵ Yet on March 13, 1865, that body had seemingly ignored the President's advice. President Davis was very much perturbed over this delay, and in very complaining tones told Congress that in view of the perilous condition of the country he felt it his duty again to remind them that prompt action was needed. While, he said, he believed long deliberation and protracted debate were "laudable under ordinary circumstances, . . . in moments of danger, when action becomes urgent, the delay thus caused was a new source of peril." Again he reiterated that a general militia law was a most urgent need. He further pointed out that he had been informed by the governor of a state that "the law did not permit him [the President] to call the militia from one county for service in another." In another state the governor refused to allow the militia "to be employed in the service of the Confederate States" in the absence of a law for that purpose. Because of such state opposition President Davis told Congress that he believed it was possible for a single brigade of the enemy to traverse the state and devastate each county in turn without any power on the part of the

115. 1865, p. 1155

115. O. R., IV, v. 3, p. 796

115. 1865, p. 1155

Executive to use the militia for effective defense.¹¹⁶

In answer to this complaint Congress responded that though it was true it had failed to respond to the recommendation, the matter had been considered, and "failure to act was the result of deliberation." Since the conscription act had taken in the entire military material of the country, there were none left on which the militia law could operate except exempts, boys under seventeen, and men over fifty. Congress for this reason deemed it "expedient to allow this material to remain subject to the control of the State authorities for the purposes of local police to aid in the arrest of deserters and to enforce the administration of State laws."¹¹⁷ This decision of Congress once more illustrates the increase of the State Rights influence and the decreasing power of the President.

To the President's demands for the abolition of class exemptions and a militia law was added another - the suspension of the writ of habeas corpus. To Congress, he said, that even though that body "had not concurred with him in opinion that the time had arrived when "the suspension of the writ was not simply advisable and expedient, but almost indispensable to the successful conduct of the war."¹¹⁸ To this demand Congress was

116. Ibid., p. 1133

117. Ibid., p. 1150

118. Ibid., p. 1134

just as adamant as it had been to the others. It advised the President that his proposal had "occupied the attention of that body for four or five weeks" and that "after mature deliberation" the measure had been laid aside "as unimportant and unexpedient." It gave as its definite reasons for failure to suspend the writ the fact that "the States of North Carolina, Georgia, and Mississippi had expressed through their Legislatures great repugnance to the past legislation of Congress suspending the writ and that a large portion of the people throughout the country was arrayed against the policy of that legislation." Congress deemed it "wise and prudent to conciliate opposition at a time when dissensions are ruinous." It expressed regret again that the Executive did not concur in these views and had again called on Congress "to revise its action and to suspend the writ of habeas corpus" as a measure "almost indispensable to the successful conduct of the war." Then Congress closed the matter for all time by stating:

If the facts stated in the confidential message alluded to by the President be the basis of the opinion that the suspension of the writ "is indispensable to the successful conduct of the war," the Congress does not concur in that opinion. The writ has not been suspended since August last. It is not perceived that the military reverses of the country since that period were occasioned by the absence of the legislation asked for.¹¹⁹

Besides the measures just mentioned which the President had asked for was another asking that the Negroes be employed as soldiers.¹²⁰ The use of slaves and free Negroes for menial

119. Ibid, pp. 1150, 1151

120. Ibid, pp. 797-799

tasks and mechanical service had been practiced in the army for some time, and for some time there had been suggestions that the Negroes also be used as soldiers. In September, 1864, a native of Georgia wrote to Mr. Seddon, the Secretary of War, suggesting that Negroes be employed as soldiers and promised their freedom when the war was over. The writer felt that since the Yankees used Negroes effectively against the South, that the South could use Negroes to fight Negroes. "Confront them," he said, "with Yankee negroes and place bayonets behind them. Our country requires a quick and stringent remedy."¹²¹ To this letter Mr. Seddon replied that he believed "whites were better soldiers than negroes, and that for war the best material should be used."^{121a}

The idea of using Negro soldiers which the Georgian suggested was evidently being contemplated by many, for just a little over a month later, Mr. Seddon wrote President Davis that the policy had been suggested and attracted some public attention of enlisting the slaves in the regular army. He asserted that he did not at that time perceive the necessity or approve the policy of employing slaves in the higher duties of soldiers. However, he did point out the fact that the United States Congress had authorized President Lincoln "to employ as many persons of African descent as he might deem necessary and proper for the suppression of the rebellion and to organize them and use them as he thought best for the public

¹²¹. Ibid, p. 693

^{121a}. Ibid, p. 694

¹²². Ibid, p. 696

welfare." Mr. Seddon expressed the belief that the friendship of a people "so cruel and remorseless as our foes, would be to the unhappy negro more fatal than to us their enmity and would mean the extinction of their race." For the reason pointed out he felt that should either policy or necessity dictate it, the enlistment of slaves or any other population as auxiliaries would be entirely justified by the atrocities the South had suffered.¹²²

President Davis seemed to concur with Secretary Seddon. In his message to Congress on November 7, 1864, he advocated extending the number of slaves from twenty to forty thousand as they might be employed advantageously for pioneer or engineer labor. But, he said:

Solely in the light of policy and over social economy . . . I must dissent from those who advise a general levy and arming of the slaves for the duty of soldiers. Until our white population shall prove insufficient for the armies we require . . . to employ as a soldier the negro . . . would scarcely be wise, or advantageous.

The President did nevertheless foreshadow coming events by expressing the belief that "the use of slaves as soldiers in defense of their homes . . . is justifiable if necessary."¹²³ As a result of the President's message to Congress, Secretary Seddon wrote to Major Briggs, who had asked authority to raise a regiment of Negro troops should Congress authorize their formation, that it was not probable that any such policy would be prescribed by Congress.¹²⁴

122. Ibid, pp. 761-771

123. Ibid, pp. 798, 799

124. Ibid, p. 846

There were some important leaders who did not agree with the Secretary of War on the question of arming Negroes. Mr. Benjamin in a letter to his classmate, Fred A. Porcher, stated that Negroes would certainly be made to fight against the Confederacy if they were not armed for its defense and that there was no other expedient than that of arming the slaves as an auxiliary force. He also advocated granting the Negroes their freedom if they fought for the defense of the South. According to Mr. Benjamin's statement, public opinion was fast ripening on the subject, and he predicted that before the close of winter the conviction would be widespread that the government would have no difficulty in inaugurating the policy fore shadowed in the President's message. He asked the aid of his friend in enlisting the newspapers to begin a discussion of the subject so that the people could be "educated to the lesson." To strengthen his plea he cited the opinion of General Lee on the subject of using slaves. "It is well known," he said, "that General Lee who commands so largely the confidence of the people is strongly in favor of our using the negroes for defense, and emancipating them, if necessary, for that purpose."¹²⁵

The press certainly did its part in bringing the matter before the people, for everywhere the question stirring the public mind was the expediency of using the Negro population for military service. As a whole, the newspapers opposed the project of arming slaves under promise of emancipation,¹²⁶ but some, such as the

125. Ibid., pp. 959, 960

126. Jones' Diary, v. 2, p. 327

Enquirer, advocated the employing of 250,000 Negroes in the army.¹²⁷

Honorable Andrew Hunter of Virginia felt that some immediate solution to the problem of arming slaves was necessary, so he wrote to General Lee in January, 1865, and asked him these pertinent questions:

Do you think that by a wisely devised plan and judicious selection negro soldiers can be made effective and reliable in maintaining war? Do you think the calling into service of such numbers as the exigency may demand would affect injuriously . . . Southern slavery? Would not in your judgment the introduction of such policy increase in other regards our power of defense against the relentless and barbarous warfare the enemy is now waging against us?¹²⁸

To this inquiry of Mr. Hunter, General Lee wrote:

We must decide whether slavery shall be extinguished by our enemies and the slaves used against us, or use them ourselves at the risk of the effects which may be produced upon our social institutions. My own opinion is that we should employ them without delay. I believe that with proper regulations they can be made efficient soldiers. I believe that the best means of securing efficiency and fidelity from this auxiliary troop would be to accompany the measure with a well-digested plan of gradual and general emancipation. Whatever measures are adopted should be adopted at once.¹²⁹

All of our people by no means agreed with General Lee. Some of the leading men in the South joined with the press in opposition to arming Negroes. General Howell Cobb believed that "the proposition to make soldiers of the negroes was the most pernicious idea that had been suggested since the war began." He expressed "deep mortification and regret to see the name of that great and good man and soldier General R. E. Lee given as authority

127. Enquirer, November 11, 1864

128. O. R., IV, v. 3, pp. 1007-1009

129. Ibid, pp. 1012, 1013

for such a policy. My first hour of despondency will be the one in which that policy is adopted." General Cobb begged that before resorting to the proposition of using Negroes that at least every reasonable mode of getting white soldiers be tried. "For Heaven's sake," he said, "try volunteering before you fill with gloom and despondency the hearts of our truest and most devoted men by resorting to the suicidal policy of arming our slaves." He suggested to Secretary Seddon that the problem could be solved if he would yield his opposition to volunteering in the form and manner which he had heretofore urged,¹³⁰ and if General Joseph E. Johnston were restored to the command of the Army of Tennessee and General Beauregard returned to South Carolina.¹³¹

At the same time that General Cobb of Georgia was opposing the use of Negroes, Samuel Clayton of that same state was writing President Davis that "recruits must come from the negroes and nowhere else and that we should away with pride of opinion, away with false pride." He believed that contrary to the opinion of some that Negroes would not fight, that they would make good soldiers and that they would "do very well to fight Yankees." He urged that Congress make haste to put as many Negro soldiers

130. Gen. Cobb had suggested resorting to the old form of calling upon the governors of the States for the men required and letting them raise, arm, and officer their troops according to State laws and then tender them to the Confederacy. This he believed would satisfy the State Rightists and gain their full cooperation.

131. O. R., IV, v. 3, pp. 1009, 1010

in the field as General Lee thought necessary. If Negroes were not put in the army, it was his belief that the South would be subjugated by the hated foe.¹³²

Whether because of the request of President Davis or of General Lee, or whether because of the strong pressure brought to bear by public opinion we know not, but we do know that the only suggestion made by the President to the last Confederate Congress which was adopted was an act providing for the arming of slaves. This act, which was passed on March 13, 1865, authorized the President to call for and accept from the owners of slaves the service in whatever capacity he thought best. If enough were not furnished by the slave owners, the President was further authorized to call out 300,000 troops whenever he thought it expedient and to raise them from all classes of the population "irrespective of color."¹³³ The only restriction placed upon the President was that not more than twenty-five per cent of the male slaves between the ages of 18-45 could be called into service from any state.¹³⁴

The Congress which finally passed the act to arm the slaves had almost insurmountable problems to face. The whole country, the army in particular, was in the depths of despair, and everyone was imploring Congress to do something. Realizing that companies, battalions, and regiments were in many cases almost

¹³². Ibid, pp. 1010-1011

¹³³. Ibid, p. 1161

¹³⁴. Ibid, p. 1162

entirely depleted, Congress decided upon a complete reorganization of the army. All units were to be filled to the standard number. The commanding general of each unit was to select the officers for each organization from officers and men belonging to the organizations that were consolidated and to put them at once in command of these new organizations. Such officers were subject to the subsequent appointment of the President with the advice and consent of the Senate. New companies could be formed by men of the same state and officered by men of that state. This act was approved on February 24, 1865.¹³⁴

No law could have been more impracticable than this reorganization act. When Mr. Breckenridge, the new Secretary of War, wrote to General Lee for his opinion about it, General Lee answered that the period was very unfavorable for executing the law. At that time the principal army in the South under General Johnston was in the field operating against the enemy. For this reason General Lee thought that consolidation at that time would be not only difficult and impracticable but extremely hazardous. He believed that the law might be advantageous if the time should be left discretionary with the commanders of the several armies.¹³⁵ The war, however, was so nearly over that the reorganization was never made.

The passage of the law conscripting slaves and the enactment

132. *Ibid.*, pp. 981, 1009, 1049

134. *Ibid.*, pp. 1166, 1167

135. *Ibid.*, p. 1143

136. *Jones' DIARY*, v. 2, p. 233

of the law for reorganizing the army was not enough to fill up the sadly depleted ranks of the Confederacy. The Conscription Bureau had already failed hopelessly in sending into the ranks the people who should be there, and there was little hope that this Bureau would be any more efficient in putting Negroes into the service. Congress had to do something to make the Bureau more effective or the South would certainly be subjugated. A considerable number of conscripts had never been reached.¹³⁶ According to Richmond, a vast number of deserters were at large and were so bold that they did not even attempt to hide themselves. It was asserted that 72,000 men deserted between October 1, 1864, and February 4, 1865.¹³⁷ Colonel Preston felt that the greatest and most pressing need in the country, "the importance of which no terms could exaggerate," was to return these men to the army. He estimated that there were over 100,000 deserters scattered over the Confederacy.¹³⁸ Reports from the Conscription Bureau in September, 1864, showed that only three thousand men had been sent to the army during the previous two months and that about an equal number had been detailed.¹³⁹ The Enquirer complained that enrolling officers apparently made a clean sweep of the country on paper and after a documentary manner, but that they did not produce the men. "The Bureau," it said, "is too slow in

140. Enquirer, February 27, 1865.

141. Report of August 23, 1863.

136. Ibid., pp. 981, 1009, 1049.

137. Appleton's Cyclopaedia, 1865, p. 168.

138. O. R., IV, v. 3, pp. 1119, 1168.

139. Jones' Diary, v. 2, p. 338.

action, admits of too many references and red tape so that those who are desirous of avoiding service can do so by mere delay and circumlocution; months and even years pass, the enrolled conscript grows old or he has removed to another part of the country . . . and so enrolling officers are always pouring fighting material into a tube of the Danaides pierced with an hundred anger holes.¹⁴⁰ In 1865, General Richardson of the Georgia Military Academy reported that Georgia had sent about 80,000 men to the field but that there were then 41,944 able-bodied men at home.¹⁴¹ Later the enrolling officer of Georgia reported to General Howell Cobb that there were more men during 1864 between the ages of 18 and 45 staying at home than had gone from the state into the Confederate service during the war.¹⁴² One official report showed that in Virginia, North Carolina, South Carolina, and Georgia only three-fourths of the material under the conscript law had ever been absorbed and that for every three enrolled, two remained in the state. Out of 75,000 enrolled, 25,000 were in the army; 12,000 were detailed; and 37,500 were exempted.¹⁴³ A report by the Secretary of War for the number of conscripts and exempts from April 16, 1862, to February, 1865, shows that there were 81,993

140. Enquirer, February 20, 1865

141. Report of August 23, 1865

142. O. R., IV, v. 3, p. 75

143. Ibid., v. 2, p. 239

conscripts and 67,054 exempts.¹⁴⁴ Many discrepancies appear in the reports, for Colonel Preston's report to the Secretary of War in January, 1864, showed that in six states east of the Mississippi that there were 96,578 exempts. Besides the exempts who were regularly out of the service, there were 44,200 out because of the disloyalty of the states; 70,294 were skulking; and 126,367 were available for army service who were not in the army. All of this made a total of 337,365 men.¹⁴⁵ Evidently there was no dearth of men; the difficulty lay in reaching them. In fact, Colonel Preston claimed that the difficulties, delays, and irregularities of conscription did not result from any difficulty in finding men, but "from the impossibility of getting those men out of the hands of recruiting officers under generals commanding, governors, judges, and demagoguing politicians." He said that from one end of the Confederacy to the other every constituted

144. *Ibid.*, v. 3, p. 1101; *Idem*, O. R., III, v. 3, p. 700. The complete report is as follows:

| | Exempts | Conscripts |
|----------------|---------|------------|
| Virginia | 13,439 | 13,933 |
| North Carolina | 16,564 | 21,248 |
| South Carolina | 5,839 | 9,120 |
| Georgia | 13,346 | 8,993 |
| Alabama | 10,218 | 14,875 |
| Mississippi | 4,108 | 8,061 |
| Florida | 748 | 362 |
| East Louisiana | 219 | 31 |
| East Tennessee | 573 | 5,220 |
| | 67,054 | 81,993 |

145. O. R., IV, v. 3, p. 108; *Idem*, Hile, Baldwin, "The Confederate Army," Confederate Veteran, v. 31, pp. 221, 222.

authority, every officer, every man and woman was engaged in opposing the enrolling officer in the execution of his duty. He felt that if the state authorities, or generals commanding would actively and cordially cooperate with the conscript authorities that good might result. According to his statement, during the six months of service with the Conscript Bureau not one man had been sent to the army by state authority, but thousands had been kept out by that authority. The business seemed to him to be to keep men or take men from the conscript officers. He stated further that he did not know of fifty conscripts that had been sent from Mississippi, Alabama, Florida, or Tennessee to the Army of Northern Virginia while General Pillow had control of conscription in those states.¹⁴⁶

Conditions did not improve very much, if at all, during the year, 1864. General Lee in a letter to General Bragg in September, 1864, remarked that the system of recruiting the armies was a very imperfect one. He thought it possible that nothing better could be done, but, he said, "In no department of the service are energy, intelligence, and practical ability more vitally important to our success. I think the Department should be filled by the best capacity and the greatest vigor and industry that can be obtained and should be confined to the single duty of putting men in the field."¹⁴⁷

146. O. R., IV, v. 3, pp. 224, 225

147. Freeman, Lee's Dispatches, p. 298

The Conscription Bureau had certainly failed to furnish the men for which General Lee was begging. While evidence is irrefutable that there was much fraud and dishonesty among conscription officers, its failure to keep the army filled was due to other causes far more disastrous. First, the controversies with military conscriptionists detracted from its efficiency from the very first. Second, the officers of conscription were as a whole notoriously incompetent. The commandant of conscripts in Georgia declared that there were not twenty conscript officers in Georgia who had a single qualification for their office.¹⁴⁸ Third, enrolling officers did not have adequate military backing to resist the strong outside forces working to liberate the conscript. Fourth, the machinery of conscription was elaborate and complex, and, therefore, clumsy and slow of action.¹⁴⁹ Fifth, the independent action of the states was a great hindrance, and perhaps the greatest reason for its failure. The Bureau was helpless against such forces as the state courts and the Vanoses, Stephens, Toombses, and Browns.¹⁵⁰

Congress deliberated for months over the weaknesses of the Conscript Bureau, and not being able to find any satisfactory remedy, decided to do away entirely with that method of recruiting

President Davis heard that Congress was planning to close its

148. O. R., IV, v. 3, pp. 863, 1049

149. Ibid., pp. 863, 1049; cf. note 140, p. 183

150. Ibid., p. 1048 v. 3, p. 290

the army.¹⁵¹ The work of the Bureau was turned over for the most part to the commanders of Reserves. Exemptions were largely taken care of by General officers and the War Department, and examinations were made by the Medical Board of the Army. All the former conscript officers, guards, details, and clerks were to be sent into the ranks.¹⁵²

The abolition of the Bureau of Conscription was virtually an acknowledgment on the part of Congress of the failure of conscription to raise an army. Nevertheless, despite the fact that army raising by this method failed in the Confederacy, the World War proved that some sort of selective draft system and executive detail was the only way to raise an army successfully, to keep its ranks filled, and to allocate its man power at home. Volunteering such as the State Rights leaders insisted upon might have been all right had the war been a short one, but it could never have been satisfactory in a protracted struggle such as the Civil War. Even during that War the Federal Union found volunteering unsatisfactory and resorted to the draft. Congress killed the

With the abolition of the Bureau of Conscription and the enactment of the law authorizing the President to call the Negroes into service, the Confederate Congress planned to adjourn. When President Davis heard that Congress was planning to close its

General Lee surrendered to General Grant and virtually

151. *Ibid.*, pp. 1176, 1177

152. Jones' Diary, v. 2, p. 290

153. *Op. Cit.*, 177, pp. 1152-1153

CHAPTER VI

session within a few days, he sent a message to that body urging that it delay such action. He tried to get them to realize that events of the past four months made it necessary to pass "further and more energetic legislation than was contemplated in November."¹⁵³ Yet despite all the pleas of the President, and the calls for help from General Lee and the army in the field, Congress adjourned and lost forever its opportunity to raise troops, for that body never met again.

Could these leaders and other leaders in the Confederacy have seen what the majority of authorities in Richmond, the President, and the Commanding Generals saw, the last session of Congress would not have been such a stormy one, nor one so dilatory in deliberation when drastic action was necessary and that speedily. Certainly it would not have closed the session, which proved to be its final one, engaged in a quarrel with the President when unity of action and centralization of power was the only thing that could possibly have saved the cause for which they had struggled for four years. This adjournment of Congress killed the last hope of President Davis and General Lee for a successful conclusion of the war. With no effective means left them for increasing the army, a further struggle was hopeless. Consequently, in less than a month after the Confederate Congress closed its doors, General Lee surrendered to General Grant and virtually brought to a close one of the most tragic struggles in all history.

153. O. R., IV, v. 3, pp. 1131-1133

CHAPTER VI

INDEPENDENT UNITS

As soon as the government of the Confederate States was organized and rumors of war began to be heard throughout the land, from many parts of the Confederacy came offers of independent companies to aid the Provisional Army in suppressing a rebellion should one arise. One of the earliest organizations tendered was the "Sons of the South" of Memphis, Tennessee. The Secretary of war declined to accept the patriotic offer of this and other corps at that time because he felt that unless there should occur hostilities of a long duration, the forces would be ample for the defense of the country. To allay the disappointment of this refusal, he wrote Lieutenant Craige that it would gratify him if he could say that in the event of war so gallant a corps would be first upon the list to be accepted. However, there preceded the "Sons of the South" in priority of tender the following organizations: Captain Turney's Company from Tennessee, a volunteer regiment from Kentucky, and still another from Tennessee. Nevertheless, the "Sons" were assured that in the event hostilities at all serious should occur, there was little doubt that the causes which would make necessary the service of the other organizations would also open the way for the acceptance of the services of the "Sons of the South."¹ All this was before Lincoln's call for

1. O. R., IV, v. 1, pp. 190, 191

volunteers to coerce the seceding states.

Then came war in earnest, and with the war, a fresh outburst of enthusiasm. Many of the leading statesmen, politicians, and wealthy men of the day wished the opportunity of showing their patriotism and distinguishing themselves by raising separate organizations. Thus at the first call to arms, Thomas R. R. Cobb of Georgia, Wade Hampton of South Carolina, William Allen and Henry A. Wise of Virginia, as well as many others equally patriotic, organized and equipped independent commands for the war. The majority of these men, however, soon turned over their commands to the Confederate Government and served for the period of the war as a part of the Provisional Army. One member of this group seemed to be dissatisfied at being absorbed in the regular army. This was Colonel William Smith, one time Governor of Virginia.² He asked General Lee to detach his regiment and give him an independent command. To this the General replied that "he could gratify his wish only so far as to order his regiment to the army of General Jackson as soon as an opportunity occurred." In a letter to President Davis on the same subject, General Lee wrote: "I deem it inexpedient to divide the army by creating independent commands especially at a time when we require the united efforts of all the forces we can collect at the principal

2. Ex-Governor Smith, known as "Extra Billy" Smith, though not a military man, rose to the rank of brigadier-general and before hostilities ended was named a major-general.

3. Williamson, *Jacky's* 39-19, 20

points threatened by the enemy."³

Besides the type of corps just mentioned, during the first year of the war when the spirit of romance and knight-errantry was rampant, there arose all over the South still different kinds of organizations known as "Partisan Rangers." Realizing that such groups could be of distinctive service to the cause, Congress passed an act legalizing such organizations at the same time that the first conscript act was passed.⁴ The ranger service was very alluring because it offered decided advantages over service in the regular army. Rangers had good food, all the booty captured from the enemy, a bed to sleep in, little prospect of steady fighting, and the privilege of staying at home. Even the regular cavalry, which was envied by the infantry, viewing the comparative freedom of life of the Partisan Ranger in contrast to the dull routine and more rigid discipline of camp life, occasionally gave vent to their feelings, and half in jest and half in earnest would banter the Rangers calling them "Carpet Knights" or Feather-bed Soldiers."⁵ When on duty, however, the partisan had no bed of roses. Colonel Mosby epitomizes the ranger duties as follows: "To destroy supply trains, to break up the means of conveying intelligence, thus isolating an army from its base as well as its different corps from each other, to confuse plans by

federal agent, and among the papers was a letter which said:

3. Freeman, Lee's Dispatches, p. 41

4. O. R., IV, v. 1, p. 1094

5. Williamson, Mosby's Rangers, pp. 19, 20

capturing dispatches, are the objects of partisan warfare . . . The military value of a partisan's work is not measured by the amount of property destroyed, or the number of men killed or captured, but by the number he keeps watching. Every soldier withdrawn from the front to guard the rear of an army is so much taken from its fighting strength.⁶ To fulfill such duties was a hazardous undertaking. Yet says Mr. Williamson, "There was a fascination in the life of a Ranger; the changing scenes, the wild adventure, and even the dangers themselves exerted a seductive influence which attracted many to the side of the dashing partisan chief."⁷

Among the most interesting of the groups organized for ranger service were "Terry's Texas Rangers," "The Louisiana Couvres," "Morgan's Command," and "Mosby's Rangers." Knowing the reputation of the Texas Rangers and realizing the need of such a corps in his command, General Albert Sidney Johnston wrote to the Texas Rangers requesting them to report to him at Bowling Green where he was recruiting an army preparatory for the spring campaign. Since General Johnston promised that they should be an independent unit while they remained under him, they voted to go to Kentucky and reported to Johnston about the middle of November. Soon after their arrival in Kentucky the Confederates captured a Federal scout, and among the papers was a letter which said:

5. *Ibid.*, "A Story of Terry's Texas Rangers," *Confederate Veteran*, April, 1904, v. 26, p. 127

6. *Ibid.*, p. 25

7. *Confederate Veteran*, v. 26, p. 228, Nov. 1903

7. *Ibid.*, p. 25

"The Texas Rangers are as quick as lightning. They ride like
grabs, shoot like archers at a mark, and fight like the devil."⁸
Although great fighters, the Texas Rangers were not as
spectacular in appearance nor quite the object of interest and
curiosity as Copen's battalion of Louisiana Zouaves. This com-
mand was copied after the French "Zouaves d'Afrique" and were
French in every detail. The official language was French; and
the uniforms and accoutrements from gaiters and very baggy trousers
to skull caps with blue tassels perched above the shaven forelock -
all seemed to come directly from France. The whole was a con-
glomeration of red, white, and blue, but the white was not con-
spicuous, showing only on the gaiters. The wearers must have been
a veritable sight! The Zouaves, which were made up of five com-
panies, offered themselves for service at the outbreak of hostil-
ities and fought as a unit until after the battle of Big Bethel
in June, 1861; then De Gourney's company known as the 5th company
of Copen's battalion was detached and put into the heavy artillery.
The other four companies commanded by Major Wheat, who had fought
in the Crimea, remained in the infantry.⁹ A year after this
reorganization Major Wheat was killed in the Seven Days Battle
around Richmond and his company was severely cut up. What was
left of the Zouaves, was organized in one company under Colonel

8. Posey, "A Story of Terry's Texas Rangers," Confederate Veteran, April, 1924, v. 32, p. 137

9. Confederate Veteran, v. 36, p. 425, Nov. 1928

papers and incorporated with Hayes's Louisiana Brigade. This remnant was then known as the "Louisiana Tigers." It has been said of the "Zouaves" and "Tigers" that they could surmount any obstacle and would face any situation. Like the noble wheat, they preferred to be in the thickest part of the battle. No braver troops could have been found in Lee's army than these two corps of Rangers.¹⁰

All that was said of the efficiency, daring, or bravery of the "Texas Tigers" and the "Louisiana Zouaves" could be said of the even more famous "Morgan's Command" and "Mosby's Rangers." Just as soon as the call to arms sounded, Morgan, who was then engaged in a prosperous business in Lexington, Kentucky, immediately gave up his business, organized a company of about two hundred, and went over to the Confederate lines. There he soon won a name for himself as a daring raider. In 1862 he had command of a cavalry company under General Bragg, but the regular army life did not hold the fascination for him as did partisan warfare. Therefore in 1863, General Morgan withdrew his command from the regular army and again operating as an independent unit made extensive raids into Kentucky and Ohio. Moving with a swiftness and daring that defied capture, he destroyed millions of dollars worth of property, tore up railroads, cut telegraph wires, and burned bridges. In December of that year, General Morgan was

10. Confederate Veteran, v. 31, pp. 212-214, June 1923;
Ibid., pp. 295-297, August, 1923

caught by the Federals and imprisoned in the Ohio State Penitentiary. Even the penitentiary could not hold so daring a leader as Morgan. He escaped through an underground tunnel and, once within the Confederate lines, began to organize another independent band. Surgeon Meiser promised the people that if they would assist General Morgan in mounting and equipping two hundred of his men, that the men thus organized would mount the remainder of the command themselves in the rear of the enemy's lines. So great was the respect of the people in the South for this general and his great service to the cause, that the citizens of Augusta, Georgia, contributed ten thousand dollars towards equipping his new command.¹¹ General Morgan seemed to have no trouble in recruiting men for his service; in fact, men were so anxious to join the great leader that it brought about disastrous results to the regular army. General Bee on January 20, 1864, enlisting the aid of the President wrote him as follows:

I heard some days since that several of this army mostly Louisianians that were in or passed through Richmond were joining Genl Morgan's command. I wrote to the Secy of War on the subject & requested it might be stopped. Since then I have rec^d other evidences of the fact. A member of my staff informs me that Dr. T. W. Hancock of Jackson Hospital Richmond stated to him yesterday, that a recruiting officer of Genl Morgan has visited his Hospital, promised the men clothing & two months furlough, & that 25 or 30 convalescents whom he was about to send to his army, deserted & he understood were forwarded to Decatur, Geo.: Dr. Hancock also stated that he heard from 200 to 250 men in other hospitals had been ordered away. I am sure that Genl Morgan would neither countenance or authorize such proceedings, but I know how unscrupulous many men are in raising companies. You will see if this conduct is allowed that all discipline is destroyed & our armies will be ruined.

11. Whig, January 1, 1864

12. Freeman, Richd Dispatch, pp. 121, 122

I have therefore to request that all these men be returned to this army & that the officers who have been engaged in this illicit conduct be punished.¹²

However unscrupulous some of General Morgan's recruiting officers, the command was raised and made many daring raids during that year in Tennessee. One night toward the end of 1864, while stationed in a farmhouse near Greenville, the brave general was surrounded by a body of Federal troops and, attempting to escape, was shot and instantly killed. The death of General Morgan ended the career of one of the most famous bands of Partisan Rangers and robbed the Confederacy of one of its most daring and illustrious leaders.

Perhaps the most well-known group of rangers and the greatest was that known as "Mosby's Rangers" commanded by Colonel John Singleton Mosby, a Virginian and a law graduate of the University of his state. When Virginia entered the Confederacy, he enlisted at once in a cavalry company, the Washington Mounted Rifles, which was later incorporated in the First Regiment of Virginia Cavalry. At the reorganization of the companies just prior to the passage of the first conscript act, Mosby was chosen by General J. E. B. Stuart as an independent scout. Acting in this capacity, he was the first one to make the circuit of the Federal forces around Richmond. He also acted as a guide to General Stuart in his famous raid around McClellan's army in 1862.

During Mosby's service as a scout, he realized that there

12. Freeman, Lee's Dispatches, pp. 131, 132

was a wide field for a successful career as a partisan; accordingly, he urged General Stuart to give him a small detail of men which he might operate until he could organize a command. Just as in the case of Colonel Smith, the request was refused, but he too was given a letter recommending him to General Jackson, who was then operating near Gordonsville, Virginia. Soon after this, Mosby was captured and sent to Old Capitol Prison in Washington. When he was released from prison, but while still on the prison ship, he happened to overhear conversations about the movements of Federal troops - which information would be of great service to the Confederacy. Consequently, as soon as he was exchanged, Mosby hastened with his information to General Lee. In appreciation of this great service, the President promoted Mosby to a captain, and General Lee granted him permission to proceed at once to organize the independent command for which he had been wishing for so long.¹³ At first, Mosby was given a detail from his old regiment, the First Virginia Cavalry. Since this was the time when the brilliant achievements of Stuart, Jackson, Fitzhugh Lee, the Loudoun Rangers, and other famous cavalry companies were filling the breasts of the young cavaliers "with romantic visions and ardent desires to enter upon this life of wild adventure,"

Captain Mosby soon obtained a sufficient number of volunteers to

12. Alexander, Mosby's Men, p. 25. Louisa and New Chase - into the Louisiana Tigers joined as privates upon the organization of that regiment.

13. Williamson, Mosby's Rangers, p. 17

14. Williamson, Mosby's Rangers, p. 22

15. Alexander, Mosby's Men, p. 24

form his command, and the detailed men, with a few exceptions, were sent back to their company.¹⁴

Before many months Mosby had attracted a great deal of attention by his daring achievements, and men came from all parts of the country to join him. Officers resigned positions in the regular army and came to Mosby to serve as privates.¹⁵ Even the famed armies of the Old World were not without representatives in his ranks.¹⁶ The men made up this command were, however, for the most part from Loudoun, Fairfax, and Fauquier Counties and were, as a whole, very high-type soldiers. They were, many of them, young men in the very flush and prime of youth, beardless boys who had run away from home to join Mosby.¹⁷ Dr. Monteiro in his volume of reminiscences of Mosby's command says that every man knew that the slightest suspicion of dishonesty or cowardice would consign him at once to the disgrace of expulsion; and although there must have been some in the company who had streaks of meanness, that after three years of service with the regular army, he could say that he had never witnessed among eight hundred men and officers more true courage and chivalry or a higher sense of honor blended with less vice, selfishness, and meanness than he

13. Williamson, Mosby's Rangers, p. 25. One of his men was

14. *Ibid.*, p. 17. Under David Archer's version of the "Golden Rule" he says the other fellow as he would do unto you.

15. Alexander, Mosby's Men, p. 26. Kennon and Dee Shane from the Louisiana Tigers joined as privates upon the extinction of that regiment.

16. Williamson, Mosby's Rangers, p. 19.

17. Alexander, Mosby's Men, p. 24.

found in his official intercourse with the Partisan Battalion.¹⁸ Mosby's Rangers had no camps. As General Mosby said: "If they had gone into camp they would soon have all been captured. They would scatter for safety and gather at my call like the children of the mist."¹⁹ Always, however, before disbanding, a place was designated at which to meet and couriers were appointed whose duty it was to notify the men whenever an opportunity was seen for a successful attack.²⁰ No wonder that to the Federal cavalry in pursuit, it was like chasing a Will-o'-the-Wisp. Mosby, according to his own statement, "was never a spy," and his warfare "was always such as the laws of war allow."²¹ Nevertheless, disregarding established rules,²² he fought upon a principle which his enemies could neither discover nor guard against. He was in their front, in their rear, on their flank - at one place today, and tomorrow in their camps at a point far distant. "The same party that prowled among the Federal camps in Fairfax one night would be

by the tributes which were paid him by his commanding generals

18. Williamson, Mosby's Rangers, p. 25

19. Ibid., p. 20, note 4

20. Alexander, Mosby's Men, p. 27

21. Williamson, Mosby's Rangers, p. 25. One of his men said: "We acted under David Harum's version of the 'Golden Rule' Do unto the other fellow as he would do unto you - and do it first." Alexander, Mosby's Men, p. 18

22. One of Mosby's men said: "We were not out illustrating Hardee's tactics." Alexander, Mosby's Men, p. 19

"We used more stratagem, we Mosby, and we used men who knew how to strike their enemies at all times and places and in unexpected ways." p. 21

galloping among Sheridan's wagon trains in the Valley before the rising of the second sun. The scout that crouched in the spray of the Great Falls and assured himself that 'all's quiet along the Potomac tonight', tomorrow would dream of home and loved ones on a grassy bank while the Shenandoah lulled him with her murmurings to her kindred stars.²³ By his enemies, Mosby was thought to be almost ubiquitous. What he lacked in numbers he compensated for by the celerity of his movements and the boldness of his attacks. He generally fought against odds, often great odds. He seldom waited to receive a charge, but nearly always sought to make the attack.²⁴ Although driven from the country one day, the next day he was reported as "dealing damnation around the land" in a half-dozen different places.²⁵ Mosby was too much for the Federal Army.²⁶ That Mosby rendered an invaluable service to the Confederate cause and that he was held in high esteem by his enemies is shown by the tributes which were paid him by his commanding generals during the war and by his enemies since that conflict ended.

General Stuart said of him: "Major Mosby's command is the only

23. Ibid, p. 16

24. Williamson, Mosby's Rangers, P. 26

25. Alexander, Mosby's Men, p. 29

26. B. W. Jones in his book Under the Stars and Bars says: "We need more Stuarts, more Mosbys, more Jacksons - men who know how to strike them federals at odd times and places and in unexpected ways." p. 241

26. Williamson, Mosby's Rangers, P. 27

efficient band of rangers I know of, and he usually operates with one-fourth of his nominal strength," and General Lee on the twenty-first of January, 1864, when recommending him for promotion to a lieutenant-colonel adds: "I do this in order to show him that his services have been appreciated and to encourage him to still greater activity and zeal." Later, on April 1, 1864, after enumerating the bands of Partisan Rangers he said: "Lieutenant-Colonel Mosby has done excellent service and from the reports of citizens and others I am inclined to believe that he is strict in discipline²⁷ and a protection to the country in which he operates."²⁸

Since the war, those who were then Mosby's foes have paid tribute to him which is just as great as that paid him by his own generals. Mr. Burr in his book The Life of General Philip H. Sheridan speaks of Mosby as one of the most remarkable of Confederate cavalrymen and remarks that "the partisan leader of Northern Virginia deserves a place in any reference to the doings and deeds of the Confederate troopers" and that "he deserves it

into the Confederate army a corps of volunteers for the purpose

27. One of Mosby's men says of the Rangers: "The truth is, we were an undisciplined lot. During the twelve months of my service I learned but four commands - fall in and count off by fours, march, close up, and charge. There was another movement . . . not altogether unfamiliar known as the "skedaddle", but I never heard the command given. The Rangers seemed to know when that movement was necessary and never waited for the word. When we found it necessary to leave the scene of action, each man worked out his own salvation and "struck for home and fireside" by his own particular path. We dissolved like the mist "before their very eyes visibly" and left them nothing to follow." Alexander, Mosby's Men, pp. 19-20

28. Williamson, Mosby's Rangers, p. 17