“NO UNIMPORTANT PART TO PLAY”:
SOUTH CAROLINA’S GENERAL ASSEMBLY DURING THE AMERICAN CIVIL WAR

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“NO UNIMPORTANT PART TO PLAY”:
SOUTH CAROLINA’S GENERAL ASSEMBLY DURING THE AMERICAN CIVIL WAR

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To my wife Leslie, whose love knows no bounds.
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It is impossible to create worthwhile historical scholarship in a vacuum. This thesis could not have reached its present form without the help and encouragement I received along the way. Lesley Gordon read the first draft, the final draft, and every version in between. Her knowledge of the field has been an immense help and her enthusiasm for the topic provided me inspiration and confidence throughout the project. It was her suggestion to examine and incorporate the role of slavery into the narrative, which proved key in explaining why South Carolina’s General Assembly acted as it did. T. J. Boisseau led the writing seminar that was the birthplace of this work. Elizabeth Mancke led the other writing seminar I participated in while working on this project. The conversations I had with each of them greatly improved my work. Equally important were my classmates in the two writing seminars. Along with their critiques and suggestions, the shared experience provided the reassurance necessary to work through the difficult moments. Lastly, without the love and support of my family, this thesis would not exist. My parents provided encouragement, motivation, and some financial support. Leslie Albert, who became Leslie Whitford in the middle of this project, had to endure long nights alone while I spent time with South Carolina’s General Assembly. She even put both her librarian skills and editing savvy to work helping me track down useful sources and ensuring the final product lacked typos, not clarity.
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CHAPTER I
INTRODUCTION

In November 1861, the South Carolina General Assembly met for the first time since the creation of the Confederate States of America in February 1861. In his first message to the General Assembly, Governor Francis W. Pickens expounded on the actions South Carolina had taken after seceding from the Union on December 20, 1860, emphasizing the bravery and courage of those South Carolinians who had volunteered for military service, and presenting the expenditures he authorized for military recruitment, training, and outfitting. Additionally, he explained the spending for which he had not received previous authority, such as twenty thousand dollars for the relief of those South Carolina soldiers wounded at the Battle of Bull Run. Pickens elaborately detailed both his and the state’s actions concerning Fort Sumter. He praised the cadets at The Citadel, South Carolina's military academy, for their actions on January 9, when they fired upon and forced the retreat of the Union ship the Star of the West, which was bringing aid to the federal troops at Fort Sumter. He described the capture of the other federal facilities and arms in Charleston. His discussion, however, of the actual capture of Fort Sumter, accomplished by Confederate troops, was brief. ¹

Three themes flow through this message: state finances, state military matters, and the relation between nation and state. All of these themes come together in a single paragraph describing South Carolina’s action as an independent republic.

From the 20th of December last until the 9th of February, this State acted alone. She was entirely separate and independent. During this period we incurred heavy expenditures. In taking Castle Pinckney, Fort Moultrie, and the late United States Arsenal, we acquired large supplies of heavy ordinance, arms, and munitions of war. As we took responsibility of acting alone, and of risking all, we were fairly entitled to all we acquired. For the heavy expenditures we thus incurred, up to the 8th of February, I have, as yet, presented no claim or account against the Confederate Government. Our Convention transferred, by ordinance, all these public works and forts, with their armament, and so forth, to the common Government. By every principle of public law, we are entitled to the expenses incurred during that period, and I doubt not but, when presented, the claim will be recognized.²

The first two themes, finances and military matters, are readily apparent. The third theme, relations between the new Confederate government and the state of South Carolina, is also noticeable. Governor Pickens and South Carolina risked much by taking independent action against the United States. Therefore, Pickens believed the state should be compensated for their “donation” to the common government. His statement concerning compensation follows an earlier remark concerning money spent by the state “incurred in the common cause,” only a small portion of which had been refunded.³

Also in this passage is a mention of the South Carolina Secession Convention. The Governor, the Secession Convention, and the General Assembly all played significant roles in South Carolina’s interactions with the Confederate government. Most studies of Confederate-state relations focus on the state governors. Often the rationale for this focus is governors were in office throughout the entire year. Additionally, some

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² Senate Journal 1861, 14-5.
³ Ibid. 13.
governors, such as Governor Joseph Brown of Georgia and Zebulon Vance of North Carolina, were colorful personalities who vocally resisted the Confederate government and have grabbed scholars’ attention. South Carolina’s governors, however, were in a unique position. Unlike others states in the Union or the new Confederacy, the state legislature still elected the governor in South Carolina, usually from among its members. Additionally, the governor was limited to a two-year term and was ineligible for reelection until he had spent four years out of office.\(^4\) This term limit was in effect throughout the Civil War and ensured that South Carolina would have three different governors throughout the conflict.

The South Carolina Secession Convention, meeting first on December 17, 1860 continued to sit as a legislative body after it approved the Secession Ordinance. Although its original purpose was complete, the Convention played an important role in creating the necessary apparatus for South Carolina to function as an independent republic until the formation of the Confederacy, such as the Executive Council, which assisted the Governor, modeled after the President’s cabinet. The Convention’s continued existence as a legislative body created friction between it and the General Assembly, and after the Convention allowed itself to expire on December 17, 1862, the General Assembly quickly repealed many of its acts.\(^5\) The requirement that a new governor serve every two years and the decision of the Secession Convention to let itself expire meant the South Carolina General Assembly was the only one of these three governing entities that “continuously operated” throughout the war. While not in session year-round, the governor could call a special session at any time. Additionally, members of the General

\(^4\) South Carolina Constitution, art. 2, sec. 1-2.
Assembly could legally serve for the duration of the war, subject only to the voters’ wishes.

There has been surprisingly little research on the interaction between the Confederate government and individual state legislatures. Apart from May Spencer Ringold’s study, *The Role of the State Legislatures in the Confederacy* (1966), which concentrates primarily on state matters such as local defense and economic stability, historical studies have generally neglected to consider the important layers of interaction between state and centralized levels of Confederate governance. This study explores tensions between the Confederate government and the South Carolina General Assembly. Some issues, such as the economic stresses of a long and increasingly brutal war and the inability of the Confederate military forces to dislodge the Union from its hold on Port Royal and the surrounding coastline, often exacerbated these tensions. Others, such as the suspension of habeas corpus and declaration of martial law, produced limited protests and were countenanced by the General Assembly as necessary war measures. Confederate conscription provides an especially interesting example. Although the South Carolina General Assembly generally accepted Confederate conscription, the issue of exemptions from the draft created tension not only between the South Carolina General Assembly and the Confederate government, but also between the two houses of the General Assembly. How the South Carolina General Assembly reacted to these events, economic issues, and usurpations of state and civil rights are particularly enlightening.

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6 Other exceptions to this trend are Charles Ritter and Jon L. Wakelyn, *Speakers of the State Legislatures, 1850-1910* (Westport, CT.: Greenwood Press, 1989) and Arthur R. Kirkpatrick, “Missouri’s Secessionist Government, 1861-1865,” *Missouri Historical Review* XLV (1951). There are also a large number of studies that provide overviews of the entire state rather than a tight focus on state legislatures, including: John K. Bettersworth, *Confederate Mississippi: The People and Policies of a Cotton State in Wartime* (Baton Rouge: Louisiana State University Press, 1943) and Cauthen, *South Carolina Goes to War.*
due to South Carolina’s longtime defense of states’ rights. After all, President Davis’s ability to suspend *habeas corpus* in South Carolina and the conscription of South Carolinians into the Confederate army clearly placed the state in a subordinate position to the Confederacy. The reason behind the South Carolina government willingness to accept its subordinate position to the Confederate government after repeatedly challenging its subordinate position in the Union is simple: slavery.
CHAPTER II

SLAVERY AND SOLITUDE: SOUTH CAROLINA’S STATE OF MIND

It is impossible to extricate the issue of slavery from the Civil War, and South Carolina’s experience is no different. Slavery had been a part of South Carolina before the formation of the United States, and slavery continued to play an active role in South Carolina’s development throughout the antebellum period. As the nation headed toward war, threats to slavery (both perceived and actual) were met with increasingly forceful defenses of slavery.

According to Lacy Ford, the more aggressively abolitionists pushed their agenda, the more important it was for the South to present a united front against abolitionism. Ford argues immediate abolitionism created a three-part reconfiguration of Southern attitudes toward slavery. The first part was a reification of racial justifications of slavery; white southerners were increasingly willing to argue the inferiority of blacks was unchanging and divinely ordered. The second part consisted of arguments that racial slavery prevented the development of a dependent white working class. The third and final part of the reconfiguration was an acceptance of paternalism as the prominent slaveholding ideology; previously paternalism had enjoyed undulating popularity as an alternative method of slave management.7

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While Ford argues the reconfiguration that coalesced in the late 1830s became the dominant attitudes about slavery, he acknowledges it was far from universal. Different slaveholding ideologies existed in both the upper and lower South, and across smaller subregions throughout the South. Even more prevalent were differences of opinion on how to implement the new outlook on slavery. Ford, however, argues the “differences seldom involved the three key points in the reconfiguration and all disagreements were almost entirely subordinated to the need to present a united front against the aggressive new abolition attack.”

Ford is also quick to acknowledge this forcefully presented united front was more problematic than southerners would have liked to admit: “In a sense, white southerners agreed on the need for unity in defense of slavery but for the most part found such unity easier to advocate than to achieve, largely because everyone wanted unity on their preferred terms.”

South Carolinian politicians found themselves advocating actions in defense of slavery or states’ rights that found little favor outside the state’s borders on more than one occasion. Perhaps the most famous is the Nullification Crisis of 1832, when South Carolina attempted to nullify the Tariffs of 1828 and 1832 and South Carolina received little support from other states. Another interesting example is South Carolina’s Negro Seaman Act of 1822. Designed to prevent slave insurrections, the Negro Seaman Act allowed the state to imprison free blacks working on both domestic and foreign ships entering South Carolina ports. When a ship was ready to leave, the captain could come claim his crewmember(s). South Carolina’s decision to detain numerous British nationals created friction between the United Kingdom and the United States. Eventually, it was

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8 Ford, *Deliver Us from Evil*, 509.
9 Ibid. 509.
declared unconstitutional, but South Carolina essentially ignored the ruling. While a few other southern states would eventually pass similar legislation, South Carolina stood alone during both the international negotiation and trial.\textsuperscript{10} The decision by southern slaveholders to minimize disagreements among themselves to defend slavery and show unity in the face of abolitionist attacks, and South Carolina’s desire to avoid acting alone, yet again, provide useful lenses through which to observe the actions of the South Carolina General Assembly.

\textsuperscript{10} Ford, \textit{Deliver Us from Evil}, 279, 282-93, 332-6.
CHAPTER III
THE JOURNEY FROM INDEPENDENT REPUBLIC TO MEMBER OF THE FLEDGLING CONFEDERACY

Even with this aversion to acting alone, South Carolina was the first state to secede from the Union, issuing its Ordinance of Secession on December 20, 1860. Immediately, the importance of protecting slavery became obvious. Four days after issuing its Ordinance of Secession, the South Carolina Secession Convention ratified the Declaration of the Immediate Causes which Induce and Justify the Secession of South Carolina from the Federal Union. Written by Christopher Memminger, a long-serving member of South Carolina’s General Assembly and future Confederate Secretary of the Treasury, this document illustrates the centrality of slavery in South Carolina’s decision to secede from the United States. It details the rising anti-slavery feelings in the northern states and lists those states that had passed laws against the Fugitive Slave Act. It also highlights the threat South Carolina perceived the election of Abraham Lincoln and the Republicans posed to slavery:

On the 4th day of March next, this party will take possession of the Government. It has announced that the South shall be excluded from the common territory, that the judicial tribunals shall be made sectional, and that a war must be waged against slavery until it shall cease throughout the United States [emphasis added].

South Carolina seceded from the Union because it felt the Union and slavery were no longer compatible, and South Carolina decided slavery was the more important of the two.

South Carolina, now an independent republic, quickly began preparing for a military response from the United States. Especially important were the status of both Major Robert Anderson’s garrison of federal troops and the unfinished, and currently unoccupied, Fort Sumter. Risking a great deal, Governor Francis Wilkinson Pickens ordered South Carolina forces to capture Castle Pinckney and Fort Moultrie on Sullivan’s Island after Major Anderson took possession of Fort Sumter. Additionally, he ordered the South Carolina militia to seize the Federal Arsenal in Charleston.

This willingness of Governor Pickens and South Carolina to act first belies the very real concern leading South Carolina politicians felt about acting without support from other Deep South states. Particularly telling was the attitude of both of South Carolina’s US Senators. Pressed by pro-secessionists to declare publicly his views on the matter, Senator James Hammond responded with private letters insisting on cooperative Southern action as a prerequisite for secession. As late as October 1860, he wrote independent secession “would be ‘the weakest, most impolitic and assuredly abortive movement’ that the state had ever made.”12 Senator James Chesnut Jr. favored no action until there was proof other cotton states would follow, although he did warm to the idea of independent secession after Abraham Lincoln was elected. At this juncture, secession conventions were meeting in other cotton states and it appeared likely that many other states would secede and answer South Carolina’s call to meet and form a new

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12 Cauthen, *South Carolina Goes to War*, 49-50.
government. However, there was no guarantee that South Carolina would not become isolated in the same manner as they were during the Nullification Crisis. On January 9, 1861, the same day cadets of The Citadel opened fire on the Star of the West, Mississippi voted to become only the second state to secede from the Union.\textsuperscript{13}

Between South Carolina’s attack on the Star of the West and the Confederacy’s attack on Fort Sumter, the Convention in Montgomery, Alabama, meeting to discuss the formation of a new government, constituted itself as the provisional government of the Confederate States of America.\textsuperscript{14} South Carolina, under the authority of their Secession Convention, joined the new Confederate States of America. Almost immediately, the Secession Convention transferred to the Confederate government all of the forts, public works, armaments, and war materiel the South Carolina militia had captured from the United States. Whatever motivation the Secession Convention had for turning South Carolina’s spoils of war over to the Confederate government, Governor F. W. Pickens unambiguously announced his belief that South Carolina’s bold actions allowed the state to claim what it had gained. This contributed to the tension that was exhibited in his message to the General Assembly.\textsuperscript{15}

Along with this generous donation to the Confederate cause, South Carolina had paid for the recruiting, organizing, equipping, supplying, and transporting of the 19,000

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\textsuperscript{13} Cauthen, \textit{South Carolina Goes to War}, 45-59.
\textsuperscript{14} As one can see, the Confederacy continued a long tradition in American politics concerning the expansion and extension of a convention’s powers. The Constitution Convention of 1787, called to revise the Articles of Confederation, instead wrote a new governing document. As previously mentioned, the South Carolina Secession Convention, called to debate the merits of the Union, sat as a legislative body until December 1862. The Montgomery Convention, which South Carolina believed would merely draft a constitution for a new Southern republic after which there would be national elections, sat as the Provisional Confederate Congress until the permanent government was took over in February 1862. For further reading on the confusion about the purpose of the Montgomery Convention and the evolution of the convention into the provisional congress, see William C. Davis, “\textit{Government of Our Own}”: \textit{The Making of the Confederacy}, (New York: The Free Press, 1994), 61-96.
\textsuperscript{15} Senate Journal 1861, 14-5.
men who by November 1861 had been inducted into the Confederate Army, most of them
serving in Virginia, in addition to a force of three thousand men in readiness in
Charleston. Governor Pickens placed the value of the cash expenditures toward the
common cause at nearly two million dollars. This amount, he claimed, did not include the
cost of the arms that the state had purchased before secession and provided to these
troops. As of November 5, 1861, the Confederate Government had reimbursed South
Carolina $686,774, or 36 percent of its cash expenditures toward the common war effort.
Governor Pickens had submitted the balance to the Confederate government, but the
Confederate government had not yet audited the accounts and vouchers.16

In Governor Pickens’ report about the cash expenditures and the value of the
captured Union property turned over to the Confederate government, for which he had
not yet submitted a claim, his frustration about the lack of action by the Confederate
government is obvious. In reference to the accounts yet to be audited, Governor Pickens
expressed, “I have every reason to believe they will be [audited] as soon as the
Government shall be relieved from the great pressure as to more immediate and
important business.”17 In relation to the action taken by the state in securing Fort
Moultrie and Castle Pinckney, he added, “By every principle of public law, we are
entitled to the expenses incurred during that period, and I doubt not but, when presented,
the claim will be recognized.”18 The source of the frustration lies in the ever-mounting
expenses South Carolina faced in a war that had already lasted beyond what many on
both sides predicted.

16 Senate Journal 1861, 10-3.
17 Ibid. 13
18 Ibid. 14-5.
The South Carolina General Assembly mirrored Governor Pickens’ concern about the finances of the state. Slightly over 30 percent of the bills ratified by the South Carolina General Assembly during the sessions of 1861 could be categorized as dealing directly with the economy of the state, not including the bills the General Assembly passed for other reasons that required some form of appropriations. This percentage rises to over 36 percent when all of the bills proposed by the General Assembly are taken into consideration.\textsuperscript{19} These calculations also exclude the petitions submitted by the citizens of the state and the resolutions offered by the members of the General Assembly for reimbursement of private expenses.

Although there was tension, the General Assembly was buying into the Confederate government, literally. One of the fourteen bills ratified and made into law was “to authorize Trustees to invest funds in Bonds of the Confederate States.” First introduced in the South Carolina Senate on November 29, 1861, this bill was agreed to by the Senate and passed to the South Carolina House of Representative on December 4, 1861, and passed by the House of Representatives on December 19, 1861.\textsuperscript{20} The General Assembly’s approval of this bill can be seen as a vote of confidence in the Confederate States of America and its ability not only to survive, but also to be economically successful enough that its bonds would be a worthwhile investment.

Governor Pickens was fond of interspersing his messages to the South Carolina General Assembly with his theory on the appropriate nature of governments. While he did not necessarily speak for the General Assembly, because those men directly elected him, it is reasonable to assume his views were well known and if not representative of a

\textsuperscript{19} See Table 4.1
\textsuperscript{20} Senate Journal 1861, 63, 85, 171.
consensus, representative of the majority of the representatives. In part of his message where he discussed the South Carolina General Assembly’s decision to legalize the decision of South Carolina banks to suspend the redemption of their bills, Pickens issued a warning to the Confederate government not to meddle in state finances:

The exercise, by the Confederate Government, of any power not expressly granted, is not only without authority, but, on so vital a point, it is dangerous, as calculated, if habitually acted upon, to affect deeply the distribution of wealth and the interests of productive labor.²¹

He continued by stating that if such measures are necessary, it is the state legislatures that must attend to them. He reasoned that state governments were closer to the situation and better able to handle such problems.

²¹ Senate Journal 1861, 19.
CHAPTER IV
THE PERMANENT CONFEDERATE GOVERNMENT

The regularly elected Confederate government gathered for the first time on February 22, 1862 in Richmond, Virginia. The one-year anniversary of the attack on Fort Sumter was approaching, the war having lasted longer than the majority on either side had anticipated. The end of the provisional government did not mean the end of South Carolina’s economic or military concerns. In many ways, the decision by the Confederate government in April 1862 to conscript soldiers complicated South Carolina’s military situation. As previously mentioned, conscription and the Confederate government’s decision to allow President Jefferson Davis to suspend the writ of habeas corpus created more possible friction points between South Carolina and the Confederate government.

ECONOMIC ISSUES

As the war entered its second year, the South Carolina General Assembly saw an increase in the number of bills related to economic and financial matters. During 1862, over 44 percent of the bills passed by the South Carolina General Assembly were related to economic and financial matters (see Figure 4.1). This jump from less than a third to just under half of the total bills ratified by the General Assembly illustrates the increasing importance of financial and economic considerations in relation to other issues. Beyond
standard appropriations acts, there were a number of bills introduced and ratified to provide relief to soldiers’ families. South Carolina provided the highest percentage of men of military age to the Confederate armies and the General Assembly passed laws to provide financial assistance to those families struggling with the loss of their providers. State banks were the subject of numerous bills, as the General Assembly attempted to regulate state banks and ensure those banks were able to circulate enough bank notes to keep the state’s economy afloat. In particular, the passage of a bill authorizing the banks of South Carolina to purchase Confederate and State securities provides evidence of the state’s willingness to tie its future with the common government. The trend appears to begin to reverse in 1863, as the percentage of proposed bills concerning the economic and financial matters dropped to just over 27 percent. However, the percentage of the total bills ratified concerning these matters were 33 percent, which was higher than in 1861 (Figure 4.1).

Table 4.1 Percentage of Bills Proposed and Ratified by the South Carolina General Assembly by Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Bills Proposed</th>
<th>Total Bills Ratified</th>
<th>Economic Bills Proposed</th>
<th>Economic Bills Ratified</th>
<th>Percent of Economic Bills Proposed</th>
<th>Percent of Economic Bills Ratified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1861</td>
<td>74</td>
<td>45</td>
<td>27</td>
<td>14</td>
<td>36.5%</td>
<td>31.1%</td>
</tr>
<tr>
<td>1862</td>
<td>89</td>
<td>54</td>
<td>40</td>
<td>24</td>
<td>44.9%</td>
<td>44.4%</td>
</tr>
<tr>
<td>1863</td>
<td>55</td>
<td>36</td>
<td>15</td>
<td>12</td>
<td>27.3%</td>
<td>33.3%</td>
</tr>
</tbody>
</table>

23 A few other interesting statistical notes, the overall number of bills proposed and ratified were lower in 1863 than in 1861 and 1862. Also, 1863 was the only year when the percentage of economic bills ratified was greater than the percentage of economic bills proposed.
While each year of war saw an increase in the amount of money necessary for relief of needy families, each year also saw a decrease in the amount of money South Carolina spent on maintaining active military forces. With changes in the Confederacy’s conscription practices (detailed below), and the Confederacy’s military presence in South Carolina, there was little necessity for South Carolina to retain large, active militia units.\footnote{Cauthen, \textit{South Carolina Goes to War}, 188-94.} South Carolina did contribute money to the Confederacy, but avoided the need to outfit military forces sufficient to combat the combined Union forces. In this way, South Carolina’s support of the Confederate government offset some of the financial strain on the state. The Confederate government in Richmond did reimburse South Carolina for the state’s military expenditures during the first two years of the war, totaling $3,000,000, soothing some of the tensions expressed in Governor Pickens first message in 1861.\footnote{Ibid. 191-2} Indeed, military matters, quickly overshadowed economic stresses, and the South Carolina General Assembly’s relationship with the Confederacy concerning them, as the war continued to rage across the United States.\footnote{Although military and economic concerns were linked, the Union occupation of South Carolina and other parts of the Confederacy made military matters paramount. At the time, South Carolina and the Confederacy were not concerned about growing their economy to become an economic power, but about their ability to continue their war efforts.}

**STRENGTHENING THE CONFEDERATE WAR EFFORT**

The Confederate government in Richmond, free from the label of “Provisional Government” and duly elected by the citizens of the Confederate States of America, immediately began work on improving the South’s ability to prosecute the war. One of
the first measures passed into law concerned the writ of *habeas corpus*. The consolidation of power in the Confederate government began slowly as the war unfolded. Its increased willingness to centralize and absorb powers traditionally reserved for the states paralleled their growing understanding of the demanding nature of the war. Throughout the war, the Confederate government began to view issues of *habeas corpus* and conscription as interrelated. However, the South Carolina General Assembly responded to these issues differently and therefore they will be treated separately. The South Carolina General Assembly also differentiated between the general issue of conscription and the specific issue of exemptions from the draft.

*Habeas Corpus* and Martial Law

Only five days after the First Session of the First Confederate Congress opened February 18, 1862, it passed an act that granted President Davis the power to suspend the writ of *habeas corpus*. The constitutions of both the United States of America and the Confederate States of America prohibit the suspension of *habeas corpus*, “unless when in cases of rebellion or invasion the public safety may require it.” 28 The decision to suspend the writ of *habeas corpus* was not made lightly by either side. The Confederate government weighed the concerns of national security against a long cherished protection of liberty: “The power of a civil court to order any arresting authority to bring a prisoner

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28 U.S. Constitution, art. 1, sec. 9, cl. 3.; Confederate Constitution, art. 1, sec. 9, cl. 3., in Emory M. Thomas, *The Confederate Nation, 1861-1865* (New York: Harper & Row, 1979), 313. Except for a few additions and “clarifications” concerning the issues of the powers assigned to the states and slavery, the Confederate Congress adopted the United States Constitution as their own. In their minds, they were restoring the original intent of the founders, not writing a new constitution. Davis, *Government of Our Own*, 224-226.
in person for a court hearing was, in the English-speaking world, an almost sacred bulwark against arbitrary imprisonment by agents of the executive branch of government.”29 This “almost sacred” status did not prevent either the Union or the Confederacy from granting the President the power to suspend habeas corpus. The first bill provided President Davis with the ability to suspend habeas corpus wherever he felt the threat of invasion required martial law, and had an immediate effect on South Carolina as Union forces had captured two forts in Port Royal Sound the previous November and were using the sound as a base for the blockade and coastal operations in South Carolina.30 Davis deemed these actions enough of a threat and suspended habeas corpus throughout most of the state.31

Davis’s suspension of habeas corpus touched off a violent debate that spanned the Confederacy. At the heart of the debate was the assumption that the suspension of habeas corpus was an erosion of constitutional law and would crown Jefferson Davis as a military dictator. Further complicating the problem was the focus of Confederate propaganda, which contrasted the tyranny of Lincoln and the North against the Confederacy’s staunch defense of white freedoms.32 Indeed, President Davis’s Second Inaugural Address, issued five days before the Confederate Congress empowered him to

30 Ibid., 169. The inclusion of the concept of martial law in this legislation illustrates the continual confusion between martial law and the suspension of habeas corpus. Martial law is a suspension of civil law in an area where it has been decided that the civil justice system cannot properly function and the military becomes the arbiter of all judicial actions. The suspension of the writ of habeas corpus prevents courts from issuing the writ, but otherwise leaves the civil justice system intact, and criminals are tried in the usual civilian courts. This confusion plagued the Confederate Congress’s debates on the two issues for the duration of the war.
31 Rick Simmons, Defending South Carolina’s Coast: The Civil War from Georgetown to Little River (Charleston: The History Press, 2009), 13; Alexander and Beringer, Confederate Congress, 170.
suspend *habeas corpus*, contained an entire passage castigating the Union’s disrespect for liberty:

> Whatever of hope some may have entertained that a returning sense of justice would remove the danger with which our rights were threatened, and render it possible to preserve the Union of the Constitution, must have been dispelled by the malignity and barbarity of the Northern States in the prosecution of the existing war...disregard they have recently exhibited for all the time-honored bulwarks of civil and religious liberty. Bastiles [sic] filled with prisoners, arrested without civil process or indictment duly found; the writ of *habeas corpus* suspended by Executive mandate...”

Although the Confederacy’s decision to allow the suspension of *habeas corpus* was by legislation not by Executive mandate, Davis’s decision to suspend *habeas corpus* immediately after he received congressional authorization contradicted the implication that the Confederacy would act differently than the Union: “through all the necessities of an unequal struggle there has been no act on our part to impair personal liberty...courts have been open, the judicial functions fully executed, and every right of the peaceful citizen maintained...”

Another facet of the debate was the unwritten admission of distrust of the state and county court system. The bill “clearly said that the central Confederate government did not trust state and local legal machinery to exercise the necessary discipline over a people at war...” By suspending the writ of *habeas corpus* in South Carolina, Davis effectively stated his belief that the Confederate government would more efficiently keep the peace. The issue went further than merely finding the local court system inadequate. It also highlighted the fears of disloyalty within the Confederacy. If a local judge were to

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34 Ibid.
35 Thomas, *Confederate Nation*, 150.
issue a writ, it meant that the judge felt the official holding the detainee was in the wrong. Technically, a writ of *habeas corpus* does not automatically release a prisoner, but instead provides a judge with the ability to decide if a prisoner should be tried; if the judge agreed with the government’s charges, the prisoner would stand trial. In practice, individuals imprisoned without trial are often held on dubious charges. Therefore, problems occurred when state and local justices viewed the necessity of these imprisonments differently than the Confederate government. Armed with this legislation, President Davis had the power to hold prisoners the state and local court might have released.

In South Carolina, the reactions to President Davis’s suspension of *habeas corpus* were relatively muted. This was probably due to the Executive Council’s declaration of martial law in many of the areas that Davis suspended the writ of *habeas corpus*. While Davis’s decision may have introduced a large theoretical change in the power structure between South Carolina and the Confederate government, in actuality, it only changed South Carolinians’ lives by degrees. Therefore, newspapers such as the *Charleston Mercury* railed against usurpations of power while the General Assembly concentrated on conducting the business of state necessary to protect the interior of South Carolina from Union invasion. It is possible that many of the legislators privately expressed displeasure with the suspension of *habeas corpus*, but, there is little mention of it in the journals of the legislature, and the General Assembly passed no bills or resolutions concerning *habeas corpus*. This reaction is one of countless examples where the necessities of war

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37 Cauthen, *South Carolina Goes to War*, 151.
appear to have trumped the concern for states’ rights in the minds of the South Carolina General Assembly.

It did not take long for the Confederate Congress to recognize the generally negative reactions caused by Davis’s decision to declare martial law and suspension of *habeas corpus* in various locations across the Confederacy. In April 1862, less than two full months after the Confederate Congress passed the original bill, they limited the suspension to cases in which the detainee transgressed against Confederate law.\(^{38}\) This qualification added to the confusion, as now some prisoners were entitled to writs of *habeas corpus* while others were not. Responding to President Davis, who sought clarification, Confederate Attorney General Thomas Hill Watts wrote: “Let the *general* rule be that the civil jurisdiction of the courts shall be exercised as usual; and the exception prevail only when a necessity for the departure is manifest.”\(^{39}\) This response illustrated the cautious nature of the government toward the suspension of *habeas corpus*. It also shows the muddled understanding of the differences between martial law and questions of *habeas corpus*. The suspension of *habeas corpus* would not have necessarily disrupted normal civil jurisdiction in criminal matters.

In the revised law, the Confederate Congress also limited the time President Davis held the power to suspend *habeas corpus*. Recognizing the necessity of the measure, but also unsure of how to properly resolve the issues involved, the Confederate Congress delayed the necessity of a final decision by having the bill expire thirty days after the beginning of the next session of Congress.\(^{40}\) The Confederate Congress would use this

\(^{38}\) Alexander and Beringer, *Confederate Congress*, 170.


\(^{40}\) Rable, *Confederate Republic*, 159.
delaying tactic often. Therefore, the Confederate Congress had to face the issue of habeas corpus again in October 1862. Although there was considerable debate concerning how to resolve issues that had arisen since the April bill, the Congress ended up merely reenacting the previous act, although they did delete the portion concerning martial law. Again, the act was set to expire thirty days into the following session of Congress.41

The South Carolina General Assembly’s silence on issues of habeas corpus continued throughout the war. If they had decided to denounce this centralization of Confederate power, South Carolina would not have acted alone. In 1863, the North Carolina state legislature not only declared the suspension of habeas corpus unconstitutional, but also “ordered the state’s attorney general to the Salisbury Prison to sue out writs of habeas corpus for any North Carolina citizens there” and even authorized a $1000 fine and possible imprisonment for anyone who failed to honor a writ. Another neighbor of South Carolina, Georgia, passed an even higher fine, $2500, for those unwilling to release prisoners on the grounds of habeas corpus.42 These reactions, while extreme, make South Carolina’s lack of action more conspicuous. In their study of the Confederate Congress, Alexander and Beringer found congressmen representing a district that was either occupied or directly threatened by Union forces were more likely to vote for the suspension of habeas corpus.43 It is safe to assume that with much of the South Carolina coast invested by Union military forces, the South Carolina General Assembly was of a similar mind.

41 Alexander and Beringer, Confederate Congress, 171. 
It was 1863, an election year, when the Confederate Congress met again. Mindful of the unpopular nature of the suspension of *habeas corpus*, it proved unwilling to tackle the issue during its Third Session. With some members of Congress openly campaigning as anti-administration and all members sensitive to enlarging and centralizing powers in the Confederate government, it is not surprising no action was taken to renew the executive power to suspend *habeas corpus*. Therefore, after the old act expired, President Davis lost the ability to suspend the writ. Not until February 1864 did the Confederate Congress pass another bill that authorized the power to suspend *habeas corpus*.

At this time, President Davis formally asked the Confederate Congress for the power to suspend the writ. Davis listed a number of reasons he needed the power to suspend the writ of *habeas corpus*: secret assemblies that advocated peace and re-admittance to the Union, spies, deserters, and judges who used *habeas corpus* to help others avoid conscription. Trying to pacify his critics and justify the latest act, Davis wrote: “Loyal citizens will not feel danger, and the disloyal must be made to fear it.”

Recognizing the deteriorating situation confronting the Confederacy, this act also conferred the power to suspend *habeas corpus* to the Secretary of War and the

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44 The Third Session of the First Confederate Congress is renowned for measures it did not pass. Along with *habeas corpus*, bills concerning the creation of the Confederate Supreme Court, the creation of a general staff, and to seat members of Davis’s cabinet in Congress were all debated, but never approved. The Confederate Constitution provided for both a Supreme Court and seating of cabinet members in the Confederate Congress, but lacked the necessary legislation to enable them. However, the Third Session did pass important measures on other important topics such as impressment, taxation, and the issuance of bonds. Thomas, *Confederate Nation*, 194-7.

45 Ibid. There were no formal political parties in the Confederacy, but an opposition faction coalesced against President Davis.


commanding general in the Trans-Mississippi Department, Edmund Kirby Smith. This time the power to suspend the writ of habeas corpus was to last ninety days after the beginning of the next session of Congress.

Balancing the expanded number of government officials empowered to suspend the writ of habeas corpus, the Confederate Congress limited the number of offenses where the government was authorized to suspend habeas corpus and required any arrests under this act to be investigated. In an attempt to preempt any opposition, this bill also included a constitutional justification of its legality. Yet, these precautions were not enough to eliminate objections to the bill. Besides detractors against any suspension of habeas corpus, there were numerous objections to the clause that allowed the writ to be suspended in cases where the detainee “advis[ed] or incit[ed] others to abandon the Confederate cause.” The open-ended nature of this phrase appeared to contradict the increasingly explicit wording of bills authorizing the suspension of habeas corpus. This was a result of the continuing confusion and tension surrounding the issue.

The First Session of the Second Confederate Congress had ninety days to decide what they would do concerning habeas corpus. Reacting to the cacophony of protests that followed the previous acts, Congress did not renew Davis’s power to suspend the writ. However, it also ignored appeals to repeal the act passed by the lame-duck session earlier that year. Consequently, Davis’s power to suspend the writ expired on July 31, 1864. Although the Confederate Congress would again consider the issue during its Second Session in November 1864, the House of Representatives and the Senate could not agree

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48 Starting in 1863 and continuing throughout the remainder of the war, Davis and the rest of the Confederate government increasingly ignored the Trans-Mississippi Department, leaving both military and civil control to Smith. Thomas, Confederate Nation, 255-6, 264-6.
49 Alexander and Beringer, Confederate Congress, 172.
50 Rable, Confederate Republic, 250-1.
on the bill and eventually dropped the matter.51 The issue of the power to suspend the writ of *habeas corpus* was extremely controversial and during the four years of war, President Jefferson Davis had the power to suspend the writ of *habeas corpus* for only sixteen months.

Conscription

While the suspension of the writ of *habeas corpus* may have been more controversial, the conscription acts passed by the Confederate Congress were more likely to have a direct affect on a larger percentage of the populous. In addition to being two of the most divisive measures enacted by the Confederate Congress, *habeas corpus* and conscription had another link. Those wishing to avoid conscription often sought a writ of *habeas corpus* from a state or local judge to escape. This exploitation of judges who did not agree with conscription provided impetus to the Confederate Congress to give President Davis the power to suspend the writ.52 However, it is important to note that the first conscription measure was passed after the first suspension of *habeas corpus*. It is possible Confederate legislators anticipated this legal maneuvering. Either way, the desire to close this legal loophole was part of the debate throughout the remainder of the war.

President Davis believed the defeats of the Confederate armies in 1861 and early 1862 could be blamed, in part, on the short term of enlistments. After the Confederate Congress failed its attempt to entice men to enlist for longer terms of service with

52 Rable, *Confederate Republic*, 158.
bounties, it turned to conscription.\footnote{Alexander and Beringer, \textit{Confederate Congress}, 107-8.} The first Conscription Act was passed April 16, 1862 and made all men between the ages of eighteen and thirty-five eligible for mandatory service for up to three years.

In September, the Confederate Congress again debated the necessity of conscription and raised the upper limit of the military age to forty-five. This decision was made after the Peninsula Campaign, Major General Ulysses S. Grant’s first Vicksburg campaign, and the fall of Memphis convinced the Confederate Government further reinforcements would be necessary. Also passed during this period were a number of exemptions, which will be dealt with more thoroughly in the following section.\footnote{Ibid. 109-10.}

It is obvious conscription would infringe upon states’ rights. In addition to the Confederate government being able to accept units directly, now it was empowered to take individual men directly from the states. Conscriptio
n also endangered another tightly held right: that of men to elect their own officers and serve with men from their own locality. Aware of this objection, the Conscription Acts retained these rights for men raised through the draft.

When the South Carolina General Assembly began its scheduled session in November 1862, the Confederate Congress had already passed four major acts concerning conscription: the first Conscription Act in American history; the first legislation concerning exemptions; an act to raise the military age limit for conscription to forty-five; and the controversial overseer exemption. Militarily, the Union appeared to have the initiative: in the Eastern Theater, General Ambrose Burnside’s Army of the Potomac was awaiting pontoon boats to bridge the Rappahannock River in route to
Fredericksburg; in the Western Theater Grant was continuing his first attempt to take Vicksburg; and New Orleans had been captured. Along South Carolina’s coast, Port Royal remained in the hands of the Union and the threat of naval attacks on Charleston Harbor continued to loom over South Carolina.

It was under these circumstances the South Carolina General Assembly received the Governor Francis W. Pickens’ opening message November 25, 1862. In addition to listing the many political and legislative issues before the General Assembly, Pickens implored the General Assembly to “Withhold nothing, and make no complaint calculated to weaken the hands of the Confederate authorities in any particular.” In case there was any question in the legislators’ minds about the complaints to which Pickens was referring, he followed up with his view on the Conscription Acts passed by the Confederate Congress: “This is the reason I do not think proper to urge any objection to the Confederate Acts of Conscription, although I deem all such Acts against the spirit of the Constitution.” Pickens continued to explicitly state why conscription was unconstitutional, yet war against the North justified the action: “There is a great State necessity, at present, for such laws; but the general spirit of the Constitution intended that in the raising of all military forces, excepting an enlisted regular army, the Government should act through State authority, rather than directly upon the people as a consolidated whole.” The Governor had made his stance on the conscription of South Carolinians into the Confederate armies clear, and the General Assembly quickly illustrated its agreement.

55 Senate Journal 1862, 12.
56 Ibid. 12.
57 Ibid. 13.
This was not the South Carolina General Assembly’s first exposure to conscription. Two months prior to the Confederate Conscription Acts, Jefferson Davis called for 18,000 troops from South Carolina to serve for the duration of the war. The Executive Council had organized a draft to fill this quota. However, the desire not to be labeled a conscript motivated enough volunteers that the draft was never implemented.\footnote{Cauthen, \textit{South Carolina Goes to War}, 144-5.} Again, the Executive Council had preemptively employed a measure the Confederate government would enact. And again, the South Carolina General Assembly was content to allow the Confederate government to centralize power.

Days after Governor Pickens’ message to the General Assembly, South Carolina Senator J. W. Miller proposed the following resolution, which was accepted by the Senate:

\textit{Resolved}, That the Committee on Military and Pensions be instructed to inquire and report upon the expediency of so amending the existing laws as to declare vacant all militia offices at present filled by persons under the age of forty-five years; and of further so amending the law as to provide for filling those offices only from among those over forty-five and those exempted from military service.\footnote{\textit{Senate Journal 1862}, 49.}

This resolution illustrates the Senate’s tacit agreement with Governor Pickens’ decision to support the Confederate Conscription Acts. Holding a militia office exempted men from the Confederate draft. By preventing men under the age of forty-six from receiving commissions in the State militia, South Carolina’s militia would not compete for bodies with the Confederate armies.

Although the South Carolina General Assembly did not directly challenge the Acts of Conscription passed in 1862, they occasionally offered resolutions directed toward the Confederate government, hoping to influence the decisions of the
Conscription Bureau or members of the Confederate government. In response to a possible Union attack from the Port Royal Sound, the South Carolina General Assembly authorized the Governor to extend the service of three regiments of reserves and to receive any volunteer units for a period of thirty days. One senator offered the following amendment:

Resolved, That in consideration of the services of which those persons who are liable to conscription under the late call of the President of the Confederate States, have already performed in these regiments, and may hereafter, under the call authorized to be made by the Governor, it is the opinion of this General Assembly that they should not be assigned to duty as conscripts immediately on the expiration of the said thirty days, but should be permitted to return home, and be subject only to the regular enrollment ordered through the Commandant of Conscripts of this State, with all the rights and privileges of others who are liable to conscription, and who have not been in service in said regiments.\(^6^0\)

The House refused to allow the amendment. Still, it shows that the General Assembly was willing to stand up to the Confederate government when they felt it necessary and the House and the Senate were not always of the same mind concerning the issue of conscription and exemptions.

South Carolina keenly felt the effects of Confederate conscription. The enlistment and drafting of South Carolina’s military-age population led to worries about the viability of the state’s militia. With the Union conducting joint land-naval operations along the South Carolina coast, Governor Pickens’ successor, Milledge L. Bonham called the General Assembly to session in late September 1863 and asked for legislation to expedite the raising of state troops to meet possible raids and other emergencies. At this time, the inability of the Confederate forces to dislodge the Union forces from Port Royal and the unwillingness of the Confederate government to commit more men to the defense of South Carolina caused the General Assembly to worry about the need for adequate state

\(^6^0\) Senate Journal 1862, 256.
military forces. Governor Bonham, and likely the General Assembly, continued to maintain faith in the Confederate Government to protect the state from a major Union invasion and his message contains no criticism of Confederate policy:

This requisition and the enforcement of the Conscription Act to forty-five, embracing almost the entire population between the ages of forty and fifty, so impair the efficiency of our militia organization, that I find it impractical to obtain readily a force adequate to such emergencies as seem likely now soon to be upon us…The immediate danger to be apprehended arises from raiding parties of the enemy, who may dash suddenly into the State from Tennessee, through upper Georgia, or the passes of the mountains of North and South Carolina. Should the enemy in large force attempt invasions of these sections, the Confederate Government will, no doubt, afford adequate protection. But to repel raids and to protect our firesides, the State herself should make preparation. The persons to compose the organizations should be able-bodied citizens between sixteen and sixty years of age, not in Confederate service, or otherwise legally exempted; and in this class should be embraced all persons who have procured exemptions by furnishing substitutes.  

South Carolina had been in dire need of reorganizing its militia before the war started. The state had attempted various reforms before the war, but without effect. After Confederate conscription began, each wartime attempt by the General Assembly to create an effective militia organization was defeated by the drafting of men and sometimes entire units into Confederate service. The only method of filling militia units that appeared to work was to include those exempt from Confederate service in the militia service.

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62 Cauthen, South Carolina Goes to War, 110-1, 146-7.
Exemptions

In South Carolina, exemptions from Confederate conscription proved to be a more contentious issue than conscription itself. Whereas the necessity of the draft prevented the South Carolina General Assembly from leveling major criticisms against conscription, they did not hesitate to assert themselves concerning exemptions. States’ rights issues and the necessity to supervise the state’s slave population contributed to the outbursts against the Confederate policies pertaining to exemptions.

Only days after they passed the first Confederate Conscription Act, Confederate legislators started creating exemptions from the draft. Some were for indispensable occupations such as those for blacksmiths and superintendents of hospitals. Others were for occupations directly related to the military operations of the Confederacy, including numerous exemptions for railroad workers. Each congressman appeared to have a particular exemption he wished to allow. The list grew to the point that one senator claimed the law would take more men out of the army than it would add. Out of all the exemptions, two raised particularly heated debate: exemptions for state officials and the overseer exemption.63

Exemptions were granted to state officials in large part due to the states’ rights issues involved. Kentucky Senator Henry C. Burnett summed up his rationale for a liberal exemption system: “Congress had no power to take the humblest State officers, for if it could take the Justices of the Peace, it could take the Governor, and thus overthrow the

63 Alexander and Beringer, Confederate Congress, 109-10.
Throughout the war, the Confederate Government allowed the individual states to decide which state officers would receive exemptions from military service.

The overseer exemption or “twenty-negro law” provided an exemption for either an owner or an overseer for every plantation with twenty or more slaves. This exemption became the most notorious exemption of the entire war. It faced widespread opposition, not limited to those who felt the individual states should be the arbiters of exemptions. Because it exempted those wealthy enough to own a significant number of slaves, it gave credence to the slogan “rich man’s war, poor man’s fight” and created class discord.65

Some in favor of the exemption argued it was a necessary security measure. The threat of possible slave insurrections had long terrified the South. South Carolina itself was home to the Denmark Vesey plot in 1822. After Nat Turner’s 1831 rebellion in Virginia, rumors swirled around South Carolina about slaves waiting to rise up all across the South.66 The very nature of slavery meant that slaveholders had long memories concerning possible uprisings. Keeping overseers on the plantations would be the first line of defense against any slaves contemplating joining a future rebellion or simply running away with most people’s attention directed toward the war effort. With the additional weight of class and slavery, the overseer exemptions were the ones most likely to find their way into the debates of the South Carolina General Assembly.

The South Carolina General Assembly divided on how to respond to the contentious overseer exemption. On February 2, 1863, the House sent a bill to the Senate to repeal an ordinance the Convention had passed which exempted overseers from

military duty. Only four days before, the Senate had ordered a proposed amendment to a bill concerning the organization of the state militia “laid on the table”, thereby effectively killing it. The amendment would have eliminated overseer exemptions.67 The house bill, entitled “A Bill for the better organization of the militia, and for other purposes,” passed the Senate on February 5, but the Senate had reinstated the overseer exemption. The House asked leave to amend this bill so that “all exemptions granted by the Adjutant General under that Ordinance be repealed, and new exemptions for overseers shall be taken out,” but the Senate again refused to eliminate overseer exemptions. These differences continued after the Committee of Conference created to reconcile the House and Senate revisions of the bill recommended the repeal of the exemptions. The Senate yet again refused to agree to the amendment. In the end, the Senate prevailed, and the bill passed without the repeal of any exemptions.68

Later, the Senate continued to exert its will on questions about the ability of the state to decide who qualified for exemptions. The following section was struck from “A Bill to organize a Brigade of troops”: “SEC. 6. That the exemptions provided for by this Act, and by an Act, entitled ‘An Act for the better organization of the militia and for other purposes,’ passed 6th day of February, 1863, are hereby declared not to apply to conscription for Confederate service, but only to ordinary militia duty and to State service.”69 This is an unambiguous statement the South Carolina Senate believed they had the right to decide what conditions applied to exemption from Confederate military service. However, at the same time the General Assembly was considering a bill to make

67 Senate Journal 1862, 186, 205.
68 Ibid. 244, 250, 255-6, 259, 313.
69 Senate Journal 1863, 19. The title of this bill was later changed to “A Bill to provide for volunteer companies of mounted infantry, and for other purposes.” Ibid. 31.
it easier for the state to prevent desertion and draft evasion. The bill was passed, committing South Carolina to enforcing the Acts of Conscription passed by the Confederate government.\(^{70}\) Therefore, it appears that the South Carolina General Assembly wished to retain some power in the military relationship between the national and state government.

Eventually, the difference between South Carolina’s exemption policy and the Confederate exemption policy reached the Circuit Courts. The Courts decided the acts of the South Carolina General Assembly were never intended to apply to Confederate military service and therefore were not contrary to the Acts of Conscription. This decision contradicted the Senate’s intent when it deleted Section 6 of “A Bill to organize a Brigade of troops” which had expressly stated the exemptions did not apply to Confederate service. This decision indicated the Senate believed the exemptions they created did apply to Confederate service. Governor Bonham, in a message to the General Assembly, called upon the legislature to amend the state’s exemption laws to comply with those of the Confederate government. He felt that it could be done without surrendering the right of the state to exempt those deemed necessary for the purposes of maintaining the state.\(^{71}\) This further demonstrates that the South Carolinian government believed their acts could apply to Confederate exemptions.

It should not be too surprising that state legislatures disagreed with the Confederate Congress over the nature of exemptions. Often, the different houses in South Carolina’s General Assembly did not agree with each other about who should be eligible for exemptions. As the debate over the “Bill to organize a Brigade of Troops” continued,

\(^{70}\) Senate Journal 1863, 17, 21, 26.
\(^{71}\) Ibid. 44.
the South Carolina House proposed an amendment to prevent the state from employing anyone under the age of forty-five, unless they were holding a commission from the state. This was proposed “to the end that every available man may be put in the field.”\textsuperscript{72} The Senate disagreed with the amendment and it was eventually dropped from the bill. Because state officials could be declared exempt from the Confederate draft, the General Assembly decided whether a number of state agents and clerks would have their names reported to the Confederate Conscript Bureau.

The issue of exemptions also appeared in the new Governor Milledge L. Bonham’s message to the September 1863 session of the South Carolina General Assembly. As previously mentioned, exemptions, to a much greater degree than conscription itself, brought out states’ rights rhetoric. Governor Bonham had been corresponding with Major C. D. Melton, the Commandant of Conscripts for South Carolina, in an effort to reconcile the Confederate government’s view on exemptions with the South Carolina government’s. Bonham states:

\begin{quote}
It is an important question, involving the jurisdiction of the two governments, and needs to be delicately handled. I am satisfied our true policy is as far as is compatible with the constitutional rights of the State, to conform to the law of Congress on this subject I have not felt at liberty to make any distinction between the classes exempted by our law when the cases have been made, but have claimed exemption of all alike.\textsuperscript{73}
\end{quote}

Again, even with the states’ rights language, it is clear that Governor Bonham acquiesced to the Confederate government when differences presented themselves. This time the South Carolina House of Representatives approved of Governor Bonham’s actions and

\textsuperscript{72} Senate Journal 1863, 27-8.
\textsuperscript{73} Ibid. 10.
the South Carolina Senate remained silent on the matter, effectively agreeing with the governor.74

As the fortunes of war turned steadily against South Carolina, the South Carolina Senate began to reverse its earlier protection of exemptions. With Union forces controlling and threatening more of the South Carolina coastline and the siege of Charleston beginning in July of 1863 the Senate contemplated “abolishing all exemptions from military duty for State defense.”75 By the end of the war, South Carolina was only claiming 307 exemptions for essential state officers. Compared to the 8,229 claimed by Georgia, it appears that South Carolina was willing to accept the ability of the Confederacy to draft an army until the end.76

74 Senate Journal 1863, 9-10.
75 Ibid. 11.
76 Alexander and Beringer, Confederate Congress, 106-7.
CHAPTER V
CONCLUSION

Perhaps the best illustrations concerning the willingness of the South Carolina government to sacrifice cherished liberties and rights for the sake of winning the Civil War appear during the speeches and resolutions that proclaim the state leader’s views on how governments should be run. Sometimes these were presented in flowing prose, other times they were manifested in a short but pointed phrase in a bill.

Governor Pickens sprinkled these critiques throughout his messages to the South Carolina General Assembly. His successor, Governor Bonham, included fewer pronouncements of this manner. How much of this is due to the South Carolina government’s realization South Carolina (and the other Confederate states) needed to make sacrifices to continue fighting the war and how much is just a difference in personality is difficult to measure. However, when Bonham did weigh in on the relationship between the Confederate government in Richmond and the Confederate states, it was clear that he viewed the Confederate government as the superior: “The State Legislatures have no unimportant part to play in this great drama. They can aid the Confederate Government…”\(^{77}\) That Bonham, who admitted the necessity of the power of the Confederate government, was elected to replace Pickens, who often railed against

\(^{77}\) *Senate Journal 1863*, 42.
centralization of Confederate power, illustrates the views of the South Carolina General Assembly.

Before the issues of *habeas corpus* and conscription created friction between the Confederate government and the individual states, other issues stressed Confederate-state relations. The Confederate government’s decision to accept military units directly into the Confederate Army angered many southern states. Initially, volunteer units were raised by the state, and were then requisitioned by the national government and mustered into Confederate service. This practice changed in May 1861 when the Confederate government started to accept units directly into Confederate service. This new policy created bitterness in many of the southern states. The South Carolina General Assembly was still upset over this infringement on states’ rights in the fall of 1863. These feelings appeared in a bill authorizing the Confederate government to raise troops in South Carolina. Although the General Assembly was willing to allow the Confederate government to raise troops, they insisted on adding the phrase “with the consent of the Governor” to the bill.78

While the South Carolina General Assembly was submitting, often quietly to the growing powers of the Confederate government, it was denouncing what it perceived to be an abuse of power by the Secession Convention and its Executive Council. The South Carolina House passed a set of six resolutions pertaining to the Convention and sent them to the Senate to consider. The Senate made the resolutions one of the special orders of the day on December 10, exactly one week before the Convention was set expire by its own ordinance. The first five resolutions were agreed to unanimously; these were declarations

78 *Senate Journal* 1863, 29-31.
of principles of government, citing the necessity of the separation of powers and the
dangers presented by the accumulation of power in the Convention.

The sixth resolution, rather than declaring a principle of good government,
accused the Convention of circumventing the state constitution and violating these
principles:

Resolved, 6. That we regard with profound regret any measures which may have
been adopted by the late convention at variance with these principles, or any such
action as may have been under its countenance, and feel that it is incumbent upon
this Legislature to remedy, as far as they can, any mischief or inconvenience that
may have resulted therefrom.79

This resolution was nothing less than thinly veiled attack on the Secession Convention’s
record as a legislative body. The Convention was accused of both violating the important
principle of separation of power and creating “mischief and inconvenience.”

By examining how the Senate treated this resolution differently than the other
five, it is possible to gain some insight into the mindset of the legislature and its
willingness to support the Confederate government’s actions they felt were of
questionable constitutionality. The Senate ordered the yeas and nays for the sixth
resolution, meaning that each senator’s individual vote would be entered into the Senate
journal. The resolution passed with twenty-five votes for and eleven votes against.
Among those voting against the final resolution was the Senate President W. D. Porter.
He explained his action by stating his unwillingness to join in a general censure of the
Convention. Instead, he cited the “patriotism and wisdom” of the members of the late
Convention and his desire to not “perpetuate an antagonism between [the Convention]
and the General Assembly.”80 It is likely the General Assembly held the same feelings

79 Senate Journal 1862, 100.
80 Ibid. 100-1.
toward the Confederate government, and the desire to avoid antagonisms and to trust the patriotism and wisdom of the national government outweighed the desire to challenge it.

This is not to deny tension existed between the two levels of government, especially in the realm of economic concerns and theories of government. However, even the dissension caused by these issues was not enough to threaten or take radical action, such as seceding from the Confederacy or concluding a separate peace with the Union (actions which were discussed to varying degrees in North Carolina and Georgia for example). The South Carolina General Assembly’s relatively tame reactions to the suspension of the writ of *habeas corpus* and conscription and its willingness to moderate its exemption policies illustrate South Carolina’s motivation to sacrifice in the short-term to increase the ability of the Confederate States of America to defend themselves and the institution of slavery.

South Carolina left the Union because if felt slavery was no longer safe; it helped create the Confederacy, which was committed to the continuation of slavery. After the Emancipation Proclamation, it became even more obvious the future of slavery depended upon the survival of the Confederacy, and even more important for South Carolina to do everything it could to ensure Confederate victory. With the surrender of the Confederacy, it is impossible to know how much centralization of power South Carolina would have tolerated in peacetime. Regardless, the actions of the South Carolina General Assembly, by often supporting the Confederate Congress’s legislation, show they felt it was in South Carolina’s best interest to support the Confederacy, even at the cost of some cherished liberties.
BIBLIOGRAPHY


