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“CASUALTY OF WAR”: THE GOVERNORSHIP OF BERIAH MAGOFFIN,
1859 – 1862

By

Robert W. Goebel
B.A, Bellarmine University, 2003

A Thesis
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May 2005

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A Thesis Approved on

March 25, 2005

by the following Thesis Committee:

Thesis Director

DEDICATION

This thesis is dedicated to my family and friends for their loving support in my educational endeavors.

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I would like to thank my major professor, Dr. Thomas Mackey for his guidance and insights into a politician who at times frustrated me. I would also like to thank the other committee members, Dr. Benjamin Harrison and Dr. Jasmine Farrier for their insightful comments on Beriah Magoffin and presenting different ways to look at Kentucky's former governor. Finally, I would like thank my family for their patience and understanding during my long nights of writing and rewriting.

ABSTRACT

“CASUALTY OF WAR”: THE GOVERNORSHIP OF BERIAH MAGOFFIN 1859 – 1862

Robert W. Goebel

May 14, 2005

This thesis seeks to understand Beriah Magoffin as Governor of Kentucky. Adding to the work begun by Michael T. Dues and Lowell H. Harrison during the 1960s and 1970s, this thesis fleshes out a man little studied in history. It addresses several questions: Who was Governor Beriah Magoffin and what type of leader was he? Answering these questions, this thesis provides Magoffin as a mediocre leader who unsuccessfully tried to prevent civil war through compromise, neutrality, and obstruction. Moreover, Magoffin was a complex man with complex principles that guided his actions and eventually ruined his governorship. Magoffin believed in state's rights, majority rule, a strict construction of the Constitution, compromise, and the Union as it was. Over the course of the war, Magoffin held onto his principles without evolving. Unable to influence policy or the Unionist dominated General Assembly, Magoffin resigned as a political casualty of war.

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INTRODUCTION

The Kentucky Historical Society owns a portrait of Beriah Magoffin, Governor of Kentucky from 1859 to 1862. The portrait depicts Magoffin as a middle-aged man; he was 44 at the time of his inauguration. The governor wore a traditional black suit, a white shirt, and black tie. He parted his brown hair to the right and possessed a slightly receding hair line. He wore his white-brown beard to the top of his chest. He possessed crow's feet around his eyes, rosy cheeks, and what appears to be a smile under his beard. At a certain angle, Magoffin resembles a younger version of Santa Claus. The artist captures Magoffin physically but did not mentally or emotionally. The picture conveys stature and importance of a public figure, but did little to convey Magoffin as a mental and emotional figure. Magoffin's portrait scratches the surface of Magoffin the person while leaving much to be desired. Historians over the past 150 years have attempted to unmask Magoffin. However, Magoffin has not left behind an insightful diary, or numerous personal letters to convey his innermost thoughts, hopes, and dreams. Instead, Magoffin has left a political legacy of addresses, vetoes, and gubernatorial correspondences that range from the mundane to the historically significant.

In 1872, William Allen provided the most insightful depiction of Magoffin as a person than any other Kentucky historian. Allen who knew Magoffin as an acquaintance spoke of the governor as a good man, cordial and polite. Allen's Magoffin was "a gentleman of high distinction," "sociable, genial manners, and the center of attraction at

his levees.” Allen’s depiction fits Magoffin’s portrait. The jolly Magoffin appears to be a man who could laugh jocundly, sociably entertain, and enjoy the company of friends. However, Allen’s depiction of Magoffin offered little insight into Magoffin as a political leader. Instead, Allen focused on the man, the personal Magoffin rarely seen in other historical depictions of Magoffin.¹

The lack of personal materials has made it difficult for Allen’s successors to follow in his footsteps. Instead, Allen’s successors have focused on the political aspects of Magoffin. Allen’s successors have depicted Magoffin as the governor who denied troops to the federal government after the Confederates bombarded Fort Sumter. Pro-Union historians depicted Magoffin as a closet-secessionist scheming behind every closed door to secede Kentucky from the Union. While at the same time, pro-Confederate historians depicted Magoffin as the poor governor wanting to fulfill the wishes of Kentuckians to secede but was thwarted every step of the way by the Unionist controlled General Assembly. Still other historians such as Nathaniel S. Shaler criticized Magoffin for being unqualified and undereducated for leading Kentucky during a time of crisis. Shaler remarked that Magoffin would have done a fine job if not for the Civil War. At best, Shaler’s Magoffin was a mediocre politician.²

In E. Merton Coulter’s *The Civil War and Readjustment in Kentucky*, Magoffin was a strong state’s rights man who turned into a secessionist after Fort Sumter, willingly aided the Confederacy in recruitment of troops, and who had unconstitutionally been

¹ William Allen, *A History of Kentucky* (Louisville, KY: Bradley and Gilbert, 1872), 105-106.

² Nathaniel S. Shaler, *A Pioneer Commonwealth* (Boston: Houghton Mifflin Co., 1884), 233. See Elizabeth Shelby Kinkead, *A History of Kentucky* (New York: American Book Co., 1896) and Cpt. Thomas Speed, *The Union Cause in Kentucky 1860-1865* (New York: G. P. Putnam’s Sons, 1907) for a pro-Union interpretation of Magoffin. For a pro-Confederate interpretation of Magoffin see E. Polk Johnson, *History of Kentucky and Kentuckians* (Chicago: The Lewis Publishing Co., 1912).

stripped of his gubernatorial powers by the Unionist state legislature and denied the authority to protect Kentuckians' civil liberties. Coulter's Magoffin was a man who grew into a pro-Confederate supporter and a War Democrat. Coulter offered a complex treatment of Magoffin more so than Shaler's mediocre Magoffin.

However, Coulter and Shaler wrote histories encompassing a large period of time and events other than Magoffin and his governorship. Coulter focused on Kentucky during the Civil War and Reconstruction period. Shaler's work focused on a complete history of Kentucky to the end of Reconstruction. Most depictions of Magoffin and his governorship have been a small part of a larger work. Not until 1906 did Magoffin receive the treatment by a historian as the sole subject of a historical work. Jennie C. Morton wrote a short biography of Magoffin entitled, "Governor Beriah Magoffin," for *The Register of the Kentucky Historical Society*. Morton portrayed Magoffin as a hero who for a time kept Kentucky out of the Civil War. Morton's romantic depiction of Magoffin downplayed neutrality's failure and Magoffin's own pro-Southern sympathies. True, Magoffin supported neutrality which temporarily kept Kentucky out of the war, but Magoffin also supported compromise and a sovereignty convention as solutions to the crises of 1860 and 1861. Morton went too far in referring to Magoffin as a hero.³

In the 1960s, Michael T. Dues took the first scholarly examination at Magoffin as a sole subject. In "Governor Beriah Magoffin of Kentucky: Sincere Neutral or Secret Secessionist?" Dues portrayed Magoffin as the "lone bastion of sanity" in an insane civil war. Dues' Magoffin was the sincere neutral. Magoffin pushed for neutrality, for compromise and reconciliation despite the accusations of pro-secessionism from his

³ Jennie C. Morton. "Governor Beriah Magoffin." *The Register of the Kentucky Historical Society* 4 (September 1906): 14-15.

Unionist opponents. Because of Magoffin's support for a sovereignty convention, the Unionists mistrusted Magoffin's intentions. Dues picked up the theme of mistrust between Magoffin and the Unionists in his article, "The Pro-Secessionist Governor of Kentucky: Beriah Magoffin's Credibility Gap." Dues argued that a "credibility gap" existed between the Unionist controlled state legislature and Magoffin. Despite the historicism of using the Vietnam War Era phrase of "credibility gap," Dues did a good job noting the mistrust bred between the Unionist state legislature which fought a war to preserve the Union from traitors and Magoffin who fought for a state sovereignty convention, for neutrality, and for the protection of civil liberties. Magoffin possessed a credibility problem with the Unionists because of his Southern sympathies.⁴

In his 1973 dissertation, Dues painted a clearer and more critical picture of Magoffin from his articles. Dues argued that Magoffin supported the Union throughout his governorship. Magoffin sought compromise to solve the nation's sectional problems. Desperately seeking compromises, Magoffin grasped towards any compromise measure that he thought might succeed such as the Crittenden Compromise in 1860 and neutrality in 1861. Yet in 1860-1861, the United States had fractioned; and in April 1861 was at civil war. According to Dues, compromise had become a dead issue. After Kentucky entered the war, Magoffin sought compromise that supported the Union and the Constitution as it was prior to hostilities. Dues accused Magoffin of failing to recognize the failure of compromise in 1861 and though his policies were consistent, looked

⁴ Michael T. Dues, "Governor Beriah Magoffin of Kentucky: Sincere Neutral or Secret Secessionist?" *The Filson Club Historical Quarterly* 40 (January 1966): 27; Dues, "The Pro-Secessionist Governor of Kentucky: Beriah Magoffin's Credibility Gap," *The Register of the Kentucky Historical Society* 67 (July 1969): 222. *The Filson Club Historical Quarterly* hereinafter as *FCHQ* and *The Register of the Kentucky Historical Society* as *RKHS*.

backwards instead of forwards.⁵

In 1974, Lowell H. Harrison published “Governor Magoffin and the Secession Crisis” in which he agreed with Dues that Magoffin was sincere in his neutrality stance. According to Harrison, Magoffin was a principled man who believed in state’s rights, in the perceived abolitionist slant of the Republican Party, and the compact theory of the Union like his Southern counterparts. Unlike his Southern counterparts, Magoffin backed compromise and reconciliation to solve the nation’s problems in 1860-1861.⁶

Thirty years later in *Kentucky’s Governors: Updated Edition*, Harrison further depicted Magoffin as a hapless leader at odds with the General Assembly. Magoffin attempted to lead Kentucky down the path that he thought the majority wanted to go. However, after Confederate General Leonidas Polk’s invasion in September 1861, Kentuckians supported the Union and not Magoffin’s efforts for compromise or for a sovereignty convention. Disillusioned, Magoffin resigned.⁷

Dues’ and Harrison’s complex portrait of Magoffin provide a better depiction of Magoffin as a man and politician. Magoffin was a pro-Southern man. He believed in state’s rights, majority rule, and the defense of slavery. As a Democrat, Magoffin inherited Kentucky’s Democratic beliefs based on Jacksonian principles and pro-Southern sympathies. During his governorship, Magoffin supported policies that coincided with his Jacksonian-Southern heritage. Magoffin’s first year as governor best demonstrated his political heritage. By 1861, events overshadowed Magoffin. Fort

⁵ Michael T. Dues, “Neither North Nor South: The Rhetoric of Confrontation, Compromise, and Reaction . . .” (Ph.D. diss., Indiana University, 1973), 65, 78.

⁶ Lowell H. Harrison, “Governor Magoffin and the Secession Crisis,” *RKHS* 72 (April 1974): 103-104.

⁷ Lowell H. Harrison, ed. *Kentucky’s Governors: Updated Edition* (Lexington: The University Press of Kentucky, 2004), 78-81.

Sumter, neutrality, Polk's invasion, the creation of a rival state government, a growing Union military presence, and a Unionist state legislature challenged Magoffin's mediocre leadership abilities. Magoffin sought compromise, the maintenance of an imperfect neutrality, and even began to work against the Union in order to save a Union and a Constitution that had ceased to exist. Dismayed over the course of events, Magoffin resigned as a defeated politician. In the end, as Harrison remarked, Magoffin's governorship was just another "casualty of the war."⁸

⁸ Harrison. *Kentucky's Governors*, 78.

CHAPTER ONE

Pro-Southernism and Compromise: Kentucky's Political Heritage

In 1859, the Kentucky electorate chose a new governor and new members to the General Assembly, Kentucky's state legislature. Kentuckians elected Beriah Magoffin, the Democratic Party candidate, to the governorship. The Democrats also maintained its majority in the General Assembly. This Democratic victory marked the beginning of Democratic supremacy in Kentucky that stretched into the late twentieth century with a few brief periods of Republican governance. From 1832 to 1859, only three Democrats held Kentucky's governorship: John Breathitt in 1832, Lazarus Powell in 1851, and Beriah Magoffin in 1859. In the years between Breathitt and Magoffin, the Whigs dominated state politics led by the nationally renowned and presidential aspirant, Henry Clay. In the 1850s, the collapse of the Second American Party System and a realignment of political parties elevated the Democrats into political power. However, Kentucky's Democratic Party did not escape from the political turmoil of the 1850s. The Kentucky Democratic Party was founded on Jacksonian principles. As a slave state, Kentucky developed a Democratic Party that possessed Southern sympathies. On the other hand, compromise, the legacy of Henry Clay, also influenced Kentucky politics. The political atmosphere in 1859 was a mixture of Jacksonian, pro-Southern, and Whig beliefs. In short, Kentucky possessed a heritage steeped in both Unionism and state's rights.

Magoffin would in time demonstrate both ideals as governor.

Born on April 18, 1815, Beriah Magoffin entered into the world only a few months after General Andrew Jackson's victory over the British at New Orleans and a United States ebullient over this victory. The United States also entered into a time of change. The old Republic of George Washington and Thomas Jefferson was passing. By 1860, the United States, particularly in the North, was developing into a commercial and manufacturing nation, connected internally by canals, steamboats, and railroads, and expanded across the North American continent. In 1815, Kentucky was the frontier, but by the time Magoffin became governor in 1859, the United States stretched from the Atlantic to the Pacific Oceans.¹

Magoffin came of age during this time of change in the nation's history. During the 1820s, the Era of Good Feelings, a time of political unionism, came to an end and politicians diverging on the course of the United States formed parties. As a young man, Magoffin attached himself to the Democratic Party created by the supporters of Andrew Jackson. The Jacksonian Democrats believed in democratic rule through a majority vote, equality among white male citizens, expressed anti-privilege attitudes, supported state's rights, a limited federal government based on a strict construction of the Constitution, and by the 1840s supported the expansion of the United States.²

Henry Clay also influenced Kentucky through his economic policies and compromise measures. After the War of 1812, Clay and other War Hawks, such as John C. Calhoun, recognized the need for greater federal involvement in economic and

¹ Michael F. Holt, *Political Parties and American Political Development from the Age of Jackson to the Age of Lincoln* (Baton Rouge: Louisiana State University Press, 1992), 34-36; Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (New York: Hill and Wang, 1990), 8.

² Holt, *Political Parties and American Political Development*, 36-37, 52-54, 62-65; see also Watson's *Liberty and Power* which details Jacksonian political beliefs in greater detail.

military affairs. Clay argued that the United States had needlessly suffered during the War of 1812 due to unpreparedness. Clay advocated measures to strengthen the United States' economy and military in order to decrease reliance on foreign trade and protect the nation against foreign invasion. Clay's measures included an increase in the size of the navy and the army, government funded internal improvements such as roads and canals, protective tariffs, and government subsidization of American industries. Old Republicans such as Virginian Congressman John Randolph spoke against Clay's measures citing that the federal government possessed limited powers. Randolph also argued that Clay's measures interfered with state's rights. Clay agreed with Randolph that the Constitution had established a limited federal government; however, Clay argued that the Constitution allowed Congress to act when it was necessary and proper. Defending and uniting the nation together for Clay was a necessary and proper action of Congress.³

By the 1820s, Clay termed his economic measure the "American System." At the core of Clay's American System lay the desire to connect the states economically by binding the sections into an economic whole. Thus, each section would be interdependent on the other section's agricultural and manufacturing goods; and promote economic prosperity. At the same time, economic prosperity would ensure liberty and patriotism against foreign invaders such as the British in 1812. Clay's American System relied on a strong central government that invested and funded internal improvement projects, passed tariffs to maintain the competitiveness of American products, and supported the creation of a central bank to stabilize currency rates and encouraged

³ Robert V. Remini. *Henry Clay: Statesman for the Union* (New York: W. W. Norton and Co., 1991), 135-142.

economic growth.⁴

Also while in Congress, Clay acted as a compromiser of the sectional conflicts. One of the earliest sectional conflicts occurred in 1819 – 1820 over the admittance of Missouri as a slave state. New York Congressman James Tallmadge, Jr. amended the Missouri statehood bill to prohibit the introduction of slavery into Missouri after statehood and to free slaves over the age of 25. Southerners riled against Tallmadge's amendment. Congressman Thomas W. Cobb of Georgia warned that if the North continued to disrespect Southern rights to property, then the South might decide to secede. Clay also opposed the amendment claiming it unconstitutional because the amendment deprived citizens' rights guaranteed in other states. At the same time, Maine also applied for statehood. In the Senate, the two statehood bills were packaged together. Senator Jesse B. Thomas of Illinois amended the statehood package to prohibit slavery in the Louisiana Purchase north of 36 degrees 30 feet with the exception of Missouri.⁵

The House voted against the Senate's package bill. Fearing that the Missouri crisis would result in the development of sectional parties, Clay worked to gain support for each section of the bill. The package bill passed the House separately. However, the crisis escalated when Northerners failed to accept Missouri as a state after Missouri's state constitution denied that freed blacks were citizens and would not respect their citizen status. Through special committees, Clay persuaded Congress to agree to accept Missouri if the state legislature agreed not to enact laws that would deprive citizens of other states from their rights and privileges granted to them in the Constitution. Missouri

⁴ Remini, *Henry Clay*, 225-231.

⁵ Remini, *Henry Clay*, 172-173, 177-178.

agreed.⁶

After the Missouri Compromise, Clay obtained the appellation of Great Compromiser. For a time Clay had compromised the sectional conflict. With the Missouri compromise behind him, Clay pushed through Congress his American System. One part of the American System was a Second Bank of the United States. Created in 1816, the Second Bank caused friction during the 1820s which resulted in the configuration of political parties. The Second Bank of the United States held public funds, issued bank notes that could be used to pay debts to the United States, and kept the government's finances. The Second Bank also aided in the growth of speculative capitalism in the United States. The Second Bank lent paper money to individuals and businesses so that they may buy land, expand farms, or build factories and mills. Investors also used loans to fund new transportation routes across the nation to provide easy and quick access between goods and markets. By 1819, the speculation bubble burst. The Panic of 1819 resulted in a recession. In response to the panic, the Second Bank sought repayment of its loans and tightened its credit policy. Not all people such as yeoman farmers and skilled workers could repay their debts as prices rose and paper money devalued. In place of money, banks confiscated property as payments.⁷

In Kentucky, farmers and skilled workers grew discontent over the bank's confiscation of property such as horses, land, and farm tools. Members of the General Assembly sought relief for farmers and skilled workers from their debts. The Relief men enacted stay laws against foreclosures and abolished imprisonment for debt. In February 1820, the Relief men in the General Assembly passed a replevin bill. This replevin bill

⁶ Remini, *Henry Clay*, 180-192.

⁷ Remini, *Henry Clay*, 139-141, 198; Watson, *Liberty and Power*, 35-40.

allowed court mitigation to resolve creditor and debtor disputes over the legality of confiscating property. The replevin act also allowed a period of one to two years for repayment of debts and forced banks to accept the face value of inflated bank notes. The following November, the Relief men passed a bill that created the Bank of the Commonwealth.⁸ The act established legislative control over the Bank of the Commonwealth and authorized the printing of bank notes greater than the \$2 million appropriated to it. To ensure that Kentucky's other bank accepted paper money, the General Assembly replaced the board of directors of the Bank of Kentucky with those who supported the legislature's measures.⁹

However, the influx of more paper money devalued bank notes. Lenders began to worry over the solvency of their banks. The directors of the Bank of Kentucky maintained a hard currency policy and disapproved of the inflated bank notes of the Bank of the Commonwealth. In 1822, the Relief controlled General Assembly responded to the director's hard money policy by repealing the charter of the Bank of Kentucky.¹⁰

Creditors also protested the constitutionality of the replevin act of 1820. The creditors argued that the replevin act violated the stability of contracts guaranteed by the state and federal constitutions. Creditors challenged the constitutionality of the replevin act in Kentucky's courts. Eventually the creditors' case reached Kentucky's Court of

⁸ Magoffin's father, Beriah Magoffin headed the Bank of the Commonwealth. The senior Magoffin emigrated from Ireland to the United States. He married into the MacAfee family which had migrated from Virginia during the later eighteenth century. The senior Magoffin was also a successful merchant. Like most Kentuckians in the Bluegrass region, the Magoffin family owned salves. *Historic Sites of Harrodsburg and Mercer County, Kentucky*. Harrodsburg Historical Society. Harrodsburg, Kentucky, 60-61.

⁹ Richard Collins, *History of Kentucky By the Late Lewis Collins, Revised, Enlarged Four-Fold, and Brought Down to the Year 1874 By His Son Richard H. Collins* (Louisville, KY: John P. Morton and Co., 1874), 318-319; Lowell H. Harrison and James C. Klotter, *A New History of Kentucky* (Lexington: The University Press of Kentucky, 1997), 109-110; Richard P. McCormick, *The Second American Party System: Party Formation in the Jacksonian Era* (Chapel Hill: The University of North Carolina Press, 1966), 213; Remini, *Henry Clay*, 198-199.

¹⁰ Collins, *History of Kentucky*, 319; Harrison and Klotter, *A New History of Kentucky*, 110.

Appeals. The judges ruled that the act was unconstitutional as they prohibited the execution and validity of contracts. According to the judges, the banks' charters were a contract just as borrowing money was a contract. Supporters of relief within the General Assembly disagreed with the court's decision and riled against the court as unjust towards the indebted.¹¹

Galvanized by the court's decision in 1824, the Relief men organized and won the gubernatorial elections. The Relief Party, led by Governor Joseph Desha, sought to overthrow the judges. However the Relief men could not obtain the necessary three-fourths majority in the General Assembly. So instead, the Relief men repealed the act which organized the court of appeals and passed a new organization bill. Known as the New Court, this court supported relief efforts. The action caused confusion on which court was actually the constitutional court of Kentucky. By 1826, the Anti-Relief party, also known as the Old Court Party, regained control of the General Assembly and reestablished the Old Court.¹²

The anti-Relief – Relief and the Old Court – New Court debates in the early 1820s became the basis of Kentucky's Whig and Democratic Parties. The Relief, or New Court, Party sought to relieve citizens from the heavy burden of debt by accepting devalued money as payment. Out of this experience grew a distrust of banks. The Relief-New Court men perceived bankers and creditors as usury, corrupted by materialism, and a privileged class of moneyed aristocrats.¹³

The Relief – New Court Party developed into Kentucky's Democratic Party.

¹¹ Collins, *History of Kentucky*, 319-321; Harrison and Klotter, *A New History of Kentucky*, 110-111.

¹² Collins, *History of Kentucky*, 321-323; Harrison and Klotter, *A New History of Kentucky*, 111; McCormick, *The Second American Party System*, 213, 215-216.

¹³ McCormick, *The Second American Party System*, 213-217.

During the bank – court controversy, Clay sided with the Anti-Relief Party. Already blaming the Second Bank for economic troubles, Clay’s support for their opponents further irked the Relief Party. Relief men, Amos Kendall and Francis P. Blair, formed anti-Clay groups to oppose Clay and his policies. In the 1824 presidential election, Kendall, Blair, and other anti-Clay Relief men supported Jackson for president. However in 1824, Clay held strong support among Kentuckians due to his American System and compromise efforts in 1820 and won Kentucky’s electoral votes.¹⁴

During the 1824 presidential election, Jackson received the most electoral votes and the majority of the popular vote. However, Jackson’s share of the electoral vote was not enough to make him president. Jackson’s opponents in the election, John Quincy Adams, Henry Clay, and William Crawford, also did not receive an electoral majority. So under the procedure established in the federal Constitution, the United States House of Representatives had to decide the victor. Under the Twelfth Amendment, the top three candidates, Jackson, Adams, and Crawford, were presented as the choices for president. The fourth contender, Clay, then the Speaker of the House, was dropped. Going against the General Assembly which had instructed Clay to vote for Jackson, Clay threw his support behind Adams who shared his belief in the American System. Adams won the vote in the House and was elected the next president. Adams then turned around and appointed Clay as his Secretary of State. Jackson and his supporters felt outraged and charged Adams and Clay of a “corrupt bargain.” The Jackson men felt they had been robbed of the presidency. Both Adams and Clay denied such a deal even though their

¹⁴ Remini, *Henry Clay*, 199 and 206; Thomas D. Clark *A History of Kentucky* (Ashland, KY: The Jesse Stuart Foundation, 1988 [1992]), 298.

actions had suggested otherwise.¹⁵

The controversy spawned from the 1824 presidential election helped to solidify the anti-Adams and anti-Clay men of Kentucky into a pro-Jackson party. From 1824 to 1828, Jackson ran for the presidency. During that time, Jackson built a political party – the Democratic Party. In Kentucky, Jackson supporters held picnics, barbeques, and dinners in Jackson’s honor. Kendall and Blair used their connections to newspapers to campaign for Jackson in Kentucky. According to Jacksonians, the people ruled not some elite that they thought Adams and Clay perpetrated. Jacksonian Democrats attacked special privileges believing that such privileges threatened to corrupt the republican virtue of the old Republic. Jackson sought to restore republican virtue which entailed equality for all white male citizens, suffrage, and the freedom from arbitrary rule of a privileged class. Kentuckians voted for Jackson, though on the state level, Kentuckians split between the Democrats and the National Republicans of Clay and Adams.¹⁶

Jacksonian equality also meant economic equality.¹⁷ Jacksonians disapproved of the federal government’s support of state economies through subsidies, internal improvement bills, and the creation of banks. Jacksonians believed that these measures discriminated against companies, farmers, and other people looking for assistance in favor of other companies and farmers. For example in 1830, Jackson vetoed a bill that would fund the construction of the Maysville Road in Kentucky. Jackson did not believe that the federal government should fund a project that would benefit one state as opposed to many states.

¹⁵ Watson, *Liberty and Power*. 81-83.

¹⁶ McCormick, *The Second American Party System*. 216-217; Watson, *Liberty and Power*. 84. 133-135; Clark 298

¹⁷ Jacksonian equality extended to all white citizens whether he was native or foreign born, Protestant or Catholic. As voters, citizens were all equal. It did not matter what nationality or creed. However, this Jacksonian equality was based on sex and color. Woman, African Americans, and Native Americans could not participate. See Watson, *Liberty and Power*. 51-54.

According to Jackson, the bill was unconstitutional and should be funded by the state government and not the federal government. Jacksonians especially saw in internal improvements measures that benefited the Eastern section of the United States more than it did the West and the South. According to Jacksonians, internal improvements offered economic inequality.¹⁸

Opposing economic inequality and elitism, Jackson ran for reelection in 1832 and won. The Relief men, transformed into the Democrats, also won the governorship with John Breathitt. A self-made man, Breathitt followed Jackson's leadership believing in the principles of democratic rule and equality for white citizens. Breathitt and the Kentucky Democrats supported Jackson's policies such as his fight against the Second Bank.¹⁹

For Jacksonians, the Second Bank symbolized the economic inequality in the United States. In addition, the Jacksonians believed that the Second Bank created a new aristocracy where Eastern creditors lorded over Western and Southern debtors. In 1832, Jackson expressed this economic inequality in his veto message to Congress. According to Jackson, the Second Bank was an unjust grant of special privileges for the bank's stockholders. Jackson equated banks as businesses with the primary goal of making money. Jackson would not support an initiative that would benefit the bank's stockholders instead of the community as a whole. Furthermore, Jackson warned that the Second Bank threatened the United States by pitting men against men, and section against section. For Jackson, the fate of republicanism and the Union was at stake, if

¹⁸ Watson, *Liberty and Power*, 133-136; Clark, *A History of Kentucky*, 223-224. During 1833-1836, the General Assembly instructed Kentucky's federal representatives to push for federal assistance in funding for Kentucky public schools. However, Jackson and the Democrats would not support such a measure that they believed should be Kentucky's responsibility.

¹⁹ Harrison and Klotter, *A New History of Kentucky*, 113.

Congress rechartered the Second Bank.²⁰

Tied into Jackson's fight against the Second Bank and opposition to internal improvements was a belief in small government. Jacksonians distrusted a strong central government. The Old Republicans, a Jacksonian group led by Thomas Ritchie and courted into the Democratic Party by Martin Van Buren, feared that a strong federal government would interfere with state's rights. This belief in state's rights dated back to Jefferson's political beliefs. For example, Jefferson ghostwrote the Kentucky Resolution in 1798 responding to the Alien and Sedition Acts. Presented by John Breckinridge to the General Assembly, the Kentucky Resolution stated that the Constitution was a compact agreed upon by the various states. In addition, the states had the right to interpret the Constitution and to nullify any Congressional acts it deemed to be unconstitutional. Though only Virginia supported the resolution and the idea of nullification faded with the rise of Jeffersonian republicanism, state's rights remained an important element in the Democratic political belief especially in the South where Southern politicians used it to defend their minority and sectional interest as well as slavery.²¹

In 1828, Calhoun resurrected the idea of nullification in his "Exposition and Protest" responding to the "abominable" Tariff of 1828. Calhoun claimed that the Union was a compact and that states could nullify acts of Congress it deemed unconstitutional, if the state could not seek redress in Congress or the courts. As a last measure, a state could secede if the state felt its rights had not been respected. In 1832, after Congress passed another tariff, South Carolina's state legislature put Calhoun's theory into

²⁰ Harrison and Klotter, *A New History of Kentucky*, 112; Watson, *Liberty and Power*, 143-148.

²¹ Watson, *Liberty and Power*, 61-62; Holt, *Political Parties and American Political Development*, 36-37; Collins, *History of Kentucky*, 285-286.

practice. South Carolina's state legislature convened a nullification convention which nullified and voided the Tariffs of 1828 and 1832. The nullification convention perceived the tariffs as unfair and designed to harm South Carolina's economy. In addition, the nullification convention refused to collect the tariffs and called for secession if the federal government tried to enforce the acts. Though Jackson believed in state's rights, he also believed in the perpetuity of the Union. For Jackson, the Union was not a compact as Jefferson had proposed in 1798 and as Calhoun did in 1828. Jackson urged Congress to pass a Force Bill to authorize the use of force to keep South Carolina from seceding. Quietly, Jackson worked to convince Congress to lower the tariffs to placate South Carolina and avoid the use of federal force.²²

South Carolina's nullification convention also called for other states to support its decision. Governor Breathitt and his Whig predecessor, Thomas Metcalfe, both opposed the nullification convention and supported Jackson.²³ By 1832, Kentucky's dalliance with nullification became null itself. Both Breathitt and the General Assembly rejected South Carolina's call for a convention. Breathitt publicly spoke against a nullification convention. Breathitt argued that no state had the right to nullify acts of Congress and that the Founding Fathers wrote the United States Constitution to create a better Union. Breathitt continued by appealing to the General Assembly to support the Union which their fathers, grandfathers, and brothers nobly fought for and won from the British. Furthermore, Breathitt warned that disunion would lead to civil war.²⁴

²² Watson, *Liberty and Power*, 117, 120-122, 126-129.

²³ In 1828, Governor Thomas Metcalfe also chastised South Carolina for protesting against the Tariff of 1828. Metcalfe stated that no state had the authority to disobey an act of Congress. The General Assembly agreed. E. Merton Coulter, *The Civil War and Readjustment in Kentucky* (Chapel Hill: The University Press of North Carolina, 1926 [1966]), 3 and 4.

²⁴ Harrison and Klotter, *A New History of Kentucky*, 113; Michael T. Dues, "Neither North Nor South: The Rhetoric of Confrontation, Compromise, and Reaction . . ." (Ph.D. diss., Indiana University,

Thomas F. Marshall, the Whig chairman of Kentucky's State Select Committee on Federal Relations, agreed with Breathitt.²⁵ Marshall argued that South Carolina did not have the authority to nullify an act of Congress and thus violate the Constitution. Marshall went on to state that the tariff would not harm South Carolina's economy but claimed the tariff promoted international trade for cotton goods. He also mentioned that in 1816 South Carolina's senator and leading proponent of nullification, Calhoun, voted for a raise in the tariff. Furthermore, Marshall spoke of the Constitution as a document that created a better Union. Unlike Breathitt, Marshall went as far as to claim that the federal authority came from the people and that no state, no matter how disgruntled, possessed the power to interfere with the federal government's powers to legislate. In other words, Marshall stated that South Carolina must accept the act of suffer the consequences.²⁶

In a bipartisan vote, the General Assembly refused to convene a nullification convention. Breathitt advocated compromise instead of nullification and the possibility of disunion. He was willing, as Marshall was not, of lowering the tariff. Clay also accepted the idea of lowering the tariff to stave off talk of nullification and disunion. Clay hammered out a compromise which gradually lowered the tariff over a period of ten years after which the tariff would be abolished.²⁷

Democratic control of Kentucky's state governorship lasted for two years. In 1834, Breathitt died. Breathitt's Whig lieutenant-governor, James T. Morehead

1973), 25-29.

²⁵ Thomas F. Marshal was a cousin of Chief Justice John Marshall.

²⁶ Dues, "Neither North Nor South," 32-40.

²⁷ Dues, "Neither North Nor South," 30-42; Watson, *Liberty and Power*, 129.

succeeded him.²⁸ Whigs controlled the governorship until 1851. During this time, the Whig governors and Whig General Assembly sought an agenda anathema to Jacksonian-Democratic beliefs. To replace the defeated Second Bank, the General Assembly chartered two state banks. In 1834, the General Assembly rechartered the Bank of Kentucky. A year later, the General Assembly chartered the Northern Bank of Kentucky. The Whigs also sought internal improvement projects such as railroads, turnpikes, and canals. From the 1830s to the 1850s, the Whigs pushed for public funding of schools. In the late 1830s, the General Assembly passed a bill to publicly fund common schools, but lacked the money to fund the program. The General Assembly enacted a law to use Kentucky's share of the national surplus for the purpose of funding the common schools. However, the Panic of 1837 placed a financial strain on Kentucky's budget. In order to stave off the increasing costs of internal improvements, Governor Charles A. Wickliffe raised taxes. Under the leadership of Robert Letcher, the General Assembly decreased spending, cut improvement projects, and allowed some relief measures to pass into law. Despite Letcher's attempts to solve Kentucky's finances, the Whigs could not decrease the state's debt. In elections, Democrats charged the Whigs of extravagant spending. After winning the 1848 gubernatorial election, John J. Crittenden proposed the creation of a sinking fund to gradually pay off Kentucky's debt. In 1850, the General Assembly passed a bill creating the sinking fund.²⁹

Despite the growing state debt, Kentucky benefited from internal improvements. From 1840 to 1860, Kentucky's manufacturing grew from \$5.9 million to \$37.9 million. Trade boomed with Kentuckians sending excess goods to both the North and the South

²⁸ At the time, the offices of governor and lieutenant-governor were elected separately as opposed to being elected on the same ticket. This split ticket existed until 1836.

²⁹ Harrison and Klotter, *A New History of Kentucky*, 112-115; Clark, *A History of Kentucky*, 224.

via roads, canals, and railroads. By 1860, Kentucky was an important producer of rye, barley, hogs, horses and mules, hemp, tobacco, corn, wheat, sheep, and cattle.³⁰

Though Kentucky manufacturing and agriculture expanded under Whig leadership, not all Kentucky politicians approved of Whig spending. Democrats, especially, wanted to rein in Whig spending and pay off the state debt. Democrats wanted to limit spending to pay off the debt and restore economic equality. One way of ensuring that the General Assembly would limit the state's debt was through a new state constitution. The idea of a state constitutional convention gained wide support during the 1840s. Democrats wanted to place a ceiling on the debt and limit the governor's power to appoint judges thereby increasing civil authority over the courts.³¹

Kentucky politicians also sought to prohibit dueling within Kentucky, limit private legislation such as divorce grants in the General Assembly, and sanction public funding for common schools. Also, Kentucky emancipationists supported a state constitutional convention. On April 25, 1859, supporters of gradual emancipation such as Henry Clay, Cassius M. Clay, John G. Fee, Robert J. Breckinridge, and United States Senator Joseph R. Underwood met in Frankfort. The convention achieved little except agreeing that the attendees should support state constitutional delegates who endorsed emancipation. Pro-slavery candidates ran a campaign associating emancipationist candidates with abolitionists and played off fears of a slave insurrection and race equality. Other candidates campaigned to leave slavery alone and focused on other issues such as direct election of judges. Unfortunately, the association of emancipation with abolition resulted in a poor showing at the polls for emancipation candidates.

³⁰ Harrison and Klotter, *A New History of Kentucky*, 114, 141-143.

³¹ Harrison and Klotter, *A New History of Kentucky*, 122.

Kentuckians elected delegates to the convention sympathetic towards slavery.³²

Kentucky's state constitutional convention convened on October 1, 1849. The Democratic majority controlled the convention and elected James Guthrie president of the convention. The delegates rejected emancipation and maintained the previous state constitution's slavery clauses. The state constitution further solidified slavery's place in the Commonwealth by making it harder to achieve emancipation. The convention's pro-slavery delegates also attached to the state constitution clauses prohibiting free blacks from entering Kentucky lest he or she be punished by imprisonment, and prohibited ministers, who traditionally had been outspoken opponents of slavery, from holding elected office. In addition, the constitution could not be amended for another eight years which meant emancipation would have to wait until 1858. By 1858, events would make emancipation improbable. The new constitution also made judges elected positions, decreased the General Assembly's power to spend and introduce private legislation, prohibited dueling, and created a funding for schools.³³

The General Assembly placed the new state constitution to a vote. The opponents of new state constitution such as Garret Davis and other Whigs campaigned against the new state constitution fearing that change would destabilize Kentucky. Emancipationists also campaigned against the state constitution which endorsed slavery. Proponents of direct election of judges and a limitation on spending such as the Democrats campaigned for the constitution. Other constitutional changes such as a school fund and a prohibition

³² Harold D. Tallant, *Evil Necessity: Slavery and Political Culture in Antebellum Kentucky* (Lexington: The University Press of Kentucky, 2003), 146-151. Christopher M. Paine, "'Kentucky Will Be the Last to Give Up the Union'" (Ph.D. diss., University of Kentucky, 1998), 98-101. Harry August Volz III, "Party, State, and Nation: Kentucky and the Coming of the American Civil War" (Ph.D. diss., University of Virginia, 1982), 73-75; Clark, *A History of Kentucky*, 308-311.

³³ Harrison and Klotter, *A New History of Kentucky*, 114-115, 122; Clark, *A History of Kentucky*, 210-212, 309-311.

on dueling resonated with voters. In 1850, Kentucky voters went to the polls and voted in favor for the new state constitution. The Kentucky electorate wanted change and the new state constitution offered them reform.³⁴

During 1849 and 1850 while Kentuckians debated changes in their state constitution, sectionalism occurred once more that threatened the Union. In 1849, settlers in California discovered gold. By 1850, California possessed enough people to apply for statehood. Northern Congressmen supported Californian efforts for statehood. Northerners also called for the abolition of the slave trade in the nation's capital. Southerners led by Calhoun, wrote an "Address" which listed alleged Northern aggressions against Southern rights. Calhoun mentioned the 1787 Northwest Ordinance, the Missouri Compromise, and the Wilmot Proviso as evidence that Northerners prevented Southerners of their Constitutional right to slave property in the territories. Furthermore, Calhoun warned that if Southern rights were not respected then the South would secede.³⁵

Calhoun also cited that personal liberty laws as proof of Northern aggression against Southern rights. Northern states had implemented personal liberty laws to protect citizens and free blacks from slave catchers. Under the Fugitive Slave Act of 1793, slave owners could cross state lines and capture runaway slaves. However, slave owners and slave catchers abused the system. Sometimes slave catchers kidnapped free African Americans without recourse. The law also did not provide trial by jury, habeas corpus, or allow the excused to testify on his or her own behalf. Northern states enacted personal liberty laws to provide protection by giving real or alleged fugitives rights to testify, trial

³⁴ Clarke, *A History of Kentucky*, 311-312.

³⁵ McPherson, *Battle Cry of Freedom*, 65.

by jury, *habeas corpus*, and imposed criminal charges for kidnapping.³⁶

Personal liberty laws concerned Kentucky politicians. Located on the Southern bank of the Ohio River, Kentucky possessed a long border with the North. Abolitionists operated an underground railroad that freed slaves by spiriting them away to the North. Kentucky's courts could not enforce punishment on those abolitionists whom local sheriffs caught and who were not citizens of Kentucky; and therefore not under Kentucky jurisdiction. Kentuckians wanted Congress to enact stronger fugitive slave laws and respect Kentuckian's human property.³⁷

Other issues also troubled Congress. In the New Mexico territory, settlers began to apply for statehood. Also, the governor of Texas opposed New Mexican statehood claiming parts of the New Mexico territory east of the Rio Grande River for Texas. The governor of Texas threatened to use force to defend Texan claims.³⁸

In January 1850, Clay offered a compromise measure. Clay presented eight resolutions to Congress. The first pair of resolutions would admit California as a free state and organize the Mexican cession without regard to slavery. The second pair of resolutions would settle the boundary dispute between New Mexico and Texas in favor of New Mexico. In turn, Congress would compensate Texas by assuming its debts. The third pair of resolutions abolished the slave trade in Washington and guaranteed slavery in the capital. The last two resolutions denied Congressional power over the interstate slave trade and established a more stringent fugitive slave law.³⁹

Clay packaged his first six resolutions into an Omnibus Bill. After seven months

³⁶ McPherson, *Battle Cry of Freedom*, 78-79.

³⁷ Clark, *A History of Kentucky*, 207-208.

³⁸ Remini, *Henry Clay*, 728.

³⁹ McPherson, *Battle Cry of Freedom*, 70-71, Remini, *Henry Clay*, 732-733.

of debate and hard work to gain support, many senators found something to oppose in the Omnibus Bill and voted against it. Aged and exhausted, Clay relinquished the fight for compromise to younger senators. Senator Stephen A. Douglas resurrected the Omnibus Bill and worked to pass the measures separately. Clay supported the bills. Collectively known as the Compromise of 1850, the separate bills admitted California into the Union as free state, set the boundaries for Texas, allowed popular sovereignty in the New Mexico and Utah territories, abolished the slave trade in Washington, and enacted a more stringent Fugitive Slave Act.⁴⁰

Both Kentucky Democrats and Whigs supported the Compromise of 1850 as a solution to the sectional crisis. Also, Kentucky Democrats turned down invitation from fire-eaters to convene at Nashville to consider options including secession if the federal government disrespected Southern rights. In other words, Kentuckians supported the Union. During the debates, Kentucky sent a marble block to the capital for the Washington Monument. Inscribed on the marble was “Under the auspices of Heaven and the precepts of Washington, Kentucky will be the last to give up the Union.” Kentuckians declared themselves strongly for the Union. Moreover in the 1851 Kentucky Democratic convention, Democrats stated that secession should only be a last resort, and only used when events had become outrageous and unbearable. In 1850 and 1851, Kentucky Democrats did not perceive the situation to be outrageous and unbearable. However over time, the Democrats took a stronger pro-slavery and state’s rights stand. The 1850 and 1851 Democrats were not the Democrats of Breathitt. The

⁴⁰ McPherson. *Battle Cry of Freedom*, 73-76. Clark. *A History of Kentucky*, 314. For more information on Clay’s role in the Compromise of 1850 see Remini. *Henry Clay*, 730-761. President Millard Fillmore sought advice from John J. Crittenden, his attorney-general. Crittenden, a proponent of compromise and protégé of Clay’s, agreed with the Compromise of 1850 as a means to preserve the Union.

issue of slavery changed the Democrats.⁴¹

The Democrats entered the 1850s politically strong and would grow stronger by the end of the decade. The Democrats began to benefit from the decline of emancipation in Kentucky and the new state constitution which endorsed slavery. In 1851, the Democrats won the governorship with Lazarus Powell. More importantly, the Democrats benefited more from the collapse of the Whig Party in 1854.

The Democrat Party did not at first benefit from the Whig collapse. Instead, the emergence of nativism and anti-Catholicism set the Democrats back. During the 1840s and 1850s, immigration of Irish and Germans increased. By the early 1850s, the immigrants who had arrived during the 1840s qualified for citizenship and obtained the right to vote. The Democrat Party welcomed the immigrants and courted their votes. Also, immigrants competed for jobs and brought foreign, non-Anglo-Saxon, customs and languages into the United States. Tied into nativism was anti-Catholicism. A majority of the Irish and German immigrants were Catholic. Protestants feared the Catholics believing they would follow the pope who at the time denounced democracy and nationalism. Protestants further disliked Catholic efforts to prevent bible readings in schools, to use taxes for parochial schools, and to control church property. By 1852, Whigs also courted the immigrant and Catholic votes for their presidential candidate, General Winfield Scott. Upset and feeling that the Whig Party ignored nativism and anti-Catholicism, Whigs began to leave the party and joined the Know-Nothings. The Know-Nothings, a secret organization, which claimed to know nothing of the organization when asked, welcomed the new membership. The Know-Nothings offered a political

⁴¹ Coulter, *The Civil War and Readjustment*. 5; Clark, *A History of Kentucky*. 314-15.

organization to express concerns from an imaginary menace.⁴²

Nativism and anti-Catholicism picked away at the Whig membership. However, the Kansas – Nebraska Act of 1854 provided the death knell for the Whig Party. Northern politicians such as Illinois Senator Stephen A. Douglas wanted to develop the northern part of the Louisiana Purchase by establishing farms and building a railroad to the new state of California. As a supporter of a transcontinental railroad, Douglas wanted to organize the Nebraska territory to build a railroad which would terminate in Illinois. To gain support among Southern senators, Douglas recognized popular sovereignty in the Nebraska territory. Douglas' efforts resulted in the Kansas – Nebraska Act which organized these two territories according to popular sovereignty. In essence, the Kansas – Nebraska Act repealed the Missouri Compromise. Northerners were angered over this repeal. The Kansas – Nebraska Act increased sectionalism among the political parties as Northerners saw a Slave Power dominating the United States and the South saw an abolitionist plot to deprive them of human property.⁴³

For many Northern Democrats, the Kansas – Nebraska Act was the final straw. Bolters formed anti-Kansas - Nebraska parties. Others joined the newly created American National Party, the political arm of the Know-Nothings. The Whigs collapsed under the act. By 1856, Northern Whigs joined by Free-Soilers, Know-Nothings, and Northern Democrats created a Republican Party to oppose the expansion of slavery in the territories. Southern Whigs initially supported the Know-Nothings and then formed an Opposition Party.⁴⁴

⁴² Harrison and Klotter, *A New History of Kentucky*, 122-123; Holt, *Political Parties and American Political Development*, 238, 244-245, and 263; McPherson, *Battle Cry of Freedom*, 131-133.

⁴³ McPherson, *Battle Cry of Freedom*, 104, 121-123; Clark, *A History of Kentucky*, 316-317.

⁴⁴ McPherson, *Battle Cry of Freedom*, 130. See Eric Foner, *Free Soil, Free Labor, Free Men: The*

In Kentucky, the Whigs joined the American National Party. The American National Party subordinated the slavery issue to nativism and anti-Catholicism. In 1854, the Know-Nothings won Kentucky's judicial and county elections. To win elections, the Know-Nothings used ethnocultural and religious anxiety. The Know-Nothings also focused on temperance and the avoidance of the slavery issue which exacerbated sectionalism. In 1855, the Know-Nothings used the same tactics. The Know-Nothings won control of the General Assembly and six out of the ten Kentucky congressional seats. The Know-Nothing also won the gubernatorial election. In all, the Know-Nothings controlled Kentucky. However, the Know-Nothings' victory did not come without its cost.⁴⁵

The Know-Nothings did not count on the transformation of its followers' ethnocultural and religious antagonism into violence. Election day, August 6, 1855, Louisville, Kentucky experienced violence over nativist fears of immigrant and Catholic voters. Known as "Bloody Monday," the Louisville elections began peacefully. Reinforced by political newspapers, Know-Nothings feared that Catholics might win and subjugate Americans to Catholic and foreign ways. The Know-Nothings denied naturalized Americans and Catholics the vote through intimidation and in some wards by physically harassing voters to ensure the victory of the American National Party. By evening, the harassment had turned into mob violence as rumors swept the city accusing immigrants and Catholics of violence and even murder of native Americans. By the next morning, at least twenty-two people had died, mostly innocent citizens, and many more

Ideology of the Republican Party Before the Civil War (Oxford: Oxford University Press, 1955) for an indepth discussion on the origins of the Republican Party.

⁴⁵ Paine, "'Kentucky Will Be the Last to Give Up the Union,'" 204, 214. See also Volz, "Party, State, and Nation." 198-216.

were wounded.⁴⁶

In 1855, Governor Charles S. Morehead entered the governorship tarnished by the violence. Democrats, who had ran Beverly Clarke and Beriah Magoffin for governor and lieutenant-governor, respectively, blamed their loss at the polls on Know-Nothing violence and intimidation. Morehead did not agree with the Know-Nothings tactics of violence nor the nativism and anti-Catholicism of his party, but only used the party as a vehicle of election. Also, Morehead stated that the American National Party offered the best solution to the sectional party by creating a national party which supported the avoidance of the slavery issue in Congress. As a former Whig, Morehead supported Whig initiatives such as internal improvements (i.e. railroads and turnpikes). Morehead continued the Whig policy of school reform. Morehead backed common schools as a solution to nativism and anti-Catholicism. For Morehead, schools would Americanize immigrants and Catholics. Yet, the state experienced a shortage of teachers. Morehead rechartered the Transylvania University to incorporate a teachers college. However, the state legislature revoked the charter. Morehead also sought to continue the Whig penitentiary reform and reorganize the state's militia.⁴⁷

By 1857, the Know-Nothings, and their American National Party, faded as a political influence within Kentucky. After 1855, the American National Party could not repeat their election success. The collapse of the Know-Nothings also helped to propel the Democrats into political predominance. After Bloody Monday, old Whigs began to leave the party. Pro-slavery Whigs joined the Democrats viewing the Democratic Party

⁴⁶ Paine, "Kentucky Will Be the Last to Give Up the Union," 213. See also Volz, "Party, State, and Nation," 216-22.

⁴⁷ Harrison and Klotter. *A New History of Kentucky*, 123; Paine, "Kentucky Will Be the Last to Give Up the Union," 214-215; Volz, "Party, State, and Nation," 232.

as the best option to defend slavery and state's rights from the Republican Party. However, the majority of ex-Whigs refused to unite with their former political enemies. These ex-Whigs formed an Opposition Party renouncing nativism and anti-Catholicism. While the ex-Whigs searched for a political party, the Kentucky Democratic Party latched onto the slavery issue to win back seats in the General Assembly and eventually the governorship in 1859.⁴⁸

With the collapse of the Know-Nothings, the Kentucky Democrats won control of Kentucky's House of Representatives in 1857. The Democrats campaigned by associating the safeguarding of Southern rights such as slavery as the only way to preserve the Union. The Democrats defeated the American National Party which had lost focus and voter support. In addition, the Democrats courted ex-Whigs who had left the American National Party by using the memory of Henry Clay, who had died in 1852. The Democrats claimed that Clay would not have supported a party that endorsed nativist and anti-Catholic attitudes. James B. Clay, Clay's son, agreed with the Democratic assessment of his father's would-be beliefs. In 1857, the younger Clay ran for Congress and won. The Democrats won eight out of the ten congressional seats and sixty-one of the one-hundred seats in the state house. Overjoyed, the Democrats looked towards 1859 and the gubernatorial election.⁴⁹

However, Kentucky Democrats did not escape the effects of the Kansas – Nebraska Act. In general, Democrats supported the repeal of the Missouri Compromise. Kentuckians argued that Congress did not have the right to interfere with slavery in the territories. Most Kentucky Democrats supported President James Buchanan in his efforts

⁴⁸ Paine. "Kentucky Will Be the Last to Give Up the Union," 217-218, 230.

⁴⁹ Paine. "Kentucky Will Be the Last to Give Up the Union," 230-232.

to admit Kansas as a slave state. After the passing the Kansas - Nebraska Act in 1854, Kansas had erupted in violence as pro-slavery Southerners and free-soiler Northerners migrated to Kansas aided by either the South or the North. Violence broke out as each group tried to establish a state government. By 1855, pro-slavery Kansans fraudulently elected a pro-slavery state legislature. In 1857, the pro-slavery state legislature passed a bill for a constitutional convention to solve the crisis in Kansas. The act for a state constitutional convention gave the county sheriffs the authority to register voters and the county commissioners the power to choose judges of election. The sheriffs and county commissioners were pro-slavery. The free-soilers protested and boycotted the election. The election resulted in a predominantly pro-slavery delegation. The delegates convened at Lecompton, Kansas. The delegates wrote a constitution favorable to slavery. The Lecompton Constitution held property as the highest right and the right to slaves as inviolable. Worst of all, the constitution would not be submitted to the citizens as a referendum. After much political pressure from the Buchanan administration, the pro-slavery state legislature reversed its decision on a referendum. However the referendum would not be on the whole constitution but on a clause supporting the constitution with slavery, or without slavery but respecting the slave property already existing in Kansas. Once again free-soilers boycotted the vote. In December 1857, Kansan pro-slavery voters, a minority of the voting population, voted in favor of a state constitution with slavery. Once again, the vote was fraudulent. In January 1858, the free-soilers responded to the Lecompton referendum with their own vote in which they voted against the Lecompton Constitution as a whole.⁵⁰

⁵⁰ McPherson, *Battle Cry of Freedom*, 157, 160-166; Paine, "'Kentucky Will Be the Last to Give Up the Union,'" 235

Not all of Kentucky's Democrats agreed with the Lecompton Constitution. A small number of Kentucky Democrats such as John Harney, editor of the Louisville *Democrat*, sided with Douglas who opposed the phony Lecompton Constitution. These Douglas Democrats argued that Kansas must have a fair election to determine its own state constitution. Crittenden and the Opposition agreed with the Douglas Democrats and added that neither the federal government nor any other state could interfere and decide for Kansas. Supporters of the Lecompton Constitution attacked the Douglas Democrats as being disloyal to the South. The Democrats even charged opponents of the Lecompton Constitution whether they were Democrats or the Opposition as being abolitionists and in league with the Republican Party.⁵¹

The pro-Lecompton Democrats further defended slavery in the 1859 gubernatorial race. As their candidate, the Democrats chose Beriah Magoffin. Magoffin had quickly arisen to political prominence. In 1840, Governor Letcher appointed him Judge of the Harrodsburg Court. In 1850, Mercer County, Kentucky voters elected Magoffin to the state senate. During the 1840s and 1850s, Magoffin served as a candidate for Democratic elector in the presidential races. In 1855, Magoffin ran for lieutenant-governor, but lost to the Know-Nothing candidate. In 1858, Magoffin entered the race for Democratic nominee for governor. Magoffin positioned himself as a moderate in the same mold as his friend, Breckinridge, and Powell. Magoffin supported the Buchanan administration, the courting of ex-Whigs for votes, favored the Lecompton Constitution, believed that Congress did not have the right to interfere with slavery in the territories, and opposed a slave code for the territories believing that the Constitution and the federal courts would protect slavery. With the backing of Breckinridge, Magoffin won the Democratic

⁵¹ Paine, "'Kentucky Will Be the Last to Give Up the Union.'" 236-9

nomination for governor. As his running mate, the Democratic convention chose former United States Speaker of the House Linn Boyd of Paducah, who had also ran for the nomination supporting a slave code in the territories. By choosing Boyd, the Kentucky Democrats avoided a manger split in the party over the issue of a slave code.⁵²

Magoffin ran a campaign that simply supported slavery in the territories. In a face – to – face debate style campaign, Magoffin and the Opposition candidate, Joshua Bell, debated the issues that faced the nation. Seeking to exploit the division within the Democratic Party, Bell campaigned supporting a slave code and accused the Democrats of laxity in protecting slavery. Also, Bell men blamed the Democrats for the nation’s sectional problems. In response, Magoffin disagreed with Bell’s position believing that the Constitution and the courts already protected slavery as expressed in the *Dred Scott v. Sanford* (1857) decision. In addition, Magoffin attacked Bell and the Opposition Party for the state’s debt and Bloody Monday. Magoffin supported the Democratic platform which supported expansion of slavery into the territories through popular sovereignty and the Lecompton Constitution. Magoffin also courted ex-Whigs by claiming to have been friends with Clay. Despite Magoffin’s dubious claim of friendship with Clay and Bell’s exploitation of the Democratic spilt, Magoffin won the election. Magoffin received nearly 9,000 more votes than Bell. However, the Democrats had hoped the margin would have been larger.⁵³

In 1859, the Democrats solidified their hold in Kentucky. The Democrats

⁵² Paine, ““Kentucky Will Be the Last to Give Up the Union.”” 245. Boyd served as Speaker of the House from 1851 until 1855. See Holman Hamilton, “Kentucky’s Linn Boyd and the Dramatic Days of 1850.” *The Register of the Kentucky Historical Society* 55 (July 1957): 185-195 for information on Boyd’s role in the Compromise of 1850.

⁵³ Harrison and Klotter, *A New History of Kentucky*, 124; Paine, ““Kentucky Will Be the Last to Give Up the Union.”” 252.

benefited from the fall of the Whig Party and the American National Party that followed. The Democrats also found support among voters with its slavery policy on Congressional non-interference in the territories and state's rights. However, Magoffin's Democratic Party differed from the Jacksonian party of Breathitt. Breathitt's party existed in a political world where politicians concerned themselves with banks, internal improvements, and other economic issues. Over time, the issue of slavery asserted itself onto the political blackboard. Though, the 1850s Democrats still possessed a Jacksonian strain such as a distrust of banks, opposition to a strong central government, and excessive spending. In addition, Clay also influenced the Democrat Party. The economic and compromise policies of Clay tied Kentucky to both the North and the South and fostered a love for the Union. Whigs followed Clay's legacy of compromise, even after the demise of the Whig Party, as a means to prevent the further agitation of the slavery issue. Unionism and compromise, too, affected the Democrats. In the 1851 Democrat convention, Kentucky Democrats recognized the Compromise of 1850 as a solution to the slavery issue. Even after Clay's death, Democrats used the memory of Clay as the Great Compromiser to court Whigs into the party.

The 1850s brought new challenges to the political parties. The Whigs collapsed under the emergence of nativism and the Kansas – Nebraska Act. The Democrats survived. Yet, the Lecompton Constitution and a slave code tested the unity of the Kentucky Democrats and would ultimately place them in the Southern fold of the National Democratic Party. Magoffin supported the Southern branch of the Democratic Party and the Buchanan administration. Yet, Magoffin's political heritage was not only pro-Southern with a Jacksonian influence, but inherited Clay's legacy of compromise.

Magoffin continued the legacy of compromise in 1860 and 1861, but in 1859 and 1860, Magoffin also demonstrated his pro-Southern heritage.

CHAPTER TWO

Beriah Magoffin: Southern Democrat

Beriah Magoffin lived in a South that was Jacksonian in influence and colored by a pro-Southern hue. At heart, Magoffin was a Southerner who believed in slavery, state's rights, and in a democratic society where the people governed through majority rule. Magoffin supported policies that promoted his pro-Southern ideology such as the State Guard Law of 1860 and the protection of slavery from abolitionists. For the most part during the first year of his governorship, the General Assembly passed Magoffin's policies. Magoffin's actions from August 1859 up to the presidential election in November 1860 demonstrated Magoffin's pro-Southern Jacksonian political heritage.

In October 1859, John Brown's raid on Harper's Ferry, Virginia provided Magoffin and his Democratic colleagues in the General Assembly a reason to implement pro-Southern policies. Brown advocated violence to overthrow slavery. During the mid-1850s, Brown styled himself as a prophet against slavery and murdered several pro-slavery men at Pottawatomie Creek, Kansas. By 1858, Brown conspired with a small number of Northern backers to invade the South, entice a slave insurrection to overthrow the institution of slavery, and establish a provisional government friendly to abolitionism. Brown chose Harper's Ferry to begin the revolution that would purge the United States from the sin of slavery. Brown's raid failed. The United States Marines surrounded the small band of revolutionaries. The marines captured and imprisoned Brown.

Virginia tried Brown and convicted him of treason. In December 1859, the Virginia courts executed Brown.¹

Brown's raid caused hysteria throughout the South over the possibility of a potential Northern led insurrection. Magoffin was concerned as well. On October 26, 1859, Governor Henry A. Wise of Virginia wrote to Magoffin on Brown's activities in Kentucky. Wise also sent a confiscated letter from Lawrence Thatcher, a supporter of Brown's, addressed to Brown. In the confiscated letter, Thatcher informed Brown of the large number of supporters that awaited him in Tennessee and Arkansas. Thatcher especially spent a great deal recounting the travails of Dr. William Russell Palmer who was willing to free his slaves to spite his pro-slavery wife. Thatcher also informed Brown that he was next going to Kentucky to look for other supporters of Brown and his provisional government. Wise advised Magoffin to "take such action as may seem best in your judgement [sic]" in dealing with potential insurrectionists.²

In December 1859, Magoffin set out his policy towards Brown and his potential insurrectionists in his address to the General Assembly. As expressed in this address, Magoffin's greatest concern dealt with the protection of slavery from abolitionists. The new General Assembly with its Democratic majority shared Magoffin's concern. Though slavery was a dominant concern, Magoffin and the Kentucky Democrats also sought to continue the state's recovery from the Panic of 1857 by lowering the state's debt and developing the state's resources, and to continue to support penitentiary and election

¹ James McPherson, *Battle Cry of Freedom: The Civil War Era* (Oxford: Oxford University Press, 1988), 202-204; Stephen B. Oates, *To Purge This Land With Blood: A Biography of John Brown* (Amherst: The University of Massachusetts Press, 1970), 290-302.

² Governor's correspondence file, 1859 -1862, folder 1. The Kentucky Department of Libraries and Archives, Frankfort, Kentucky.

reforms.³

Magoffin began his 1859 address by pointing to the state's fast economic recovery from the recent depression and the return of economic confidence. Magoffin attributed the economic recovery to God's blessing upon Kentucky. Magoffin vowed to continue to lead the state upon the right path of human intellect and good conscience to ensure God's favor and a continuation of economic growth. Magoffin stated that Kentucky "should seek from Him wisdom, and ask His guidance in the faithful discharge of our duties." However, Magoffin called the General Assembly to follow the same "wisdom" to ensure the continuation of economic recovery.⁴

Furthermore, Magoffin felt outraged at partisan pollsters restricting citizens from voting at the polls. Magoffin spoke for free polls for all citizens whether native or foreign born rejecting recent anti-foreign attitudes. He alluded to the Bloody Monday riots in Louisville by condemning mob violence. He argued that mob violence was a sure way of losing the next election as opponents would remember and retaliate by voting the fraudulent party out of office in the next election. Behind these statements laid Magoffin's belief that elections signified a healthy democracy in which the people governed. Magoffin stated that "the exercise of the elective franchise is the dearest right of a freeman," and that all eligible voters should be allowed to vote "without molestation and without fear." Magoffin opined that the ballot - the voice of the people to subject change - was "the very essence of liberty." Magoffin believed in the sovereignty of white citizens as expressed through the ballot. He urged the General Assembly to pass

³ *Journal of the Senate of the Commonwealth of Kentucky 1859-1860* (Frankfort: Kentucky Yeoman Office, 1860), 10-11.

⁴ *Senate Journal, 1859-1860*, 10-11.

measures to ensure the integrity of elections.⁵

As a Southerner, Magoffin also expressed his views on slavery. Magoffin did not view slavery as a social or moral vice as did abolitionists. As he stated, “I do not believe slavery to be wrong. I do not believe it to be a moral, social, or political evil.” Instead, Magoffin viewed slavery as a positive good for society and the slave.⁶ In his 1859 address, Magoffin reinstated the traditional Southern defense of slavery. First, Magoffin believed that slavery accorded with God’s will. According to Magoffin, Abraham, Jacob, and Moses all recognized slavery as an acceptable institution as expressed through God’s will. He argued that if God had thought slavery an evil, then God would have abolished slavery with a commandment or through the prophets. God had not abolished slavery. Instead, the Israelites enshrined slavery in the Levitical Code (though he ignored the fact that slaves were to be treated humanely and freed during years of jubilee). Even Jesus, Magoffin pointed out, had not condemned slavery but left slavery “undenounced and undisturbed.” Nor did the apostles condemn slavery citing the example of Paul telling a runaway slave to be obedient to his master.⁷

Magoffin then turned to history to justify slavery. He stated that Spain, England, and the Netherlands all enslaved peoples under the guidance of law though he offered no specific examples. Each colonizing nation brought human property to the North American continent and their laws regulating slavery. Thus, these laws created a precedent of slavery in America.⁸

⁵ *Senate Journal*, 1859-1860, 30.

⁶ Though Magoffin supported slavery, the governor did not support the reopening of the African slave trade. In his 1859 address, Magoffin claimed that Kentuckians did not support the African slave trade and neither would he.

⁷ *Senate Journal*, 1859-1860, 33.

⁸ *Senate Journal*, 1859-1860, 34.

Furthermore, Magoffin attacked the idea that the United States could not exist part free and part slave. According to Magoffin, to believe such an idea would be synonymous with the idea that the Founding Fathers erred in writing the Constitution. According to Magoffin, the Founding Fathers had poured over the Bible and history to create “the most perfect government.” Magoffin could not believe that those men of intellect would have made such a mistake as creating a government that would eventually dissolve under the weight of these two “antagonistic ideas” of freedom and slavery. As Magoffin stated, “With the best government, with the freest and happiest and most powerful people on earth, we are the wonder, the admiration, and the envy of the world.” All thanks due to Magoffin’s ingenious and infallible Founding Fathers whose legacy, the Constitution, served the nation well for the past seventy years.⁹

Magoffin then turned to sociological reasons for slavery. He claimed that the slave states were just as moral as the free states. According to Magoffin, slavery had civilized the “savage” African. Slaves had risen above what Magoffin termed, “a crooked, miserable, naked, starved, ill-shaped, chattering, half-reasoning sort of link between the baboon and the white man.” Magoffin marveled that the descendants of the first generation of slaves had progressed fast to become “an active, intelligent, happy agent in doing good.” Of course for Magoffin, a slave’s happiness depended upon his or her living under a master. Magoffin claimed that if Kentucky or the Union freed the slaves, the slave would degenerate to a half-beast-half-man becoming “a worthless, idle, lazy, besotted vagabond.” Magoffin claimed that the Northern states understood this degeneration and therefore restricted African Americans from settling within their

⁹ *Senate Journal*, 1859-1860, 34-35.

borders.¹⁰

Magoffin claimed that the Constitution protected white citizens from slave degeneration by protecting human property. According to Magoffin, slavery was a moral institution and one that neither Kentucky nor the South was willing to accede for the pleasure of the North's moral beliefs.¹¹

Warming to his rhetoric, Magoffin added to the defense of slavery by attacking abolitionists. "The constitution and the Union are threatened," exclaimed Magoffin. According to Magoffin, this threat emanated from abolitionists such as Brown who sought to destroy Southern society. Like most Southerners at the time, Magoffin wrongly associated the abolitionists with the Republican Party. The Republican Party only supported the non-extension of slavery into the territories. Republicans recognized that they could not interfere with slavery where it already existed by positive law. Only a small number of Republicans associated themselves with the abolitionist movement which was generally apolitical.¹² He decried the Republican Party for attempting to destroy the institution of slavery by claiming that the Constitution must be amended and compromises abandoned to preserve the Union from being torn by the "antagonizing ideas" of freedom and slavery. Magoffin could not accept the idea of amending the Constitution to fit the abolitionists' needs and wants fearing such an action would lead to

¹⁰ *Senate Journal*, 1859-1860, 35-36.

¹¹ *Senate Journal*, 1859-1860, 33-36.

¹² Southerners erroneously associated the Republican Party with the abolitionist movement. The abolitionists such as William Lloyd Garrison were apolitical, and disagreed with the American political system that supported slavery. Founded in 1854 from a variety of political backgrounds (i.e. Whigs, Northern Democrats, and Know-Nothings), the Republican Party possessed a complexity in their ideas and political beliefs. Republicans consisted of conservatives, moderates, and radical such as Salmon P. Chase who wanted to end slavery and grant civil liberties to freedmen. However, the Republican Party was not an abolitionist party. Much of the North with the exception of few like Garrison was anti-slavery while at the same time being anti-black. Even the Radical Republicans who supported civil liberties for African Americans did not support social equality for between the races. For more information see Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (Oxford: Oxford University Press, 1995).

the dissolution of the Union. He chastised the abolitionists for presuming that they knew more than the Founding Fathers, Moses and even God's will.¹³

Outraged, Magoffin believed that the Republican Party was out to destroy the Southern way of life meaning a system of race relations based on master and slave, and threatened the South with insurrection and violence. John Brown's raid on Harper's Ferry affected the perception Southerners held of Northerners. Magoffin and other Southerners erroneously believed that Brown held the backing of the Republican Party. Republicans did not back Brown's raid. Brown acted on his own initiative with a small group of Northern backers. True some Northerners glorified Brown and immortalized him in verse, but most Northerners disagreed with Brown's tactics. Northerners condemned the use of violence to entice insurrection. Yet, Northerners' condemnation mattered little to Magoffin and other Southerners. Any laudatory action for Brown linked Northerners and the Republican Party to Brown's raid in white Southern minds. So when Magoffin claimed that the Republican Party threatened the Union and the Constitution, he meant and believed what he said. The threat though perceived and erroneous was real to Magoffin and many Southerners. So real in fact that Magoffin suggested measures that the state legislature should take to ensure that a Republican-led insurrection would not occur in Kentucky.¹⁴

To ensure that the Southerners' imaginary insurrection did not infiltrate the state, Magoffin promoted an idea to increase the tax on peddlers and other out-of-state persons, and repeal laws allowing freemen into the state. In addition, Magoffin supported a stricter law prohibiting slaves to hire out their time for wages, and for the state to pay the

¹³ *Senate Journal*, 1859-1860, 37-38.

¹⁴ *Senate Journal*, 1859-1860, 38; McPherson, *Battle Cry of Freedom*, 209-213.

way for freedmen wishing to leave the state. He also advocated reforms of the state militia to create a ready and strong force to crush insurrection, suppress mobs, and enforce executive laws. This militia would be a voluntary force formed in each county, regularly drilled, revive the martial spirit of the people, and protect Kentucky from conspirators. “Self-preservation and safety” became Magoffin’s clarion call against abolitionism and potential servile insurrection.¹⁵

Contradictorily and despite Magoffin’s blatant hostility towards the Republican Party and his protectionist attitude towards slavery, Magoffin believed in the Union. For Magoffin, the Union meant a compact of states, a confederacy, which was not perpetual. He believed in Thomas Jefferson’s Kentucky Resolution and John C. Calhoun’s “Exposition and Protest” of 1828. The governor held faith in the Union created by his Founding Fathers. Magoffin believed the Constitution would defend the state from the “Black Republicans” while he as governor would assist with reforms. Magoffin believed that John Brown’s raid exposed the Republicans for the dangerous internal subversives he knew them to be and indicted them for crimes against slavery and the Union. In Magoffin’s opinion, the Constitution was as perfect as it could be and the Republicans stood to denigrate the document and dissolve the Union.¹⁶

As for Kentucky, Magoffin held firm to the belief that the state would not give up on the Union. Kentucky would “stand by the compact of the constitution as our fathers made it – to stand by the principle that each state should be the judge of, and regulate its own domestic institutions, without interference.” He claimed that Kentucky would not look to dissolve the Union “as a remedy for the evils” of the Republican Party. Instead,

¹⁵ *Senate Journal*, 1859-1860, 38.

¹⁶ *Senate Journal*, 1859-1860, 38-40.

Kentucky would stand by the Union. Magoffin stated that “the Union is hallowed by too many associations which ought to be dear to every American heart.” America had thrived on antagonistic forces of being both commercial and agricultural. In Magoffin’s opinion this antagonism made the United States a great, prosperous, and free nation for white Americans. However, Magoffin’s love and support for the Union held a stipulation – a condition. Kentucky, claimed Magoffin, would stand by the Union so long as the Constitution continued to allow each state the power to deal with its own internal affairs such as slavery and leaving Congress to oversee the external and foreign affairs of the federal government.¹⁷

Within this address, Magoffin illuminated a conundrum that he would have to face during the winter of 1860-1861. Kentucky, as Magoffin stated, believed in the Union and would stand by it. At the same time, Kentucky held the belief that the states possessed the right to govern its internal affairs and its own institutions including slavery. The antagonistic forces of Union and states’ rights, not just freedom and slavery, resided in Kentucky and would clash by the end of 1861. Being pro-Southern, Magoffin supported state’s rights and then the Union.

Despite Magoffin’s antagonizing ideas, the state legislature convened in December 1859 and worked through the spring of 1860 to debate and enact Magoffin’s suggestions. In February 1860, the state legislature passed a law requiring election clerks to be present to “keep the votes” by numbering the total on pages. On February 28, 1860, the General Assembly passed “an act concerning the officers of election at municipal elections in the city of Louisville.” Sharing Magoffin’s concern over the Bloody Monday riots, the General Assembly resolved that election officials should be split evenly

¹⁷ *Senate Journal*, 1859-1860, 39-40.

according to party affiliation to ensure that one party could not improperly influence the election returns and votes. As a result, the act prevented discontent at the polls and fraudulent election returns.¹⁸

In March, the General Assembly acted on the governor's slavery policies. First, on March 3, 1860, the General Assembly passed "an act regulating fees for arresting runaway slaves." The act increased the reward money for the capture of runaway slaves from \$25 to \$75 dollars depending on where the slave was captured. On the same day, the General Assembly passed "an act concerning free negroes, mulattoes, and emancipation." The General Assembly responded to Brown's raid through this act. The act stipulated that any person who freed his or her slave must send the freed slave out of the state within ninety days of emancipation. In turn, the act required the freemen to sign a document denouncing his or her residency in Kentucky. If the slave returned, then he or she would be imprisoned. The act also made the settling of freedmen in Kentucky a felony subject to imprisonment. In addition, any freedmen already a resident of the state who visited a free state forfeited his or her citizenship in Kentucky. If he or she returned the punishment was imprisonment. Also, any freedmen whom the state deemed a vagrant, without defining the meaning of vagrancy, or kept a disorderly house, which the General Assembly defined as a home frequent to dancing, drinking, and gambling, would be sold into slavery for a period of two to ten years. The freedman could pick his or her master with the approval of a judge. The state court then would assess the monetary value of the freedman. If accepting the freedman, the master had the choice of

¹⁸ *Acts of the General Assembly of the Commonwealth of Kentucky, 1859-1860* (Frankfort, KY: Yeoman Office, 1860), 61; Richard Collins, *History of Kentucky By the Late Lewis Collins, Revised, Enlarged Four-Fold, and Brought Down to the Year 1874 By His Son Richard H. Collins* (Louisville, KY: John P. Morton and Co., 1874), 82 and 337.

purchasing him or her for life as long as the master could pay one-fourth of the appraised value. These actions ensured state control of freedmen by threatening them with imprisonment or slavery. By controlling the state's freedmen and preventing the increase of a free African American population, the General Assembly sought to lessen the possibility of an insurrection led by Brown-like figures. In short, the act sought to avoid another Harper's Ferry.¹⁹

The General Assembly also acted on Magoffin's suggestion to reform the state's small, ill-trained, and ill-equipped militia. The state's militia was incapable of dealing with threats from either mobs or imaginary abolitionist hordes. The "act for the better organization of the Kentucky militia," also referred to as the State Guard Law, passed on March 5, 1860 reorganized and strengthened the state militia. The act divided the state militia, called the Kentucky State Guards, into three categories: the Reserved Militia, the Enrolled Militia, and the Active or the Volunteer Militia. The Reserved Militia consisted of all white males under 18 and over 45 who resided within Kentucky. These young and old males were held in reserve for future use when necessary. The Enrolled Reserve consisted of men from 18 to 45 who could serve in the militia and were not already serving in the United States Army or Navy or the Active Militia. The act required men from 18 to 45 to meet annually at designated camps to drill and march. The Active Militia consisted of volunteer soldiers who routinely served to protect the state. The State Guard Law divided both the Enrolled and Active Militia into regiments along county lines and further divided into companies and battalions. Each division of infantry elected their own officers by popular vote among the soldiers for six year terms. The act

¹⁹ *Acts of the General Assembly, 1859-1860*, 120, 128-131.

set drill days and fined soldiers 15 cents for not showing up.²⁰

The State Guard Law also created the office of inspector-general who oversaw the State Guards. The inspector-general organized the militia from battalions to armies; ordered the elections of officers; inquired about and inspected funds, arsenals, and camps; and reported to the governor on the needs of the State Guards. The governor appointed the inspector-general. Magoffin chose the Mexican War veteran and West Point graduate and soon to be Confederate general, Simon B. Buckner to lead the State Guards.²¹

The act also allowed the inspector-general to form his own staff and hire a clerk. The staff included an adjutant-general, a quartermaster-general, and assistant inspector-generals for each county to run the day to day activities of the militia. In addition, the act required all officers and soldiers to swear an oath of allegiance to protect and defend Kentucky and the constitutions of the United States and Kentucky. The oath first required that soldiers “promise and agree” and to “honestly and faithfully serve the state of Kentucky against all her enemies or opposers” such as insurrectionists. Secondly, the state guard would do his “utmost to support” the Constitution. To ensure that the militia could not act on its own, the General assembly created courts marshal and courts of inquiry. Ensuring civilian rule over the militia, the act empowered judges with the authority to approve the muster of companies and the distribution of arms. In addition, judges of the Court of Appeals, mayors, and the governor could call out the militia to put down riots and mobs in order to protect individual’s property and the peace.²²

As governor and the commander-in-chief of the State Guards, Magoffin possessed the duty to equip the soldiers. Magoffin wrote to A. K. Clay, the colonel of ordinance in

²⁰ *Acts of the General Assembly*, 1859-1860, 143-171.

²¹ *Acts of the General Assembly*, 1859-1860, 145-148.

²² *Acts of the General Assembly*, 1859-1860, 147-152, 161-166.

Washington, as early as the autumn of 1859 requesting rifles to fill the state's arsenal.²³ In his 1859 address, Magoffin reported that the arsenal was full and ready to be used in case needed. By 1860, Magoffin again contacted Clay for more rifles and began corresponding about soldier uniforms. Magoffin took an active part in arming the state against imaginary enemies.²⁴

Magoffin also achieved legislative success with penitentiary reform. The legislature approved the creation of a committee to raise funds for the improvement of the state penitentiary in Frankfort. The state legislature named Magoffin as one of the committee members. The committee used the funds to re-roof the cell house, construct additional cells, enlarge the mess hall, and establish a graveyard. The General Assembly also adopted the present boundary between Kentucky and Tennessee based on an 1859 committee report which Magoffin supported. The General Assembly sought to improve the state's revenue and infrastructure by increasing the capital stock of the Commercial Bank of Kentucky. The act also established branches in Lebanon, Newport, and Cynthiana. Yet, Magoffin distrusted banks and vetoed the bill. However, the General Assembly overrode the governor's veto. In March 1860, the General Assembly overrode Magoffin's veto for the first, but not for the last, time.²⁵

As the General Assembly debated the governor's proposals, Magoffin dealt with

²³ I had difficulty reading the handwriting on the letter. From what I could decipher, the writer's last name was Clay.

²⁴ Governor's correspondence file – military correspondence, 1859-1862, folder 95 and 96, KDLA, Frankfort, KY.

²⁵ *Acts of the General Assembly*, 1859-1860, 53, 71, 97, and 173; Collins, *History of Kentucky*, 82-83. As governor, Magoffin not only equipped the militia and executed the laws, but dealt with requests from citizens. One request Magoffin dealt with was the reward for the cure for hog cholera. On February 20, 1860, the state legislature offered \$1,000 to anyone who possessed a cure for hog cholera. The state's hogs had been struck with the disease since January 1860. Letters poured into the governor's mansion each claiming to possess a cure but in reality only attempting fraud to gain the reward. For example, Peter F. Meahone of Talbotton. GA wrote claiming to possess a cure but wanted to know more about the reward. See Governor's correspondence file, 1859-1862, KDLA, Frankfort, KY.

the lingering agitation and fear of insurrection from the Brown raid. In January 1860, Mason County officials ordered John G. Fee and his followers to leave the county. Educated at the anti-slavery Lane Seminary in Ohio, Fee was one of Kentucky's few abolitionists. A native Kentuckian, Fee believed in abolition, racial equality, and educational desegregation. Fee began his crusade for abolition around 1845 basing his ideas on religious principles. Fee grew to reject demarcating people into classes, racial groups, and religious dominations claiming that such compartmentalization caused groups to believe in their own superiority over other groups. Instead of compartmentalizing, Fee advocated for people to follow their consciences and practice doing good deeds. With the help of fellow emancipationist, Cassius M. Clay in 1858, Fee founded Berea College in Madison County, in Central Kentucky, to spread education to poor black and white children. Fee's other "good deeds" included participation in the underground railroad, founding non-denominational churches, spreading education, and rejecting acts of violence, all of which Kentuckians resisted.²⁶

Fee's "crusade" in Kentucky lasted until 1860. Most Kentuckians did not heed what Fee taught labeling him, especially after Brown's raid, a dangerous abolitionist. Prior to Brown's raid, Kentuckians ignored Fee's message of equality. Emancipationists often quarreled with Fee over the radicalness of his ideas. Opponents often reacted with violence and some requested that Fee and his followers not preach or campaign in their counties. Fee supported Brown in principle but rejected his use of violence.²⁷

²⁶ Collins, *History of Kentucky*. 81-82; Harold D. Tallant, *Evil Necessity: Slavery and Political Culture in Antebellum Kentucky* (Lexington: The University Press of Kentucky, 2003), 168-180, 200; Wallace B. Turner, "Abolitionism in Kentucky," *The Register of the Kentucky Historical Society* 69 (October 1971): 330-336.

²⁷ Collins, *History of Kentucky*. 81-82; Tallant, *Evil Necessity*, 205, 216-217; Turner, "Abolitionism in Kentucky," 330-336.

Agitated by Brown's raid, Madison County officials ordered Fee and his followers to leave the state. Fee petitioned Magoffin claiming that Madison County was his and his followers' home. Magoffin sided with the Madison County officials claiming that Kentuckians were decidedly against Fee's abolitionist teachings. Fee acquiesced and left for Ohio. Not deterred, Fee and his followers periodically crossed the Ohio River into Bracken County to preach Fee's message of equality. Bracken County officials feared that the presence of Fee and his followers would entice insurrection. So in January 1860, the Bracken County officials ordered Fee to leave the state by February. Magoffin agreed and Fee complied. Fee spent the next years exiled in Ohio.²⁸

Magoffin also defended slavery in Kentucky by suing Ohio for refusing to extradite Willis Lago. In 1859, Lago helped a slave named Charlotte escape to Ohio. While in Ohio, the courts in Kentucky indicted Lagos for theft. Magoffin asked Ohio's governor, Salmon P. Chase, to extradite Lago so that the accused may stand trial. Chase refused. In 1860, Magoffin asked again for Lago. Yet again, William Dennison, Chase's successor, refused. Magoffin then sued Ohio in the United States Supreme Court. On February 20, 1861, the Supreme Court decided against Magoffin. In the 8-0 vote, Chief Justice Roger B. Taney wrote that Chase and Dennison did not have the authority to ignore the criminal extradition clause in the Constitution. Yet, Taney stated he would not "coerce" a state into obeying its "constitutional obligations."²⁹

Despite Magoffin's legislature successes and defense of slavery, the presidential election dominated Kentucky politics in 1860. Kentucky Democrats picked their

²⁸ Collins, *History of Kentucky*, 82; Tallant, *Evil Necessity*, 166-168; Turner, "Abolitionism in Kentucky," 330-336.

²⁹ Kermit L. Hall, *The Oxford Guide to United States Supreme Court Decisions* (New York: Oxford University Press, 1999), 49.

delegates in January vowing to support James Guthrie for president. In a letter to Magoffin dated March 25, 1860, J. Ewing Gibson from South Fork, Kentucky expressed doubts concerning Guthrie whom he called an “old foggy.” Gibson argued for a younger man for a young America “whose heart throbs fuller of patriotism.” Gibson supported John C. Breckinridge, “the people’s man” and a candidate whom he believed could win both the North and the South. As for Guthrie, Gibson would support him if forced to do so. In another letter, John E. Records opined that the Democrats needed to reach out to Northern Democrats to maintain party harmony and victory at the polls.³⁰

Both Gibson and Records made astute observations. The Democrats required unity and harmony over issues that had plagued the party over the past ten years in order to win the presidential election. The Democratic convention that met in Charleston could not agree on a candidate or a platform. At first, Guthrie appeared to be the front runner but soon younger men such as Breckinridge and Senator Stephen A. Douglas from Illinois took center stage. However, the party split over the issue of a federal slave code for the territories. Democrats from the Deep South demanded a slave code while Northern Democrats such as Douglas remained supportive of Douglas’ nebulous position of popular sovereignty. By 1860, Southern Democrats did not accept popular sovereignty believing they had the constitutional right to take slaves into the territories without federal interference. The Northern and Southern delegates could not agree on a candidate or a platform. As a result, the convention deadlocked and the Democrats decided to adjourn. They agreed to reconvene in Baltimore, Maryland at a later date. At the end of June 1860, the Democrats reconvened in Baltimore. However, at Baltimore, the Democrats could not reach a consensus and split. The Southern Democrats chose

³⁰ Governor’s correspondence file, 1859-1862, folder 4, KDLA, Frankfort, KY.

Breckinridge as their presidential nominee and stood for slavery's protection by supporting a slave code for the federal territories. The Northern Democrats chose Douglas and the senator's platform of popular sovereignty. Being a friend of Breckinridge's, Magoffin supported Breckinridge at both the Charleston and Baltimore conventions and the Southern Democrats' platform.³¹

During the Spring of 1860, the Republican convention convened in Chicago and nominated Abraham Lincoln on a platform that opposed the expansion of slavery into the territories, called for a homestead act, a transcontinental railroad, and government funded improvements such as harbors. In Kentucky and the South, the Republican Party was non-existent. Brown's raid had tainted the Republican Party as abolitionist despite Lincoln's assurances he would not interfere with slavery where it already existed. Lincoln recognized that slavery existed by positive law, and he, even as president, could not interfere with it where it already existed.³²

The Constitutional Union Party created by John J. Crittenden offered an alternative to the Republican and Democratic candidates. Supporters of the Constitutional Union Party campaigned for Crittenden to run as their candidate for president. Crittenden gracefully turned down the offer and encouraged the nomination of another candidate. Crittenden had decided to retire from politics after his term in the senate expired in March 1861. In 1860, Crittenden was 73. Instead, the Constitutional Union Party Convention chose John Bell of Tennessee.³³

The Constitutional Union Party platform was plain and simple: "The Constitution,

³¹ William C. Davis, *Breckinridge: Statesman, Soldier, Symbol* (Baton Rouge: Louisiana State University Press, 1974), 215-227; McPherson, *Battle Cry of Freedom*, 213-216.

³² McPherson, *Battle Cry of Freedom*, 216-221, 231.

³³ Albert D. Kirwan, *John J. Crittenden: The Struggle for the Union* (Lexington: University of Kentucky Press, 1962), 346-353.

the Union, and the Enforcement of the Laws.” On August 2, 1860, Crittenden expounded on the party’s creed in a campaign speech in Louisville. Crittenden defined the Constitutional Union Party as a non-sectional party that sought to maintain the Constitution given by their fathers, the Union, and to enforce the laws everywhere. Crittenden spoke ambiguously and broadly to appeal to voters in the North and the South.³⁴

Crittenden continued by explaining why Bell would be a better president than his opponents. Crittenden stated that Lincoln, Douglas, and Breckinridge were all men of high character, but they all represented sectional parties. On the other hand, Crittenden touted Bell as a mediator who would unite the sections together through compromise. A Lincoln victory, exclaimed Crittenden would “create still greater dangers to the peace and security of the South” beyond Brown’s raid. Crittenden stated that Douglas could not control the tension between the North and the South. Crittenden doubted Breckinridge could do better than Lincoln and Douglas in dealing with sectionalism. According to Crittenden, Breckinridge headed a party that had deluded itself into believing secession was the only solution to its problems. Instead of a sectional candidate, Crittenden campaigned for Bell as the candidate who would prevent disunion. In other words, Crittenden encouraged those Kentuckians who supported the Union and the Constitution to vote for Bell. Lastly, Crittenden warned secessionists that if Lincoln won the election then voters could vote Lincoln out of office in 1864. As a further warning, Crittenden stated, “If you expect your government to be perfect and glide on without disturbance, you will be deceived.” For Crittenden, bad governments occurred, but elections offered

³⁴ “The Union, the Constitution, and the Laws” Speech of Hon. John J. Crittenden at Mozart Hall, August 2, 1860, The Filson Historical Society, Louisville, Kentucky; Kirwan, *John J. Crittenden*, 361.

the opportunity to vote for a good government which Bell would provide.³⁵

Magoffin supported the Breckinridge Democrats. Magoffin agreed with the Democratic faction that supported slavery, state's rights, and the compact theory of the Union. Despite Magoffin and Crittenden's efforts on behalf of their respective candidates, neither Breckinridge nor Bell won the election. With the support of the populous North, Lincoln won the majority of the electoral votes. Breckinridge found support throughout the nation, but only majority support in the South. Though Bell held followers in many states, the border states provided a bulk of the Constitutional Union Party votes. On election day, Bell held strong in and won the electoral votes from Kentucky, Tennessee, and Virginia.

Whether or not Crittenden would have done better than Bell cannot be known. Yet it is safe to say that Crittenden would have won Kentucky. Bell won the majority of the votes in Kentucky. Breckinridge trailed behind Bell winning the traditional Democratic strongholds within the state such as the Jackson Purchase and Appalachia. Bell won the traditional Whig counties in central Kentucky and the cities such as Louisville. Douglas and Lincoln lagged behind in votes. Douglas won a majority in a few central counties while Lincoln received only a little over a 1000 votes and those mainly from Louisville.³⁶

The 1860 election results were a far cry from the 1859 results which elected a pro-slavery governor and legislature. The 1860 Kentucky voters sided with the message of preserving the status quo. The Constitutional Union Party offered to maintain the

³⁵ "The Union, the Constitution, and the Laws." FSH, Louisville, KY; Kirwan, *John J. Crittenden*, 361.

³⁶ James R. Robertson. "Sectionalism in Kentucky from 1855 to 1865" *The Mississippi Valley Historical Review* 4 (June 1917): 56.

Constitution as it was, and preserve the Union from abolitionists and fire-eaters. Despite Bell's victory in Kentucky, Breckinridge and his platform of slavery protection won a large following and support for the Democratic position. Kentucky like the nation soon became divided. However in November 1860, the majority of Kentuckians voted for the Union, for the Constitution, and voted against the political agitation of slavery. However, Lincoln's victory and the elevation of the Republican Party into power irked Southerners especially in South Carolina and the Deep South who wrongly associated the party with abolitionists.³⁷

Magoffin's first year as governor was a peaceful year. Despite fears of an abolitionist led insurrection, Kentucky's insurrectionist never materialized. The perception of an insurrection convinced enough Kentucky politicians including Magoffin and the members of the General Assembly to enact laws that would prevent insurrection. Laws against freedmen and potential fugitive slaves further placed African Americans in a position of subservience with threats of imprisonment and even enslavement. The Democrats took Brown's raid seriously and followed Wise's advice to take the needed actions.

Magoffin suggested policies in his 1859 address to the General Assembly in order to deal with the crisis resulting from Brown's raid on Harper's Ferry. The most important action adopted by General Assembly was to reorganize the state militia, the State Guard Law. The State Guards primary goal was to suppress future slave insurrectionists and capturing Brown-like leaders. In 1860, Magoffin worked on his pet project equipping and clothing the troops, and appointing the needed personnel such as

³⁷ Robertson, "Sectionalism in Kentucky," 55-56. For a more indepth discussion on the differences bwetean the election results of 1859 and 1860 see Christopher M. Paine, "'Knetucky Will Be the Last to Give Up the Union'" (Ph.D. diss., UNiveristy of Kentucky, 1998), 241-270.

Inspector-General Buckner. The reorganization of the State Guards controlled by the governor in time would grow controversial. While the General Assembly debated over the governor's policies, Magoffin took initiative to protect slavery by supporting the expulsion of Fee and his followers, *Kentucky v. Dennison*, and supporting Breckinridge and a pro-slavery platform in the 1860 presidential election.

Furthermore, Magoffin led Kentucky along his pro-Southern Democratic principles. The State Guard Law and the acts against African Americans demonstrated Magoffin's Southern inheritance. Like many Southerners, Magoffin feared a slave insurrection led by abolitionists whom he erroneously associated with the Republican Party would occur in Kentucky. By expelling Fee and his followers from Kentucky, Magoffin rid the state of a potential Brown figure even though Fee like many Northerners had renounced Brown's violence. Part of Magoffin's pro-Southernism was his Jacksonian heritage. As a Democrat, Magoffin supported election reform and state's rights. Magoffin sought election reform to ensure that election officials respected a citizen's right to vote. As stated in his 1859 address, Magoffin protected slavery as a state institution and warned against Republicans interfering with Kentucky's internal affairs. Magoffin also supported the state penitentiary, though it originated as a Whig initiative. Magoffin could support reform of the state penitentiary because the reform was state driven and funded. Furthermore, the penitentiary had been around for nearly ten years and was no longer politically decisive.

Though the Whig Party had collapsed in 1854, the Whig influence could still be felt. Crittenden, one of Kentucky's leading Whigs, founded and headed the Constitutional Party that expounded Unionism and compromise. The Constitutional

Union Party provided an alternative to the sectionalism of the other major parties. In the 1860 presidential election, Kentuckians voted for Bell. The legacy of Clay, Unionism and compromise influenced Kentuckians by binding them to the Union and the Constitution. However, Breckinridge commanded a large minority including Magoffin. Despite Bell's victory in Kentucky, Lincoln had won the election and the Deep South cringed under the thought of Republican rule. As Crittenden warned, the Southern Democrats would not seek recourse other than secession to their fears and concerns. Following Lincoln's victory, Magoffin was faced with a crisis that threatened the existence of the Union. As a Southern Democrat, Magoffin could have led a secession movement in Kentucky. Yet as a Kentuckian, Magoffin felt the influence of compromise – the legacy of Henry Clay.

CHAPTER THREE

Beriah Magoffin: Conditional Unionist and Unsuccessful Compromiser

Following the election of Abraham Lincoln to the presidency in November 1860 and until the opening of hostilities in April 1861, Magoffin demonstrated the compromise side of his political heritage. As a compromiser, Magoffin worked to mediate the conflict between the North and the South in the hope of avoiding civil war. Magoffin's pro-Southernism and Jacksonian heritage moderated during the interlude to war. However, Magoffin supported the legality of secession and the illegality of coercing the seceded states back into the Union. Though Magoffin accepted the constitutionality of secession, he sought compromise to stay the course of secession and to preserve the Union as a compact of states. However by April 1861, Magoffin failed to achieve compromise and supported the Union on a conditional basis.

Magoffin responded to South Carolina's secession convention by calling for moderation and compromise. Initially, Magoffin did not lead an effort to take Kentucky out of the Union. Magoffin's actions during the Secession Winter of 1860-1861 resembled his contemporaries such as John J. Crittenden and John C. Breckinridge who both sought compromise. Magoffin recognized secession and stood against the federal coercion of the seceded states. By January 1861, Magoffin supported the idea of a state sovereignty convention to decide Kentucky's course in the crisis. Showing a lack of initiative, Magoffin delegated the decision of secession to the people via the state

legislature by the suggestion of a state sovereignty convention.

In the aftermath of Lincoln's election, Magoffin urged moderation and compromise. On November 16, 1860, Magoffin wrote a letter to the editor of the Frankfort *Yeoman*. Demonstrating his "antagonistic ideas," Magoffin displayed both his Southern sympathies and his support for a Union that respected slavery and state's rights. Believing in the compact theory of the Union, Magoffin asserted that Northerners, especially the Republicans, had wronged "[Kentucky's] rights and her equality in the Union" by denying the South to take slaves into the territories, enacting personal liberty laws, and harboring the abolitionist movement. According to Magoffin, the North denied the South its rights concerning slave property which he noted was protected by the courts and the Constitution. Magoffin translated the Republican election victory as the advent of tyranny and asserted that Republicans would abolish slavery within the territories and the South thus denying Southerners their way of life.¹

Not only did Magoffin chastise the Republican Party but he chastised those Southerners clamoring for secession. Magoffin saw no reason for South Carolina and other Southern states to secede. The Constitution and the federal courts would protect slavery from the Republicans. Kentucky was not working towards disunion even though in Magoffin's opinion Kentucky had suffered more wrongs than the Deep South due to its proximity to the North. For example, runaway slaves for the past decades fled over the Ohio River to escape slavery. Helped by abolitionists on both sides of the Ohio River, those runaways achieved their freedom. Magoffin sought to end the flow of slaves by suing Ohio over its personal liberty laws in *Kentucky v. Dennison*. Magoffin claimed that

¹ *Journal of the House of Representatives of the Commonwealth of Kentucky, 1861-1863* (Frankfort: Kentucky Yeoman Office, 1863). 12-14.

abolitionists who aided slaves to escape had cost Kentucky millions of dollars in human property. In Magoffin's opinion Kentucky had borne "the brunt of the battle" against abolitionism by standing on the front lines.²

In November 1860, Magoffin agreed with South Carolina that a state could secede from the Union. Magoffin claimed that a failure to defend a state's right to slavery would mean the eventual erosion of Kentucky's and the South's "rights, honor . . . inheritance . . . [and] manhood," until the South possessed neither the will nor the power to resist the federal government. Yet for Magoffin, the election of Lincoln as president and the elevation of the Republican Party into national predominance did not in itself justify secession. During a period of heightened passions, Magoffin recognized that the United States needed level-headedness. Magoffin advised the South to look towards the federal courts and Congress for the protection of slavery such as he was doing in *Kentucky v. Dennison*. Only if such actions failed, would secession be a feasible option of resistance.³

In late 1860, Magoffin positioned Kentucky outside of the secession movement. Kentucky may have borne the brunt of Northern "wrongs" but for Magoffin the federal laws and the federal courts protected the South. Calling for "no more concessions . . . no more compromises," Magoffin promoted a plan to build an opposition to Lincoln and to the Republicans, to resist abolitionist policies, and "resolve not [to] discuss the question of slavery any more." By presenting a united Southern front against the Republicans and the party's perceived abolitionist stance, Magoffin believed that the South could address Southern grievances within the Union. He chastised those states clamoring for secession

² *House Journal, 1861-1863*, 16-17; Lowell H. Harrison and James C. Klotter, *A New History of Kentucky* (Lexington: The University Press of Kentucky, 1997), 170-173.

³ *House Journal, 1861-1863*, 16-17.

as deserters of the Union and warned those states of the possibility of civil war.

Magoffin pled, "Let passion be allayed; let reason assume its throne; let moderation, forbearance, and wisdom guide our counsels, and the country may yet be saved."

Magoffin's response in mid-November 1860 reflected his desire to defend slavery by remaining in the Union and to preserve the Union through the idea of a Southern opposition party.⁴

By early December 1860, the national situation continued to deteriorate.

Recognizing the growing crisis and the cold reception to his opposition idea, Magoffin turned towards mediation. In a letter to the General Assembly on December 9, 1860, Magoffin called for a Southern conference among the slave states. The goal of this conference, Magoffin hoped, would be "fair and honorable terms" for the preservation of the Union. Magoffin wished for the following issues to be adopted: a constitutional amendment that repealed laws hindering the execution of the fugitive slave law, requiring compensation to masters of slaves lost in the North, the return of fugitives wanted for aiding slaves to escape, a division of federal territories between slave and free, the free navigation of the Mississippi River, and altering the federal Constitution to grant the South protective powers from laws that would abolish slavery or hinder a state's right to regulate slavery, or prohibit the expansion of slavery into the territories. Magoffin believed that a united South within the Union could force the North to accept Southern demands while at the same time preserving the Union and protecting slavery. Magoffin's compromise did not meet the North middle way. To Magoffin, the North's actions concerning slavery were unconstitutional attacks against property. Magoffin persisted that the Northern state legislatures did not have the right to deny property to Southerners

⁴ *House Journal, 1861-1863*, 16 and 18.

nor did the federal government possess the right to interfere in the South's internal affairs.⁵

While Magoffin presented his solution to the sectional crisis, Congress attempted to solve the crisis on its own. The House of Representatives established the Committee of Thirty-three, where each delegate represented a state within the Union. The Committee of Thirty-three addressed the contentious issue of slavery. The members of the committee advocated an amendment to the Constitution prohibiting Congress from interfering with slavery in the slave states. The proposed amendment would also be in perpetuity and unamendable. In other words, the proposed Thirteenth Amendment protected slavery forever. In addition to this proposed amendment, the committee supported the obedience of the Fugitive Slave Act, the repeal of personal liberty laws, and the admission of New Mexico into the Union as a slave state. However, the committee's proposals came too late and failed to ease the crisis. These measures, with the acceptance of the New Mexico proposal, passed the House by late February 1861. Several states, including Kentucky adopted this proposed amendment; however, the Confederate firing on Fort Sumter made the amendment obsolete.⁶

Following the House, the Senate established the Committee of Thirteen to review and debate various compromise proposals. On December 18, 1860, Crittenden as one of the thirteen committeemen proposed a series of compromises to ameliorate the crisis. Crittenden advocated the reinstatement of the Missouri Compromise, the prohibition of Congress from abolishing slavery in the slave states, and a harsher enforcement of the

⁵ *House Journal, 1861-1863*, 19.

⁶ Albert D. Kirwan, *John J. Crittenden: The Struggle for the Union* (Lexington: University of Kentucky Press, 1962), 378; James McPherson, *Battle Cry of Freedom: The Civil War Era* (Oxford: Oxford University Press, 1988), 255-256.

Fugitive Slave Act.⁷ The Senate's committee failed to pass the Crittenden Compromise or any other compromise measure. Republicans refused to accept the extension of slavery into the territories. Two Southern senators, Robert Toombs of Georgia and Jefferson Davis of Mississippi joined the Republicans in defeating the compromise claiming that for any compromise to work it needed Republican support. Despite Toombs and Davis' call for bipartisanship, the two senators and other Southern fire-eaters had already accepted secession as the only solution to the sectional crisis. Toombs, Davis, and the fire-eaters did not want to accept compromise. On December 20, 1860, South Carolina, the most ardent state concerning secession, seceded from the Union. Despite the failure of the Committee of Thirteen and the Committee of Thirty-three, Magoffin and other compromisers believed that compromise along Crittenden's proposals would preserve the Union and avert civil war.⁸

In the meantime, Governor A. B. Moore of Alabama sent Stephen F. Hale to Frankfort in response to Magoffin's call for a Southern conference. Hale was born in Crittenden County, Kentucky in 1816. He attended both Cumberland and Transylvania Universities where he obtained a law degree. In 1837, Hale moved to Alabama where he

⁷ The Crittenden Compromise consisted of six Congressional restrictions on slavery and four Congressional powers concerning slavery. The first restriction consisted of the reinstatement and extension of the Missouri Compromise to California. All territories above the 36 30' parallel would be free from slavery and south of the parallel slave territory. Second, Congress could not abolish slavery in the states. Third, Congress could not abolish slavery in Washington, DC unless both Maryland and Virginia abolished slavery. Nor could Congress prohibit representatives from bringing their slaves into the capital. Fourth, Congress could not hinder the transportation of slaves to and from slave states and slave territories. Fifth, Congress was responsible for the reimbursement of slaves lost to the North. In turn the federal government could sue for reimbursement. Lastly, Crittenden called Congress to prohibit any constitutional amendments that would repeal the other five proposals. The first of the four powers, Congress possessed the ability to enact stricter fugitive slave laws and tougher punishments for obstructors of the Fugitive Slave Act of 1850. Second, federal policies and laws superceded state laws that concerned the fugitive slave laws. Third, Congress could amend the Fugitive Slave Act to make the measure more fair, equal, and acceptable to its proponents. Lastly, Congress should discourage the African slave trade. *The Congressional Globe Containing the Debates and Proceedings of the Second Session of the Thirty-Sixth Congress* (Washington, DC: Congressional Globe Office, 1861), 114.

⁸ Kirwan, *John J. Crittenden*, 378-379; McPherson, *Battle Cry of Freedom*, 252-255.

practiced law. An outspoken and opinionated man, Hale won seats in both the Alabama state legislature and Congress in the 1850s. Hale also owned a plantation and twelve slaves. Hale was not the only representative that Moore sent out. Moore sent various other representatives to other slave states to convince these states to secede. Alabama, along with South Carolina, Mississippi, and Louisiana worked towards secession sending outspoken, hidebound, professional men to harangue against the North and the Republican Party by speaking to the people, state legislatures, or governors. Hale was but one of tens of men who spent the winter of 1860-1861 arguing for secession. Hale, a man who argued for secession with or without Northern coercion, was not interested in Magoffin's compromise efforts but in convincing the governor to secede from the Union.⁹

Two days after Christmas 1860, Hale wrote to Magoffin expressing Alabama's wish that Kentucky join the secessionist movement. Hale asserted that Lincoln's election was part of a long list of grievances that the South held against the North. According to Hale, the South possessed the right to secede from the Union due to federal policies that interfered with state affairs most notably slavery. Hale argued that a Lincoln presidency planned to abolish the institution of slavery against the wishes of slave states.

Furthermore, Hale gave examples of alleged and perceived Northern subjugation: economic war waged by the North for the past hundred years, disrespecting the Fugitive Slave Act of 1850, decisions of the Supreme Court, John Brown's raid on Harper's Ferry and his martyrdom in the North, Northern military and monetary assistance to settlers in Kansas, the denial of Southern rights in the federal territories, and finally Lincoln's 1860

⁹ Charles B. Dew, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War* (Charlottesville: University Press of Virginia, 2001), 18, 19, 51-52, 55; Lowell H. Harrison, "Governor Magoffin and the Secession Crisis" *RKHS* 72 (April 1974): 94.

election. Under Lincoln and Republican rule, Hale predicted that an abolitionist United States would result not in equality but in an eternal war of the races, rape of white women by freedmen, and the murders of white citizens. Hale argued that God designed the world with a racial hierarchy and prohibited race amalgamation as unnatural. Hale warned that inaction against the federal government doomed Southern property, lives, homes, God's will, and "all that men hold dear on earth." Hale called for secession and urged Kentucky to join the South in preserving the true constitution and the white race.¹⁰

The next day, Magoffin responded favorably to Hale's letter. Having mimicked Magoffin's concerns in his 1859 address, Hale's arguments resonated with him. The governor agreed that secession could be a viable solution to the North's "injustices." Magoffin wrote, "When the time of action comes . . . our people will be found rallied as a unit under the flag of resistance to intolerable wrong." But before Magoffin accepted secession, the South needed to take precautionary steps. Magoffin reasserted his belief in a convention of Southern states to protect its rights and address Southern grievances. Magoffin wanted to try "an united protest" in voice before uniting in arms to prevent the North from denying states their rights and coercing states to accept unconstitutional laws. At the end of 1860, though a firm believer in state's rights, Magoffin advocated a calmer course of action and one that he hoped would avoid a civil war.¹¹

Around the time of the Hale – Magoffin correspondence, Breckinridge supported the idea of a border state convention. For Breckinridge, the border states offered a buffer between the two sections and the hope for a resolution to the crisis. Breckinridge invited

¹⁰ *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, Ser. IV, Vol. I (Washington, DC: Government Printing Office, 1891), 4-11; *House Journal, 1861-1863*, 20-28; Dew, *Apostles of Disunion*, 56-58; Harrison, "Governor Magoffin," 95-97.

¹¹ *OR*, Ser. IV, Vol. I, 11-15; *House Journal, 1861-1863*, 28-32; Harrison, "Governor Magoffin," 97-103.

political leaders from Kentucky, Missouri, Maryland, Delaware, Virginia, Tennessee, and North Carolina to participate in a convention. Crittenden supported the meditative measure. Senators from Virginia and North Carolina opposed the idea. By New Years Day, 1861, Breckinridge's border state convention failed to transpire. Frustrated on January 6, 1861, Breckinridge wrote to Magoffin complaining that compromise was hopeless. In this same letter Breckinridge supported Magoffin's call for a special session of the General Assembly. He expressed the hope that the state legislature would adopt a state sovereignty convention to discuss Kentucky's relationship with the Union.¹²

On December 27, 1860, Magoffin had called a special session of the General Assembly. The purpose of this special session was to discuss Kentucky's response to the secession crisis. Events changed Magoffin's mind concerning secession. Originally, Magoffin opposed the calling of a state sovereignty convention. He told Hale that Kentucky and the South needed to act with moderation and compromise. However, with the failure of Breckinridge's border state convention, the Crittenden Compromise in the Committee of Thirteen, and his own call for a slave state convention, and having been reinforced by Hale of the North's alleged perfidy, Magoffin supported a call for a state sovereignty convention to decide Kentucky's fate. In the opening address given on January 17, 1861, Magoffin laid out his solution to the crisis to the General Assembly. Magoffin advocated secession for Kentucky. He accepted his failure in organizing a slave state conference. According to Magoffin, secession had become a fact and one that the federal government refused to recognize. He blamed the Republicans for the breakup of the Union even though South Carolina and the Deep South led the secession

¹² William C. Davis, *Breckinridge: Statesman, Soldier, Symbol* (Baton Rouge: Louisiana State University, 1974), 254.

movement. Magoffin perceived the Republicans as an “unyielding opposition,” and “the great impediment to all compromise.” He blamed the Republicans for the failure of compromise without recognizing that the Southern secessionists such as Hale and Governor Moore who were not interested in compromise shared in the blame. Furthermore, a Republican government would, Magoffin feared, initiate policies “destructive to [the South’s] rightful equality as States” and prove to be “fatal to our stability and security of our whole social organization.” According to Magoffin, a Republican administration would lead the Union towards Congressional disrespect of property through the abolition of slavery, the disruption of the South’s racial relations, and the hindrance of American prosperity.¹³

Unlike his opinion in November and December of 1860, Magoffin promoted secession as an option for Kentucky. Magoffin claimed that Kentucky would fight for its rights, freedom, and honor in or out of the Union. In order to let Kentuckians decide their own fate, Magoffin opted for a state sovereignty convention. In Magoffin’s opinion, “the wisest, as certainly the safest mode” in dealing with the secession crisis was to let the people decide Kentucky’s fate via elected delegates. Following the example of Southern states that had seceded, Magoffin backed a convention to gauge the people’s opinion concerning secession. Magoffin hoped that such a convention would decide the “full and final determination” of Kentucky’s future.¹⁴

Like his opinions at the end of 1860, Magoffin had not fully abandoned compromise. He offered an alternate to secession – one more compromise measure. Instead of a slave state conference to unite the South against Republican ideology,

¹³ *House Journal, 1861-1863, 5-7.*

¹⁴ *House Journal, 1861-1863, 8-9.*

Magoffin resurrected Breckinridge's border state conference of eight states in the upper South with the expressed purpose of preserving the Union from civil war. Through a conference, Magoffin wanted to ensure the passing of the Crittenden Compromise and "secure the guarantees" to slavery, preserve the Union according to the compact theory of the Union, and thereby avoid war.¹⁵

Furthermore, Magoffin warned against the federal coercion of seceded states.¹⁶ Magoffin maintained throughout the crisis that a state had a right to secede from the Union. In Magoffin's perception, the Union was not perpetual. According to Magoffin, the Union was a confederation of states united by a constitution that protected property and subjugated the federal government to the state governments. The states agreed to abide by federal laws as long as all the states and the federal government respected the Constitution. In Hale's letter, Hale listed a series of federal and Northern repudiations of the Constitution. For Hale and other Southerners, secession offered the only solution to Northern injustices. For Magoffin, federal coercion of the seceded states provided the reason for Kentucky to secede. Kentucky, declared Magoffin, would demonstrate a proper course for the federal government to follow and adopt "unconditional disapprobation . . . of the employment of force in any form against the seceding states."¹⁷

Magoffin's policy of compromise and his conditional Unionism contradicted his earlier promotion of a convention to discuss secession. Magoffin recognized secession as a legal act and accepted the seceded states as independent identities. Yet Magoffin still could not fully relinquish the idea of mediation. According to historian Christopher M.

¹⁵ *House Journal, 1861-1863*, 9.

¹⁶ President James Buchanan also believed the federal government could not "coerce" states back into the Union; a do-nothing response to secession. Magoffin agreed with Buchanan even though Buchanan did not believe that secession was legal.

¹⁷ *House Journal, 1861-1863*, 10-11.

Paine, in ““Kentucky Will Be the Last to Give Up the Union,”” the legacy of Clay, the Great Compromiser, lingered in 1860-1861 Kentucky politics. The legacy of Clay resided in Magoffin, Crittenden, and other Kentucky politicians. Yet as the secession crisis progressed, Magoffin and other Kentucky politicians faced challenges that tested their political acumen. Torn between his “antagonistic ideas” of Union and state’s rights, Magoffin opted to let Kentuckians decide Kentucky’s fate, while maintaining hope for compromise. Yet, Magoffin was not Clay and did not possess the political skills of this statesman. Crittenden came the closest in mimicking Clay by continuously supporting compromise to ease sectional differences as Clay had done with the Missouri Compromise in 1820, the Nullification Crisis in 1832-1833, and the Compromise of 1850.¹⁸

Crittenden, who had not yet abandoned the hope for compromise, presented his compromise to the United States Senate on January 3, 1861. Crittenden urged the adoption of his compromise amendments and a plebiscite to gauge to people’s opinion. The Senate defeated the Crittenden Compromise through procrastination. However, during those trying months, a large number of Kentuckians through mass meetings or newspapers spoke in support of the Crittenden Compromise. Kentuckians believed that the compromise would bring peace and solve the sectional conflict. One such meeting occurred between the Douglas Democrats and the Constitutional Union men in Louisville on January 8, 1861. The two political groups formed a central state committee to influence the state government in support of the Union. The central state committee supported the Crittenden Compromise as an acceptable solution to the crisis. In addition,

¹⁸ Kirwan, *John J. Crittenden*, 431-434; Christopher M. Paine “Kentucky Will Be the Last to Give Up the Union” (Ph.D diss., University of Kentucky, 1998), 16-17.

the committee discouraged the use of force to hold the Union together. Another such meeting occurred in Mayfield, Kentucky. Magoffin was but one of the many who sought peace through the Crittenden Compromise.¹⁹

Meeting intermittently from January to April 1861, the General Assembly also endorsed the Crittenden Compromise. During this special session, representatives, who were split between Unionists and Southern sympathizers, did not move to convene a convention to determine secession. On January 21, State Representative George W. Ewing introduced a bill that required that if the federal government coerced seceded states back into the Union, then Kentucky should secede. The bill passed the state house but failed in the state senate. However, the General Assembly spent most of its time dealing with general state issues such as the organization of the court system and held little enthusiasm for Magoffin's call for a state sovereignty convention. Instead, the state legislature issued two resolutions in late January supporting Magoffin's policy of mediation. In the first resolution, approved on January 25, Kentucky offered to solve the present crisis through a border state conference and the adoption of the Crittenden Compromise. The second resolution reasserted Kentucky's belief in compromise and accepted the Virginia state legislature's request to participate in the Washington Peace Convention and again supported the adoption of the Crittenden Compromise.²⁰

On January 29, 1861, the Federal Relations Committee presented several resolutions to the state house concerning a state sovereignty convention. Richard T. Jacob reported on the committee's majority decision. The majority report declared

¹⁹ Richard Collins, *History of Kentucky By the Late Lewis Collins, Revised, Enlarged Four-Fold, and Brought Down to the Year 1874 By His Son Richard H. Collins* (Louisville, KY: John P. Morton and Co., 1874), 85-86; Kirwan, *John J. Crittenden*, 402.

²⁰ *Acts of the General Assembly of the Commonwealth of Kentucky, 1861 January session*, 47-49; Collins, *History of Kentucky*, 86.

Kentucky should work within the Union to preserve its rights as a state. Moreover, the majority claimed Kentucky mediate the sectional crisis as it had done several times in the past. The majority wanted to restore “peace and harmony and brotherly love throughout the entire land.” To ensure “peace and harmony and brotherly love,” the majority in the Federal Relations committee called for a national convention to discuss compromise based on the Crittenden Compromise. However, the minority in the Federal Relations Committee represented by George B. Hodge, W. B. Machen, and John M. Rice, all of which were future Confederates, disagreed. The three state representatives disapproved of the majority’s report claiming that the North had already rejected the Crittenden Compromise. For Hodge, Machen, and Rice, the majority report was “obtrusive and humiliating,” and a delaying tactic. The minority representatives did not abandon compromise, but doubted it could and would succeed. However, they agreed to accept any honorable compromise that could solve the crisis. Yet, Hodge, Machen, and Rice agreed that if compromise failed, then the General Assembly and the governor should call a state sovereignty convention and secede. The General Assembly did not agree on either of the reports. Instead, the General Assembly adjourned in February 1861 without voting for or against a state sovereignty convention but by placing hope in the peace movement.²¹

In early February 1861, delegates met in Washington to compromise the secession crisis. The Washington Peace Convention achieved little in the way towards preserving the Union. The conference adopted a modified version of the Crittenden Compromise which reestablished the Missouri Compromise line to existing territories and made a simple majority vote in the Senate the prerequisite for additional territory. The

²¹ *House Journal, 1861-1863*, 153-157.

compromise, like its predecessors, also included an amendment to prohibit the interference of the federal government with slavery in the slave states. Led by elder statesmen such as ex-president John Tyler and dubbed the “Old Gentlemen’s Convention,” the convention failed to achieve peace. The seceded states had left the Union and founded a confederacy. The newly created Confederate States of America refused to return under a compromise that they perceived as a slight to their honor and a compromise that did not recognize their independence. On the other hand, the Republicans dismissed the proposals because they safeguarded slavery and spread slavery into the territories. Compromise had ended. As Magoffin feared might happen, civil war became more likely with each passing day.²²

The General Assembly reconvened in early March 1861. In this month long session, the legislature passed the proposed Thirteenth Amendment and endorsed the Washington Peace Convention’s compromise measures. The General Assembly also endorsed Magoffin’s border state convention and set the elections for delegates on the first Saturday in May. In addition, the General Assembly passed “an act to amend the militia law” which further defined the duties of the inspector-general and the courts-marshal. A second act concerning the state militia appropriated money to the State Guards. Plus, citizens from Jefferson, Lincoln, and Casey counties petitioned the General Assembly against a state sovereignty convention. Once again, the General Assembly did not act on Magoffin’s call for a state sovereignty convention.²³

²² Kirwan, *John J. Crittenden*, 409-411; McPherson, *Battle Cry of Freedom*, 256-257; Christopher M. Paine, “Kentucky Will Be the Last to Give Up the Union,” 292; Edward Conrad Smith, *The Borderland in the Civil War* (New York: The Macmillan Co., 1927), 94; Harry August Volz III, “Party, State, and Nation: Kentucky and the Coming of the American Civil War” (Ph.D. diss., University of Virginia, 1982), 411-412.

²³ *Acts*, January 1861, 26-34, 47-49, 51-52; *House Journal*, 1861-1863, 39.

Magoffin received petitions supporting a state sovereignty convention. For example, on February 18, 1861, James G. Seach of New Castle, Kentucky expressed his concerns over the future of slavery. Seach feared that by remaining in the Union, the Confederacy would stop purchasing slaves from Kentucky slave dealers. Magoffin also received petitions opposing a state sovereignty convention. One such petition from citizens of Harrison County, in Northern Kentucky petitioned against a convention. The petitioners argued that the governor did not have the authority to call such a convention, but that prerogative belonged solely to the General Assembly. In addition, the petitioners from Harrison County claimed that a convention “would be illegal, revolutionary, and . . . [inevitably] lead to anarchy and the destruction of Constitutional Liberty.” Pulled in different directions, Magoffin hesitated to lead in one direction or the other. Instead, Magoffin reflected the division within Kentucky and continued to support a state sovereignty convention and compromise as options to prevent a civil war. However, opponents to a state sovereignty convention grew wary over the governor’s policy for a sovereignty convention that could mean secession and war.²⁴

Instead of Magoffin, Crittenden influenced the General Assembly. In March 1861, Crittenden’s long and distinguished career in politics had come to an end. Prior to leaving Washington, Crittenden spoke passionately in support of the Union. Crittenden told listeners not to give up on the Union. He stated that Kentucky would not abandon the Union even if all the other states had seceded. Crittenden warned that disunion would lead to war, anarchy, despotism, and the loss of liberty. Returning to Lexington with public admiration for his long and distinguished career, the General Assembly

²⁴ Governor’s official correspondence file, 1859-1862, folder 9, Kentucky Department of Libraries and Archives, Frankfort Kentucky.

invited the aged statesman to speak before the assembly. On March 27, 1861, Crittenden's speech to the General Assembly influenced the state legislature to maintain the course of mediation. Crittenden agreed that the South was right in claiming that Congress could not pass federal laws preventing citizens from taking any class of property into the territories. However, Crittenden stated that secession was illegal and that the Union could not be dissolved. He proceeded to blame the present crisis on secessionists who had deceived the people of the seceded states into seceding. Crittenden challenged the General Assembly to continue to mediate the crisis, and engage the citizens of the seceded states whom he believed cherished the Union but had been led astray. Crittenden also added that coercion would not save the Union.²⁵

The General Assembly also invited Breckinridge, who had replaced Crittenden as United States Senator, to speak before the assembly. On April 2, 1861, Breckinridge spoke before the General Assembly. He supported the idea of a border state conference. He expressed that this conference should entice guarantees from the North to respect slavery and the rights of Southern states. However, Breckinridge warned that if the North refused then Kentucky must side with the Confederacy lest the North disrespect Kentuckians' constitutional rights to property.²⁶

Crittenden's speech helped to sway the General Assembly to stay the course of mediation and compromise. Crittenden possessed the prestige and respect as a compromiser who genuinely sought salvation of the Union. Crittenden was at the height of his career in 1861 and when he spoke, people respected and valued his opinion. Due to his charisma, Crittenden's efforts during 1861 helped more than anyone in saving

²⁵ Collins, *History of Kentucky*, 87; Kirwan, *John J. Crittenden*, 419, 423, 431-432.

²⁶ Davis, *Breckinridge*, 264.

Kentucky for the Union. On the other hand, Breckinridge's speech expressed a lukewarm support for compromise. Since the 1860 presidential election, Breckinridge carried the taint of secession. Even though Breckinridge spoke in the Senate of preserving the Union, the Senator endorsed secession as a last resort. Breckinridge's support for secession in his speech did not help to erase the image of a secessionist and traitor. Even though Breckinridge wanted to avoid secession, he came to accept secession as a solution. Magoffin agreed more with Breckinridge even though Magoffin advocated secession only after federal coercion.²⁷

The General Assembly continued to support compromise by supporting Crittenden. Despite the support for compromise, the General Assembly also disapproved of coercing the seceded states back into the Union. The General Assembly wanted to stay in the Union but did not want to fight to save the Union. Crittenden's speech for compromise offered more hope than Breckinridge's in mediating the conflict. Breckinridge, Magoffin, and other pro-Southerners went farther in accepting secession as the solution to federal coercion which the General Assembly was weary to accept. In April 1861, the General Assembly committed itself to continuing the compromise movement initiated in December 1860.

Magoffin played the role of compromiser following Lincoln's victory at the polls. Throughout the secession winter, Magoffin initiated compromise measures to ease the crisis. First, Magoffin stated that Lincoln's election was not reason enough for secession. To ease fears over Republican rule, Magoffin relied on a political solution. Magoffin opted for a Southern bloc in Congress against abolitionist bills. The Southern opposition could also challenge laws within the courts to prevent federal and Northern intervention

²⁷ Davis, *Breckinridge*, 262-263.

in Southern states' internal affairs. For Magoffin the Constitution and the courts provided protection of slavery against abolitionists. Magoffin's measure garnered little interest in the South. Magoffin's second attempt directly addressed issues concerning slavery. Magoffin's second compromise sought constitutional amendments to protect slavery. Magoffin urged a slave state convention to provide a united front to force the adoption of Magoffin's proposed amendments. Like his previous attempts, Magoffin's compromise efforts failed.

The compromise efforts in Congress also failed. Republicans and fire-eaters were not enthused about compromising their principles. Republicans would not abandon their opposition to the expansion of slavery in the territories, nor were fire-eaters willing to abandon the idea of Southern independence in the name of slavery. The failure of Magoffin's compromise and other compromise measures such as the Crittenden Compromise, and Breckinridge's border state convention affected Magoffin's support for compromise. The Magoffin – Hale correspondence reinforced Magoffin's negative perception of Republicans and Northerners. In January 1861, Magoffin accepted the South's secession. Magoffin opted for a state sovereignty convention to discuss the possibility of secession for Kentucky.

However, petitions to the General Assembly and citizen meetings expressed Kentuckians hopes for compromise and peace. The General Assembly placed its hopes in the peace movement by endorsing the Crittenden Compromise, the Washington Peace Convention, the proposed Thirteenth Amendment, endorsing the border state convention, and delaying a vote for a state sovereignty convention. On the other hand, Magoffin supported a state sovereignty convention, and agreed that the North had wronged the

South by opposing the expansion of slavery. At the same time, Magoffin viewed coercion as the reason for secession and committed Kentucky to a policy of conditional Unionism.

Yet, Kentuckians expressed a divided opinion on Kentucky's future. Some Kentuckians such as the Harrison County citizens petitioned for compromise and opposed a state sovereignty convention. Offering a different course, James Seach supported a sovereignty convention to ensure the economic benefits from the interstate slave trade. Magoffin reflected this division. Magoffin's principles of the compact theory of the Union, state's rights, and the belief in majority rule, and the Union influenced his actions to support a state sovereignty convention, while at the same time, supporting compromise. However, Magoffin was a man of little political means and overshadowed by more prestigious politicians such as Breckinridge and Crittenden.

By April, the General Assembly influenced by Crittenden's March 27 speech committed Kentucky to mediation and compromise. Magoffin supported Breckinridge and placed a condition on his Unionism. After all Magoffin was pro-Southern. He agreed to the legality of secession, the compact theory of the Union, and warned against the federal coercion of the states. Though Magoffin had supported a border state convention, he had not abandoned his support for a state sovereignty convention. Magoffin wanted to follow the course of the seceded states and let Kentuckians, sovereign citizens, decide the course of Kentucky. However events in Charleston changed the nature of the crisis and would eventually redefine Kentucky's place in the Union.

CHAPTER FOUR

Beriah Magoffin: Governor for a Failed Policy

Kentucky reacted like no other state during the opening months of the Civil War. Initially, Kentucky politicians including Beriah Magoffin resisted fighting in the Civil War. Kentucky would not side with either the North or the South. The General Assembly created a third side, its own side, by declaring neutrality. Kentucky's neutrality meant a continuation of mediation, a protest against hostilities. However, compromise failed. Plus, the majority of Kentucky voters warmed to Unionism, the idea of preserving the Union as it was, and opposed secession. Magoffin along with other pro-Southerners wanted to convene a state sovereignty convention. Proponents of the convention claimed it would give Kentuckians the right to decide Kentucky's future. Opponents feared such a convention would lead to secession as it had in South Carolina and other Southern states. Proponents and opponents of the convention compromised their differences and settled for neutrality. Once the state House of Representatives proclaimed neutrality, Magoffin accepted it as the people's choice. He acted to preserve the policy and defended it even after the Confederates violated neutrality. By September 1861, the majority of Kentuckians opposed neutrality. By the autumn of 1861, Magoffin moved further away from what Kentuckians wanted, supported a dead policy, and did not represent the constituency he claimed to represent.

On April 12, 1861, the Confederacy bombarded Fort Sumter which had been in

the hands of federal troops since South Carolina seceded. Fort Sumter, in the middle of Charleston Harbor, remained a symbol of federal authority. Confederates and South Carolinians felt humiliated by the fort's presence. As Magoffin feared, war began. The administration of Abraham Lincoln responded by calling for troops. Secretary of War Simon Cameron dispatched a request to Magoffin for 75,000 troops. Magoffin responded negatively to the request. Throughout the secession winter, Magoffin had argued the unconstitutionality of the use of the military or coercive action against the seceded states. He wrote back: "Your dispatch is received. In answer I say emphatically Kentucky will furnish no troops for the wicked purpose of subduing her sister Southern States."¹

Magoffin's reply set the course for Kentucky, one that no other state followed. Magoffin's refusal committed Kentucky to a policy of nonaggression against the Confederacy. Kentucky politicians such as John J. Crittenden and John C. Breckinridge applauded Magoffin's refusal. In a speech to a Lexington, Kentucky crowd on April 17, Crittenden spoke against participating in a war claiming Kentucky should not aid either the North or the South in a fratricidal war that Kentucky had tried to stop with compromise. Crittenden stated that instead of fighting, Kentucky should remain neutral and act as a mediator between the two sides and by so doing preserve the Union.²

The next day, a committee of Unionists endorsed Magoffin's refusal to send troops to coerce the seceded states. On the other hand, the Unionists agreed with Crittenden's proposal for meditative neutrality. The committee demanded the governor

¹ *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, Series III, Vol. I (Washington, DC: Government Printing Office, 1891), 68-70.

² Richard Collins, *History of Kentucky By the Late Lewis Collins, Revised, Enlarged Four-Fold, and Brought Down to the Year 1874 By His Son Richard H. Collins* (Louisville, KY: John P. Morton and Co., 1874), 87; Albert D. Kirwan, *John J. Crittenden: The Struggle for the Union* (Lexington: University of Kentucky Press, 1962), 433-434; Donald W. Zacharias, "John J. Crittenden Crusades for the Union and Neutrality in Kentucky" *The Filson Club Historical Quarterly* 38 (July 1964): 198.

also to deny troops to the South, referring to the Confederates as “seditious.” Instead of choosing a side, the committeemen endorsed an “independent” course of neutrality and the arming of Kentucky to protect its neutrality. Moreover, the committee stated that neutrality would buy time to see if the federal government would overrun the South and “subjugate” it unjustly. If the federal government waged a war of conquest, then the committee endorsed siding with the Confederacy to protect “the common cause” of human property and state’s rights.³

The same day in Louisville another Union meeting attended by James Guthrie, Archibald Dixon, William F. Bullock, and John Young Brown endorsed Magoffin’s refusal to send troops and meditative neutrality supported by Crittenden. Guthrie spoke of reaching out to Northerners who wanted peace to assist in mediating the war. Dixon took a more bellicose tone when he spoke of defending Kentucky from invaders. However, this group of Unionists sided more with Crittenden’s conciliatory tone by supporting meditative neutrality and condemning secession as “an evil.” The day after, George D. Prentice promoted mediation and compromise in his influential daily newspaper, the *Louisville Journal*.⁴

Kentucky’s political leaders agreed with each other over Kentucky’s response to the bombardment of Fort Sumter. Kentucky would be a neutral, a buffer zone standing in between the two aggressors. At the same time, Kentucky’s leaders hoped that mediation would resolve the war before major hostilities broke out between the North and the South. Kentuckians supported the idea of neutrality as a means to avoid a bloody civil

³ Collins, *History of Kentucky*, 87-88.

⁴ Collins, *History of Kentucky*, 88; E. Merton Coulter, *The Civil War and Readjustment in Kentucky* (Chapel Hill: The University Press of North Carolina, 1926 [1966]), 40-43; Zacharias, “Crittenden Crusades for the Union,” 198-199.

war, economic disruption, and the loss of their human property. Some Kentuckians looked towards Crittenden, instead of Magoffin who had endorsed a state sovereignty convention, to achieve a compromise.⁵

Neutrality was not a new concept in April 1861. The idea of neutrality dated back to January 1861. In a January 4 speech at Lexington, the Reverend Robert J. Breckinridge, an uncle of John C. Breckinridge, spoke in favor of neutrality claiming Kentucky should not fight either the North or the South.⁶ Six days later, Susan Preston Shelby Grisby wrote to S. H. S. Finkback supporting the idea of a neutral Kentucky and that Kentucky should not be “coaxed” into the Confederacy by secessionists. However in the months prior to Fort Sumter, Kentucky looked towards the Crittenden Compromise to resolve the conflict. In a way, Kentucky’s attempts during the secession winter to mediate the conflict were a statement of neutrality. Kentucky would not chose sides but act as a mediator. When the opening of hostilities occurred in April 1861, Kentucky moved towards official neutrality to maintain its position as a mediator.⁷

Yet, not everyone agreed with neutrality in April 1861. Joseph Holt, an ardent Unionist, denounced Magoffin’s refusal of troops. Holt believed that in the present war no one could be a neutral. For Holt, one was either a supporter of the Union or a traitor. Holt viewed the conflict not in terms of the fate of slavery but the existence of the Union.

⁵ Zacharias, “Crittenden Crusades for the Union,” 195.

⁶ Robert J. Breckinridge also condemned secession arguing that a state possessed sovereignty within the Union and that to recognize the legality of secession would be the same as recognizing the lack of a national government. From March 1861 to 1864, Breckinridge established the *Danville Quarterly Review* to support his views on the Union. Breckinridge argued that the seceded states have destroyed slavery because the North will defeat them in war and punish traitors by abolishing slavery. Furthermore, Breckinridge argued that secession denied the existence of an effective constitutional Union, denied the existence of a nation by giving power to local authorities, and disregarded God’s mission of freedom for the United States. For more information see William D. Gilliam, Jr., “Robert J. Breckinridge: Kentucky Unionist” *The Register of the Kentucky Historical Society* 75 (July 1977): 362-385.

⁷ Collins, *History of Kentucky*, 85; Grigsby Collection: Susan Preston (Shelby) Grigsby Letters, 1860-1863, Filson Historical Society, Louisville, Kentucky.

Another Unionist and future Associate Justice of the United States Supreme Court, John Marshall Harlan went to Frankfort during May to lobby against a state sovereignty convention and for the Union. Louisville Unionist, Lovell H. Rousseau railed against neutrality referring to it as a secessionist plot to buy time to garner support for secession.⁸

Pro-secessionists who disapproved of neutrality left Kentucky for the Confederacy. John Hunt Morgan and Blanton Duncan both wrote to Jefferson Davis, President of the Confederacy, and Confederate Secretary of War L. P. Walker informing them of the large number of Kentuckians interested in joining the Confederate Army. Morgan claimed an exaggerated amount of 20,000 men. Also, State Guardsmen began defecting to the Confederacy. General Joe Desha left with about 300 men for Nashville. Duncan followed suit by recruiting 480 men and went to Harper's Ferry. Furthermore, citizens of the Jackson Purchase sympathized with the Confederates. In May 1861, citizens met at Mayfield, Kentucky to discuss the possibility of seceding from Kentucky. Participants of the meeting agreed to secede from Kentucky, but did not carry out the agreement. Suffice it to say, not all Kentuckians were enthused about neutrality.⁹

Breckinridge also doubted neutrality could achieve a mediated peace. Instead, Breckinridge pushed for a state sovereignty convention to decide on a peace proposal to present to Congress in the July 1861 special session. At the same time, Breckinridge wanted Kentucky to support the Confederacy against what he perceived to be Lincoln's unjust war. Magoffin, too, turned towards a state sovereignty convention. According to Magoffin, the federal government had entered a course of coercion in dealing with the

⁸ The Rev. Roger L. Bartman, "Joseph Holt and Kentucky in the Civil War" *FCHQ* 40 (April 1966): 10; David G. Farrelly, "John Marshall Harlan and the Union Cause in Kentucky, 1861" *FCHQ* 37 (January 1963): 10.

⁹ Coulter, *The Civil War and Readjustment*. 48-49; Jack Calbert, "The Jackson Purchase and the End of the Neutrality Policy in Kentucky," 38 (July 1964): 206-207.

seceded states. Magoffin's requirement for secession – federal coercion – had occurred in Magoffin's perception of events. Instead of seceding, Magoffin's actions following Fort Sumter moved the state towards neutrality.¹⁰

With a great number of citizens supporting mediation and neutrality, Magoffin also denied troops to the Confederacy. The Confederacy had misinterpreted Magoffin's refusal to send troops to the Union as a sign of support for the Confederacy. Confederate Secretary of War L. P. Walker, believed Magoffin sided with the Confederacy. Walker was not completely mistaken about Magoffin's support for the Confederacy in that Magoffin supported the legality of secession. Nevertheless, Magoffin refused Walker's request for troops. Magoffin was not going to unite with the Confederacy and “[repeal] the common enemy of the South” as Walker hoped he would do. Magoffin's goal was to keep Kentucky out of the war.¹¹

Magoffin's refusal to send troops to the North and the South unofficially declared Kentucky as a neutral. Magoffin recognized that Kentucky was not militarily prepared to protect its unofficial neutrality. Instead of calling a special session of the General Assembly, Magoffin took the initiative. At the end of April 1861, Magoffin worked to purchase arms for the State Guards. Magoffin sent representatives to both the North and the South. Using the authority granted to the governor under the State Guard Law of 1860, Magoffin sought weapons to arm the state. He sent Simon B. Buckner to the North to request arms from Secretary Cameron. The war had caused a scarcity of weapons.

¹⁰ Coulter, *The Civil War and Readjustment*, 46; William C. Davis, *Breckinridge: Statesman, Soldier, Symbol* (Baton Rouge: Louisiana State University Press, 1974), 265-267. Leslie Coombs, a friend of Breckinridge, believed Breckinridge manipulated Magoffin. However, Magoffin genuinely believed in a state sovereignty convention.

¹¹ *OR Ser. IV Vol. 1*, 231-232, 234; Collins, *History of Kentucky*, 88; Coulter, *The Civil War and Readjustment*, 48; Speed, *The Union Cause in Kentucky 1860-1865* (New York: G. P. Putnam's Sons, 1907), 54; Dues, “Governor Beriah Magoffin of Kentucky: Sincere Neutral or Secret Secessionist?” *FCHQ* 40 (January 1966): 22-23.

Cameron refused to arm Kentucky, especially since Magoffin had refused to send troops. To solve the problem of an arms scarcity, Magoffin turned to Confederate General Gideon Pillow for weapons. Unsure on how to respond to Magoffin, Pillow wrote to Walker for an answer to Magoffin's request. Walker agreed only if Kentucky would agree to secede. Magoffin refused. Magoffin next turned to the state's banks to obtain the money for arms. The Southern Bank of Kentucky, the Bank of Louisville, and the Commercial Bank of Kentucky lent Magoffin the money. The Bank of Kentucky loaned Magoffin money stipulating that the money must be used for the purpose of defense only, not offense.¹²

And so Magoffin did. Magoffin sent several representatives to obtain arms. Magoffin sought arms from New Orleans. Purchasing arms from the Confederates did not cause conflict for Magoffin because Kentucky was neutral and could trade with both sides. Luke P. Blackburn, one of Magoffin's representatives, advised the purchase of 2000 muskets, 600 kegs of gunpowder, and 2 pieces of ordinance. However, Benjamin J. Adams telegraphed Magoffin informing him that he needed an extra \$30,000 to obtain the desired arms. Adams O'Brannon advised the governor to ask for more money. The governor turned to the Farmers Bank and Northern Bank of Kentucky stating that the money would be used "to put the state in a position of self-defense." The record is hazy

¹² Governor's official correspondence file – military correspondence, 1859-1862, folder 100, The Kentucky Department of Libraries and Archives, Frankfort, Kentucky; Thomas D. Clark, *Kentucky: Land of Contrast* (New York: Harper and Row, 1968), 127; Collins, *History of Kentucky*, 88; Coulter, *The Civil War and Readjustment*, 84-85. On page 49, Coulter claimed that Magoffin secretly corresponded with Confederate authorities. In these alleged secret correspondences, Magoffin agreed to Confederate recruitment. Eventually, Magoffin obtained cold feet and backed out fearing a Northern invasion. Coulter used letters written to and from Confederate authorities claiming Magoffin as an ally. However, Magoffin was never a recipient or sender of these documented letters. Though, the letters lend credence to Magoffin's Confederate loyalties in the spring of 1861, but not enough to convict him of treason. For a similar assessment see Michael T. Dues, "Governor Beriah Magoffin of Kentucky: Sincere Neutral or Secret Secessionist?" *FCHQ* 40 (January 1966): 22-28. Dues argued that Magoffin was not a secret secessionist, but was sincere in supporting neutrality.

on how Magoffin actually obtained the needed money. But by May 4, Adams had received the extra \$30,000 and invested the money in musket precession caps, cannon, Belgian rifles, and powder.¹³

While Magoffin armed the state, he also moved ahead with his plan for a border state convention set for May 1861. Back in March 1861, David Walker of the Arkansas state convention wrote to Magoffin expressing interest in the border state convention. However, events led Arkansas out of the Union. Tennessee, Virginia, and North Carolina also seceded. Magoffin held out hope that a convention would produce a compromise at least with the remaining three border states. During the campaign for convention delegates, Unionists supported the Crittenden Compromise as the basis for compromise. The State's Rights Party did not endorse the Crittenden Compromise and looked for an alternative compromise. Realizing that Kentucky voters supported the Crittenden Compromise, the state's rights candidates admitted defeat prior to the election and withdrew. In addition, state's rights candidates such as Henry C. Burnett backed out because of the war. Burnett and other state's rights men thought a convention had become obsolete after Fort Sumter.¹⁴

Since Virginia, North Carolina, Tennessee, and Arkansas were in the process of seceding, Magoffin looked towards the Lower North for assistance in a compromised peace. On April 25, 1861, Magoffin telegraphed Governor O. P. Norton of Indiana and Governor William Dennison of Ohio to act with the border states and achieve a compromise. Morton, Dennison, and Magoffin agreed to meet in Cincinnati. Magoffin

¹³ Governor's official correspondence file – military correspondence, 1859-162, folder 100-101, KDLA, Frankfort, KY.

¹⁴ Governor's official correspondence file, 1859-162, folder 10, KDLA, Frankfort, KY; Coulter, *The Civil War Readjustment*, 52; Berry F. Craig, "Henry Cornelius Burnett: Champion of Southern Rights" *RKHS* 77 (Autumn 1979): 269.

sent Colonel Thomas S. Crittenden as his representative. Magoffin wanted the governors' assistance in brokering a deal between the federal government and the Confederacy. Neither Morton nor Dennison wanted to mediate the conflict, but instead wanted to use the meeting to influence Magoffin to remain loyal to the Union. Morton and Dennison met with Crittenden disappointed that Magoffin did not come himself. The two governors requested Magoffin's presence. However, after several hours without a response, Morton and Dennison left the meeting. In early May, Dennison wrote to Magoffin refusing to negotiate. Dennison claimed that the federal government was in the right and that compromise would solve nothing. Morton also replied to Magoffin stating that no state held the authority to act as a mediator between the federal government and the rebellious states. Instead, Morton urged Magoffin to stand unconditionally with the Union as Indiana had done. Magoffin also sent representatives to the Confederacy. Magoffin sent Lloyd Tilghman to Tennessee to discuss mediation. Magoffin also sent Simon B. Buckner to both Tennessee and Missouri where he was well received. Despite Buckner's warm reception, the Confederacy was not interested in compromise. Missouri was more open to the possibility of compromise and agreed to meet in a border state convention at the end of May 1861.¹⁵

With the lukewarm reception towards a border state convention, Magoffin once again endorsed a state sovereignty convention to decide the state's future. In his address at the opening of the special session of the General Assembly in May 1861, Magoffin urged a convention and further measures to arm the state against violators of Kentucky's de facto neutrality. During the session, petitions arrived from wives, mothers, daughters,

¹⁵ Governor's official correspondence file, 1859-1862, folder 11, KDLA, Frankfort, KY; Collins, *History of Kentucky*, 89; Coulter, *The Civil War and Readjustment*, 51; Edward Conrad Smith, *The Borderland in the Civil War* (New York: The Macmillan Co., 1927), 269-270.

and sisters expressing their concerns, worries, and fears over the possibility of civil war.

These concerned women urged the state government to endorse a policy of neutrality and keep Kentucky out of the war.¹⁶

The General Assembly deadlocked over the issue of a state sovereignty convention. To overcome the political impasse, the state legislature delegated Kentucky's fate to a committee of six Kentucky political figures. The Breckinridge Democrats and the combined Bell and Douglas men agreed to endorse the policies that the Committee of Six decided upon. On May 10, the committee met and consisted of Crittenden, Archibald Dixon, Judge S. S. Nicholas, Breckinridge, Magoffin, and Richard Hawes. The Democrats put forth the idea of a convention. By convening a state sovereignty convention, Magoffin and his colleagues hoped to let Kentuckians decide their fate. The Unionists would not support a convention fearing such an action would mean secession.¹⁷

Instead the Unionists advocated neutrality and continued mediation. After hours of discussion and debate, the Democrats conceded. The Unionists agreed with the Democrats that the state needed to arm itself. However, the Unionists lacked trust in Magoffin who supported a state sovereignty convention, sought weapons from the Confederacy without the legislature's approval, and had appointed a man who held Southern sympathies to head the state's militia. The six men agreed upon a five man committee to oversee the state militia. Magoffin would be one of the five committeemen.¹⁸

¹⁶ Collins, *History of Kentucky*, 89.

¹⁷ Collins, *History of Kentucky*, 89-90; Davis, *Breckinridge*, 266-267; Kirwan, *John J. Crittenden*, 434-435.

¹⁸ Collins, *History of Kentucky*, 89-90; Davis, *Breckinridge*, 266-267; Kirwan, *John J. Crittenden*,

The six men brought the proposals to their respective parties. The Democrats approved the compromise. The Unionists reluctantly approved though with reservations over Magoffin as one of the five committeemen. On May 16, 1861, the state house passed a neutrality bill resolving to maintain strict neutrality and endorsing Magoffin's refusal of troops as a means to maintain peace, liberty, and property. The state house stated that neutrality did not proclaim Kentucky's independence or separate Kentucky from the Union, but was designed to "win back peaceably, by proper mediation and compromise" the seceded states. Neutrality continued Kentucky's rôle as mediator.¹⁹

Following the state house and acting without the state senate's approval on May 20, 1861, Magoffin issued the neutrality proclamation. Kentucky would not contribute forces to either side or, as Magoffin hoped, speak words that would "engender blood and provoke collision." In other words, Magoffin would uphold the sanctity of neutrality. He forbid Union and Confederate forces from disrespecting neutrality through "any movement [of troops] ... or the occupation of any port, or post, or place" within Kentucky "by any of the forces" and "for any purpose whatever." Magoffin asserted Kentucky's right not to join in the war. The only means to take up arms would be for self-defense. Defense of neutrality entailed driving the invading forces out, and not fighting to coerce states into one camp or the other. By proclaiming neutrality, Magoffin averted war within Kentucky, at least temporarily. Four days later, the state senate voted in favor of neutrality²⁰

434-435.

¹⁹ Resolutions in relation to neutrality, etc., Filson Historical Society, Louisville, Kentucky. In *The Civil War and Readjustment*, page 53. Coulter claimed that the committee failed due to the disagreement over Magoffin as one of the committeemen. However, the General Assembly passed a neutrality act and created the Military Board with Magoffin as one of the five committeemen.

²⁰ Speed, *The Union Cause in Kentucky*, 47-48. See also Kirwan, *John J. Crittenden*, 434-435.

The General Assembly on May 24, 1861 passed “an act for the regulation of the militia and to provide for the arming of the State.” The act created the five member Military Board with the power to equip the army, establish camping grounds for training, and other powers previously held by the governor and the inspector-general. The act approved a loan of \$1 million from the state’s banks to purchase weapons which were to be used “for the sole defense of the State of Kentucky.” The act also created the Home Guards, a Unionist countermeasure to the pro-secessionist State Guards, for “home and local defense.” The Home Guards acted independently from the State Guards. The Home Guards did not receive arms from the state unless in a region vulnerable to attacks or prone to insurrection. The state arsenals loaned arms to the Home Guards for a period of five years or the life of the company.²¹

Concerned over the lack of arms for the Home Guards and fearing the possibility of the State Guards leading Kentucky into the Confederacy, Kentucky Unionists began searching for arms. The Union Defense Committee created shortly after Fort Sumter and comprised of James and Joshua Speed, Crittenden, Harlan, Charles A. Wickliffe, Garrett Davis, Thornton F. Marshall, and William Nelson, sought assistance from Lincoln. The Speeds, friends of Lincoln, convinced the president to arm the Home Guards. Nelson also used his contacts within the United States Navy to obtain arms for the Home Guards.²²

The Union Defense Committee wanted the Home Guards to defend the state against secessionists. The Union Defense Committee distrusted Buckner. Davis accused him of subverting the minds of the youth against the Union. Kentucky Unionists shared

²¹ *Acts of the General Assembly of the Commonwealth of Kentucky, 1861 May session* (Frankfort: Kentucky Yeoman Office, 1861),4-7.

²² Kirwan, *John J. Crittenden*, 436; Zacharias, “Crittenden Crusades for the Union,” 201.

Davis' and the Union Defense Committee's distrust of Buckner. To curb Buckner's influence over the guards, the Military Board required the State Guards to take a loyalty oath to the United States Constitution.²³

The Union Defense Committee and the Military Board also distrusted Magoffin. Magoffin supported neutrality only after the Committee of Six agreed and the state house approved such a policy. Initially, Magoffin supported a state sovereignty convention. By having a convention, Magoffin hoped the people would decide Kentucky's fate. The lukewarm support for a convention changed Magoffin's mind concerning this idea. Instead, neutrality offered the best alternative to fighting the Confederacy. Though Magoffin sympathized with the Southern cause and perceived coercion as unconstitutional, Magoffin feared a war against the Confederacy, abolition, and economic disruption. In addition, Magoffin feared the repercussions of a Northern invasion if Kentucky seceded or aided the Union. Magoffin perceived the Republican Party as politically evil that would supplant democracy with despotism if allowed in the state. At the same time, Magoffin feared a Confederate invasion because it would invite the North to invade. By refusing to contribute troops to the Union army, Magoffin avoided siding with the Union. By refusing to secede, Magoffin avoided siding with the Confederacy. Explaining Magoffin's acceptance of neutrality, Captain Thomas S. Speed believed that neutrality formed a means for Magoffin to remove the Unionist suspicion of pro-secessionism. By claiming neutrality, Magoffin hoped to erase this suspicion from his character. Possibly Speed discerned Magoffin's intentions, but unlikely. By May 1861, Magoffin had spent time formulating plans to avert war and preserve the Union respective of slavery. Frustrated by his efforts, Magoffin supported a state sovereignty

²³ Coulter, *The Civil War and Readjustment*, 90-91.

convention. However, Magoffin went along with neutrality to keep Kentucky from coercing the seceded states back into the Union. For Magoffin any reconstruction of the Union would be based on the Crittenden Compromise and not coercion, which he deemed an unconstitutional act.²⁴

Along with neutrality, Kentucky's politicians including Magoffin coupled mediation. Since Crittenden proposed his compromise back in December 1861, Kentucky supported compromise based on Crittenden's proposals and continued to do so after Fort Sumter. From the Committee of Thirteen to the Washington Peace Conference, Kentucky and even Magoffin touted the Crittenden Compromise as a panacea to the sectional crisis. Magoffin urged the representatives of the border state convention to adopt the Crittenden Compromise. At the end of May 1861, Magoffin invited representatives from Missouri, Maryland, and Delaware to discuss the crisis at hand. Like so many other attempts at a border state convention, the meeting failed to generate enough interest from the border states. Only representatives from Missouri, Kentucky, and one unofficial delegate from Tennessee attended the convention.²⁵ Delaware expressed disinterest and Maryland was preoccupied with the war. The small group of representatives discussed the crisis and ways to end the war. The Kentucky representatives pitched the idea of Missourian neutrality. But, Missouri never adopted such a policy. Instead, on May 27, the convention issued two addresses one to the Confederacy and the other to Kentucky. The latter address applauded Kentucky for its neutral stance adopted on May 20 and its push for reconciliation. The address further

²⁴ William T. McKinney, "The Defeat of the Secessionists in Kentucky in 1861" *Journal of Negro History* 1 (1916): 389-390; Speed, *The Union Cause in Kentucky*, 47; Lowell H. Harrison, *The Civil War in Kentucky* (Lexington, KY: The University Press of Kentucky, 1975), 9.

²⁵ Kentucky voters elected Crittenden, James Guthrie, Archibald Dixon, Charles A. Wickliffe, and James F. Robinson to represent the state at the convention. Delegates met in Frankfort, KY.

congratulated Magoffin for the “purest patriotism” in denying the federal government’s request for troops. To the Confederacy, the convention pleaded with the Confederacy to reconsider the decision of secession, rejoin the Union, and remain prosperous in economy and liberty. The convention influenced no one and ended more congratulatory than constructive.²⁶

The time for compromise had died. Neither Northerners nor Southerners wanted to accept the Crittenden Compromise. Fort Sumter had changed the crisis. Northerners rallied behind the flag and fought for the Union while the Southerners fought for independence and the endurance of their self-styled revolution. With compromise increasingly impossible, Kentucky’s meditative neutrality grew untenable. Neutrality was a policy that Kentucky, Magoffin, and the General Assembly could not maintain throughout the course of a civil war.

Neutrality could not succeed unless both the federal government and the Confederacy agreed to respect neutrality. So on June 8, 1861, Magoffin sent Buckner to Ohio to meet with General George B. McClellan, the commanding officer of the Department of Ohio. Buckner tried to get McClellan to promise to respect Kentucky’s neutrality. Buckner agreed in return that Kentucky would protect United States property within Kentucky, fight the Confederates if they invaded, and seek federal assistance if the State Guards could not repeal the invading force. McClellan did not commit the Union or himself to an agreement with Buckner and Magoffin. McClellan’s Kentucky Unionist friends urged the general not to negotiate with the pro-Southern Buckner. On the other hand, Magoffin and Buckner believed that they had McClellan’s promise to respect

²⁶ Speed, *The Union Cause in Kentucky*, 42; Kirwan, *John J. Crittenden*, 437-438; Volz, “Party, State, and Nation,” 448-449.

Kentucky's neutrality. In a meeting with William S. Rosencrans, Larz Anderson, and Thomas M. Key, McClellan expressed that the meeting was "inconclusive, unsatisfactory, & fruitless" and that McClellan would send federal troops into Kentucky without permission if he believed that the State Guards could not repeal the Confederates. Magoffin was more successful with Governor Isham Harris of Tennessee. Buckner presented a similar proposition to Governor Harris and he agreed.²⁷

Another sign of the impracticability of neutrality occurred in the June 20 elections for United States representatives to the special July 4, 1861 session of Congress called by Lincoln. Unionists won nine out of the ten congressional seats. Crittenden was one of the nine. The lone state's rights man was Henry C. Burnett from the First Congressional district centered on the pro-sovereignty convention Jackson Purchase and the pro-secessionist city of Paducah. Supporters of neutrality and the Union defeated State's Rights men. Secession increasingly became politically impossible.²⁸

Magoffin had difficulty maintaining neutrality. Citizens in the Jackson Purchase became hostile towards the General Assembly and the policy of neutrality. Magoffin ordered Buckner to send six companies of State Guards into the region to maintain order and peace. Buckner placed Lloyd T. Tilghman over the companies. A native of Paducah, Tilghman agreed with the pro-Confederate attitudes of the Jackson Purchase. By the end of June 1861, Tilghman defected to the Confederacy along with hundreds of

²⁷ *The Salmon P. Chase Papers, Volume 3, Correspondence 1858-March 1863*. Edited by John Niven (Kent. OH: Kent State University Press, 1996), 71-72; Smith, *The Borderland In the Civil War*, 281.

²⁸ Berry F. Craig, "Henry Cornelius Burnett: Champion of Southern Rights" *RKHS* 77 (Autumn 1979): 270-271; Kirwan, *John J. Crittenden*, 439; Speed, *The Union Cause in Kentucky*, 88; Coulter, *The Civil War and Readjustment*, 95. Both Coulter and E. Polk Johnson argued that Kentucky really supported secession. They based their argument on an improvable fact that supporters of the State's Rights Party boycotted the elections. Coulter and E. Polk Johnson in *History of Kentucky and Kentuckians* (Chicago: The Lewis Publishing Co., 1912) argued that if these voters had shown up at the poll the vote would have reflected a strong show for the South. However, the number of those who did not vote can never be known. In addition, those who did vote voted in strong numbers for Unionist candidates.

State Guardsmen.²⁹

July 1861 proved to be no more successful than June 1861 for neutrality. In late July 1861, Buckner wrote to “My dear Mary” mentioning his weariness over neutrality. He traveled with Crittenden and Major Buford to Washington. Buckner told Mary that Crittenden hoped to “procure some respect for our position,” and expressed that he held “little hope in that respect.” All Crittenden could manage was a vote of support for the Crittenden – Johnson resolution declaring the war’s aim to preserve the Union and not to abolish slavery. Even this measure soon lost congressional support. Both North and South claimed to respect the decision of neutrality. Covertly, both the North and South had already undermined neutrality. Union officers had been raising troops in Kentucky since early May 1861. Unionists such as Joshua Speed accepted war material from the federal government, and recruited soldiers in Northern Kentucky. Yet, Kentucky Confederates were not wholly immaculate when it came to Kentucky’s neutrality. Kentucky Confederates such as Humphrey Marshall recruited their own Kentucky regiments. In reality, neutrality had already failed.³⁰

Furthermore, Unionism asserted itself in Kentucky. In correspondence to and from Secretary of Treasury Salmon P. Chase, Green Adams wrote in July 1861 informing Chase of the strong Unionism in Southeast Kentucky. A Unionist who traveled throughout Southeast Kentucky rallying support for the Union, Adams noted Unionist sentiment in Clay, Whitley, and Laurel counties. In Barbourville, Kentucky, Unionists burned effigies of Magoffin, Breckinridge, and James B. Clay. He could also “feel” the

²⁹ Calbert, “The Jackson Purchase,” 208.

³⁰ Simon Bolivar Buckner collection, microform, University of Louisville, Louisville, Kentucky; Harrison, *The Civil War in Kentucky*, 11-12; Volz, “Part, State, and Nation,” 453; Speed, *The Union Cause in Kentucky*, 31-32, 99-101.

disunionism and warned that fleeing Confederate sympathizers could one day return with a Confederate army. Adams urged for well-trained troops to defend the Cumberland Gap. He recognized the good job the present guards did, but wished that Nelson would come with trained troops. Adams itched for action and wished to invade east Tennessee to free Tennessean Unionists from Confederate rule. In another letter, Adams informed Chase that he and his band housed exiled Tennessean Unionists and desired to fight the enemy.³¹

William Nelson also corresponded with Chase. In July 1861, Nelson expressed his impatient desire to fight. Nelson informed Chase that he and a Union committee consisting of James and Joshua Speed, Harlan, Davis, Colonel Theophilus T. Garrard, and Jerry T. Boyle had decided to commit Kentucky to the Union after the August state elections. Nelson expressed his confidence in a Union victory. Nelson was correct and the Unionists did win control of the General Assembly. Nelson wanted to use this victory along with the Unionist victories in the May border state delegate elections and June congressional elections to fight against secessionism, and support the majority of Kentucky voters who had voted for Unionist candidates. Nelson urged the posting of troops along the Louisville and Nashville Railroad and around Jackson Purchase, and the use of the Home Guards to watch Magoffin in case he attempted to lead Kentucky out of the Union. Nelson also requested authority to use the Home Guard to prevent secession in the name of the federal government, and to repress rebellion.³²

In the meantime, Nelson busied himself by defending Kentucky. By June 1861, the requested aid from Lincoln materialized. Nelson distributed weapons to the Home

³¹ *Chase Correspondence, Vol. 3, 77-78, 82-83.*

³² *Chase Correspondence, Vol. 3, 80-81.*

Guards throughout the summer. During July 1861, Nelson began to recruit men and commissioned Kentuckians as officers. Instead of taking the actions stated in his letter to Chase, Nelson began training a pro-Unionist force of Kentuckians. Secure with the majority support Unionists received in the August elections, Nelson established Camp Dick Robinson outside of Lexington, Kentucky.³³

On August 4, 1861, Governor Isham G. Harris of Tennessee wrote to Magoffin informing him that Unionists had broken neutrality by raising troops for the federal army and that other citizens were aiding and abetting recruitment measures. Harris assured Magoffin that he would respect neutrality on a conditional basis. Kentucky, Harris stated, must uphold neutrality “with perfect fidelity” and the federal government must also respect neutrality. If either Kentucky or the federal government breached these conditions, Tennessee and the Confederacy would be obliged to prevent hostilities directed towards its security. Harris concluded that Unionists’ recruitment activities broke both of the conditions for neutrality. Harris warned Magoffin that neither Tennessee nor the Confederacy would act, but would instead allow the governor the chance to maintain neutrality in “good faith,” and to prevent the “wicked war” of the Lincoln administration against the Southern states.³⁴

On August 12, 1861, Magoffin responded to Harris’ letter. He informed Harris that he had visited the recruitment area in South Kentucky. Magoffin informed that the majority disapproved of the recruitment and organized “solely for the purpose of protecting the State from invasion.” Magoffin had initiated measures, though he did not specify any particular measures, to disband the organization. Magoffin further added,

³³ Coulter, *The Civil War and Readjustment*, 102-103.

³⁴ *OR Ser. IV Vol. 1*. 531-532.

that Unionists were working with him “in good faith” to maintain “[Kentucky’s] position of neutrality during this wicked war.” Magoffin’s rose-colored perception of events would not last long.³⁵

About a week after replying to Harris’ letter, Magoffin with Breckinridge, James B. Clay, and other state’s rights men met in Scott County to discuss their options in opposing Camp Dick Robinson and the growing support for the federal government. The group agreed to appeal to Lincoln for the removal of the camp. The group also agreed to counter Unionists’ activities by touring the state to rally Kentuckians in support for neutrality at anti-Lincoln picnics.³⁶

Pro-Southern Kentuckians and Confederates were not the only ones concerned over Nelson’s Camp Dick Robinson. Because of Nelson’s actions and his raw enthusiasm, Garret Davis wrote to Chase complaining about Nelson. Chase wrote back informing Davis to work with Nelson in protecting Unionism in Kentucky. Chase advised Davis and through him the Unionists not to do anything that would harm Unionism in Kentucky, attack only when invaded, and support fellow Unionists who were persecuted in other states. Chase also informed Davis that he doubted Lincoln would officially recognize Kentucky’s neutrality. Chase disapproved of Nelson’s plans and advised caution.³⁷

In the meantime, Magoffin sent representatives to both Lincoln and Jefferson Davis. On August 19, Magoffin sent William A. Dudley and Frank K. Hunt to Lincoln

³⁵ *Senate Journal, 1861-1863*, 46.

³⁶ Davis, *Breckinridge*, 280.

³⁷ *Chase Correspondence, Vol. 3*, 86-88, 90. Robert McNutt McElroy in *Kentucky in the Nation's History* (New York: Moffat, Yard and Co., 1909), 240-242 defended Nelson’s creation of Camp Dick Robinson. McElroy argued that Nelson’s action did not constitute a breach in Kentucky’s neutrality by the federal government. Though the federal government supplied Nelson with weapons, Nelson distributed these weapons to Kentuckians, not federal troops, for the purpose of defending Kentucky and the federal government.

and George W. Johnson to Davis to request they respect Kentucky's neutrality. Magoffin wrote to Davis informing him of Union recruitment within the state. He informed Davis that he had sent Lincoln a request to cease this activity. Stating he was "carry[ing] out the will of the people in the maintenance of a neutral position," Magoffin reasserted Kentucky's commitment to neutrality. He sought assurance from Davis that the Confederates would continue to respect neutrality. Jefferson Davis' response was not reassuring. Davis agreed to respect neutrality as long as the people of Kentucky maintained neutrality and that both parties "strictly maintained" the policy.³⁸

On August 24, 1861, Lincoln responded to Magoffin. Lincoln admitted federal recruiting in Kentucky. Lincoln claimed that Kentucky's representatives in Congress granted the federal government the right to recruit troops. Lincoln stated his doubts concerning Kentuckians' support for neutrality and believed they actually supported the Union cause. After all, nine out of the ten congressmen from Kentucky supported the Union, and the electorate predominately elected Unionist state legislators in the August elections. Lincoln accused Magoffin of not representing the state.³⁹

Despite Lincoln's challenge, Magoffin and the state's rights men went ahead with the anti-Lincoln picnic. On August 29, 1861, in Lexington, Kentucky, the state's rights men held their first and only anti-Lincoln picnic. Breckinridge spoke for neutrality and opposed fighting in a civil war. On stage, Breckinridge stood with Magoffin, James B. Clay, Senator Lazarus Powell, former governor Charles S. Morehead, and other reputed

³⁸ *Journal of the Senate of the Commonwealth of Kentucky 1861-1863* (Frankfort, KY: Kentucky Yeoman Office, 1863), 44-45; *The Papers of Jefferson Davis Volume 7 1861*, ed. Lynda Lasswell Crist (Baton Rouge, LA: Louisiana State University Press, 1992), 289; *OR Ser. I Vol. 2*, 396; Collins, *History of Kentucky*, 92.

³⁹ *Senate Journal 1861-1863*, 42-43. See also Paine, "'Kentucky Will Be the Last to Give Up the Union,'" 329; Harrison, *The Civil War in Kentucky*, 11.

secessionists and pro-Southerners. Lincoln was right; the majority of Kentuckians supported the Union. The picnic influenced no one. The following day, the Unionists of Louisville sought the assistance of the governors of Illinois, Indiana, and Ohio. In a letter to Governor Richard Yates of Illinois, Joshua F. Speed, Joshua F. Bell, and George D. Prentice urged Yates to establish camps along the Ohio River to counter the Confederate camps established along the Kentucky-Tennessee border. The picnic would be the last and the Unionists' request inconsequential as events in the Jackson Purchase overshadowed Magoffin and Kentucky's political leaders' efforts to preserve neutrality or support the Union.⁴⁰

As Magoffin sought to bolster neutrality from collapsing, an incident in the Jackson Purchase furthered the demise of neutrality. An armed steamer, the *W. B. Terry*, owned by Paducans harassed Union steamers along the Ohio River to prevent invasion. In response, the Union navy sent the *Lexington* to capture the ship. The *Lexington* sailed into Paducah's wharf and captured the *Terry*. The escaped *Terry*'s crew obtained another steamer and in retaliation captured the mail ship, *Samuel Orr*. The Union captured and imprisoned the men. Paducans protested to Magoffin demanding military assistance. They threatened to seek Confederate assistance if Magoffin did not assist them. Magoffin instead sent Paducah's state senator, John M. Johnson to Cairo, Illinois to protest against the federal navy's action. On August 27, 1861, Johnson wrote to Magoffin. Johnson informed the governor that the Union army would not free the *Terry* crew or any other Kentuckians who had been arrested as spies. Despite Johnson's and Magoffin's protests, the Union forces did not back down. General John C. Fremont

⁴⁰ Davis, *Breckinridge*, 280; Richard Yates Papers, 1861-1865. Filson Historical Society, Louisville, KY (uncataloged collection).

became increasingly suspicious about neutrality and he began to plan a campaign against the Confederates at Columbus, Kentucky.⁴¹

Columbus, Kentucky occupied a natural bend in the Mississippi River thereby providing a natural defensive position in the region. Confederate General Leonidas Polk also desired to control Columbus and prevent the possibility of a Union attack via Western Kentucky. Letters from Harris and from General Polk during the summer of 1861 warned Magoffin that if Kentucky did not seriously uphold neutrality, then the Confederacy would be forced to invade Kentucky. Union activities North of Kentucky and the establishment to Camp Dick Robinson concerned Polk, who commanded the Confederate forces in West Tennessee. Like Harris, Polk feared the possibility of Union troops crossing Kentucky to invade Tennessee. Southern security lay at the heart of Harris' and Polk's complaints of federal troops in Kentucky.⁴²

Since the spring, Union forces had been cumulating at Cairo, Illinois, at the junction of the Ohio and Mississippi Rivers, a natural starting point for an invasion of Tennessee or Missouri. The Confederacy feared that the Union forces would invade Tennessee via Kentucky. Fearing that the Union would break Kentucky's neutrality, Polk, Harris, and Davis placed conditions on neutrality. On September 1, 1861, Polk informed Magoffin that recent Union troop movements around Columbus, Kentucky could force him to capture and occupy Columbus and West Kentucky in order "to be ahead of the enemy." So Polk captured New Madrid, Missouri in preparation of invading Columbus. In response, Fremont ordered Grant to fortify defenses at Belmont, Missouri

⁴¹ *Senate Journal, 1861-1863*, 46-49; Calbert, "The Jackson Purchase," 208-213; Benny F. Craig, "Northern Conquerors and Southern Deliverers: The Civil War Comes to the Jackson Purchase" *RKHS* 73 (January 1975): 20-21; E. B. Long, "The Paducah Affair: Bloodless Action that Altered the Civil War in the Mississippi Valley" *RKHS* 70 (October 1972): 256-257.

⁴² *OR* Ser. IV Vol. 1, 531-532; *OR* Ser. I Vol. 4, 179.

situated across from Columbus. Fremont also ordered two gun boats to reconnaissance the region around Columbus. The gun boats discovered that the Confederate army had already occupied Hickman, Kentucky. Grant wired the General Assembly informing them that the Confederates breached neutrality.⁴³

On September 3 and without authorization from Davis, Polk crossed into Kentucky and captured Columbus.⁴⁴ Citizens of Columbus welcomed Polk as a liberator. Citizens told Polk of harsh treatment by the General Assembly, of unfair taxation, and how federal troops crossed the river and torn down their Confederate flag. In response, the Union forces under Ulysses S. Grant outmaneuvered Polk by capturing Paducah to deny the city to the Confederates. Though Grant did not receive a warm welcome similar to Polk's in Columbus, Grant managed to capture the entrances of the Cumberland and Tennessee Rivers which flowed into the heart of the Confederacy. Polk's brash action ended any chance of neutrality and exposed its impracticality.⁴⁵

Appalled over Polk's unauthorized invasion, Walker ordered Polk to withdraw and demanded an explanation. Harris also wrote to Polk to advise a withdrawal if militarily possible fearing that Polk's action would be misconstrued as a Confederate breach of Kentucky's neutrality. Polk defended his orders by claiming he had no choice but to invade due to Union cannons stationed on the opposite bank of Columbus preventing his transports secure travel up the Mississippi River. On September 4, 1861, Polk issued a proclamation to the citizens of Columbus justifying his invasion. Polk

⁴³ Calbert, "The Jackson Purchase," 213-214; Long, "The Paducah Affair," 264.

⁴⁴ Polk falsified a response in the *OR* making to appear that Davis approved his invasion when in fact Davis had not. For more information see Steven E. Woodworth, "'The Indeterminate Quantities'": Jefferson Davis, Leonidas Polk, and the End of Kentucky Neutrality, September 1861" *Civil War History* 38 (1992): 289-297.

⁴⁵ *OR* Ser. I Vol. 4, 179; Calbert, "The Jackson Purchase," 213-214; Craig, "Northern Conquerors and Southern Deliverers," 23-24, 28-29.

claimed that federal recruitment undermined neutrality, the fortification of Belmont, Missouri, and the need to preemptively strike before the federal troops did so.

Throughout the first week of September 1861, Polk rationalized his invasion to Magoffin, Davis, and Harris. Polk claimed that the Union forces had broken neutrality first when a group of soldiers allegedly crossed the river and murdered Confederate sympathizers in Columbus and proceeded to trample the Confederate flag. Furthermore, Polk claimed that the Kentucky legislature oppressed Confederate sympathizers with heavy taxation and threats of murder. Mostly, Polk wanted to siege the region before the Union could use it as a starting point for invasion, and he intended to hold his position. For Polk, his invasion was a “military necessity” and not a military blunder.⁴⁶

Polk’s invasion ended Kentucky’s experiment in neutrality. A newly elected Kentucky legislature convened in session on September 2, 1861. In his opening address to the assembly on September 5, Magoffin recognized the “peculiar gloom and embarrassment” of Kentucky’s present situation. Magoffin displayed his emotions. He pled his case to the state legislature’s Federal Relations Committee to maintain neutrality and avoid civil war, “the very acme of all social or political calamities.” Recognizing that both sections violated neutrality, Magoffin attacked the violators. Magoffin stood by his belief that Kentuckians wanted neutrality and not as Lincoln claimed to unite with the Union cause. As governor, Magoffin stated he had the responsibility to follow the people’s wishes and if it meant joining one side or another he would. However, he believed the people wanted neutrality and he would work in earnest “to preserve the neutrality and peace of Kentucky.” Yet, Kentucky voters voted for Unionist candidates

⁴⁶ *OR Ser. I Vol. 4.* 180-184, 185, 186-187; Calbert, “The Jackson Purchase,” 216; Craig, “Northern Conquerors and Southern Deliverers,” 25-27; Long, “The Paducah Affair,” 257-258.

in the elections in 1861, and pro-secessionists began to leave the state. Sympathetic to the South, Magoffin attacked the Republicans for creating the civil war and not compromising as Kentucky had done and was willing to do. Once again, Magoffin called for more mediation. He warned that if Kentucky went to war then civil laws would be disrespected, prosperity harmed, and worst of all Kentucky would become another Missouri which was embroiled in low intensity conflict.⁴⁷ Lastly, Magoffin pleaded with the assembly to keep the peace and honor the state's commitment to neutrality.⁴⁸

On September 10, 1861, a state's rights convention convened in Frankfort. The group of state's rights representatives from seventy counties demanded that the federal troops leave Kentucky and the use of the State Guards to force the Confederates to leave. The state's rights men wanted to continue the policy of strict neutrality and prevent Kentucky from fighting against the Confederacy. Instead of continuing neutrality, the Senate decided on September 10, in a 19-8, vote that Polk's invasion violated neutrality and allowed the state militia to expel the forces out of Kentucky and defend the state from invaders. On September 13, 1861, the state senate passed a bill instructing Magoffin to inform the Confederate forces to "[withdraw] from her soil unconditionally." Influenced by the state's rights convention, Magoffin vetoed the bill and explained his decision to the Senate. He did not recognize the abandonment of neutrality and believed the state remained in "a position of strict neutrality." Furthermore, Magoffin claimed it would be unfair of him to demand the withdrawal of one party's forces and not the other, lest such actions be deemed as favoritism to one party over the other party. The Unionist

⁴⁷ On August 30, 1861, Fremont issued an emancipation proclamation in Missouri freeing confiscated slaves. Kentuckians including Magoffin opposed Fremont's emancipation. Fremont's proclamation only reinforced Magoffin's belief that the Republican Party was an abolitionist's party.

⁴⁸ *Senate Journal 1861-1863*, 18, 30-32, 34, 37-38.

state senate overrode the governor's veto and "instructed" Magoffin to follow the acts.⁴⁹

On September 14, General Felix Zollicoffer invaded east Kentucky and occupied the Cumberland Gap. Zollicoffer's invasion further endeared Kentuckians to the Union. Zollicoffer wrote to Magoffin explaining his invasion. Zollicoffer's reasons rehashed Polk's reasons. Plus, Zollicoffer agreed to withdraw so long as the federal troops withdrew. Zollicoffer stated that the Confederacy "will respect [neutrality] as long as our safety will permit." Polk had cast the die, creating a new enemy, and leaving the Confederacy vulnerable to an attack from Kentucky.⁵⁰

During September 1861, Magoffin's pro-Southern feelings got in the way of his clear thinking. Neutrality had become a farce. Neutral Kentucky could never last stuck between two belligerent forces. Magoffin and most Kentuckians could not recognize the impracticality of neutrality during the spring and summer of 1861. Historian Nathaniel S. Shaler noted that Kentucky merely acted on its history when the General Assembly declared neutrality. In April 1861, Kentuckians still believed that compromise would solve the sectional crisis. Neutrality was an extension of a policy began during the secession winter. Neutrality was not meant to keep Kentucky out of war for long but to buy time for a compromised peace. However, compromise had failed as demonstrated by the inconsequential border state convention.⁵¹

After the failure of neutrality and the General Assembly's support for the Union, Magoffin still held onto the belief the majority of Kentuckians supported neutrality.

⁴⁹ *Senate Journal 1861-1863*, 64-65, 80-81, 99-100; General Orders No. 17 1861 October 1 Broadside, FHS, Frankfort, KY; Collins, *History of Kentucky*, 93; Coulter, *The Civil War and Readjustment*, 113; Davis, *Breckinridge*, 284.

⁵⁰ *Papers, Acts, and Resolutions, Relating to the Existing War, Session of 1861*, FHS, Louisville, KY.

⁵¹ Nathaniel S. Shaler, *Kentucky: A Pioneer Commonwealth* (Boston: Houghton Mifflin Co., 1884), 239-240.

Magoffin desperately grabbed for an excuse to maintain neutrality and avoid a war against the Confederacy. Magoffin used the people, the idea of popular sovereignty to maintain neutrality. Yet, as Lincoln had noted, Magoffin did not represent the majority in Kentucky. The elections, the mass Union meetings, and the Confederate invasion moved Kentucky closer to the Union demonstrating Kentucky's wish to remain in the Union. September 1861 was not April 1861 and Magoffin failed to recognize the fact that Kentuckians' opinion had changed from April 1861 to September 1861.

Furthermore, Magoffin spent most of his time bolstering neutrality instead of mediating the conflict, the whole purpose behind neutrality. Other Kentucky politicians such as the numerous Unionist committees that spread Unionism and those who fought against neutrality such as Nelson and even the citizens of the Jackson Purchase did more to lead Kentucky towards one side or the other side. Finally, events overtook Magoffin. More so than any event, Polk's invasion of Kentucky pushed the General Assembly to abandon neutrality and expose the state's Unionism. At the chagrin of Magoffin and other pro-Southerners such as Breckinridge and Buckner, Kentucky joined the Union fight against the Confederacy. The next year of Magoffin's governorship only demonstrated how much Magoffin had not evolved with the circumstances, and exposed the increasing antagonism between his pro-Southern sympathies and the Unionist legislature.

CHAPTER FIVE

Beriah Magoffin: Obstruction and Resistance

During Beriah Magoffin's last year in political office as Governor of Kentucky, Magoffin adopted a policy of obstruction and resistance. Magoffin's vetoes of the General Assembly's resolutions in September 1861 to rid the state of the Confederate Army began Magoffin's obstruction. However, he did not view his actions as obstruction. Instead the Governor explained his actions as an attempt to save constitutional law and constitutional government from the administration of Abraham Lincoln. Magoffin would not have described his actions as teetering on treason but as saving Southern democracy from Northern despotism.

Magoffin's resistance to the Unionist General Assembly and the Lincoln administration proved turbulent and difficult for the governor. Magoffin resisted and resented the growing Union presence in the state and still believed that compromise could preserve the Union respective of state's rights. As a result, the General Assembly diminished his powers leaving Magoffin in a position of powerlessness and incapable of effective leadership. During the course of 1862, Magoffin's frustration over the Union's policy towards Kentucky and the General Assembly rose and culminated in his resignation. Neither he nor the state legislature could work with one another. The state had sided with the Union and the pro-Southern and pro-compromise Magoffin went along with the choice despite his misgivings of such policies.

With the decision to join the Union, the General Assembly welcomed General Robert Anderson as the head of the Department of Kentucky. Anderson moved to ensure the loyalty of Kentucky citizens. On September 23, 1861, Anderson ordered that those citizens who abetted the enemy by feeding, clothing, or even communicating with them would be considered criminal and arrested. This order came after the General Assembly declared that all arrests, even arrests by the military, should abide by civil law. Despite the General Assembly's disapproval of Anderson's order, the military's orders took precedence over civil law, an action that further irked Magoffin. Three days after Anderson's order, Unionists arrested several prominent pro-Confederate men including James B. Clay, son of Henry Clay; Charles S. Morehead, a former governor; and Rueben T. Durrett, editor of the Louisville *Courier* which strongly supported the Confederacy. Citizens and political leaders complained of the unfairness of these arrests by the military. Those Kentuckians arrested by the military could not appeal to *habeas corpus* because of the nature of the arrests. In addition, some military arrests occurred throughout the state by the Home Guards. The Home Guards arrested alleged Confederate sympathizers. Some Home Guardsmen even took arrested Kentuckians out of the state despite Anderson's disapproval of such a tactic. By early October, Anderson issued General Order Number 5 curbing the arrests of Kentuckians on suspicious charges of disloyalty. Military arrests decreased, but still continued.¹

However, the minority of Kentuckians who supported state's rights opposed the abandonment of neutrality, the beginning of military arrests, and the pro-Union state legislature. A flight of pro-Confederate Kentuckians out of the state began shortly after

¹ Richard Collins, *History of Kentucky By the Late Lewis Collins, Revised, Enlarged Four-Fold, and Brought Down to the Year 1874 By His Son Richard H. Collins* (Louisville, KY: John P. Morton and Co., 1874), 94-96.

Polk's invasion in September 1861. After Polk's invasion, companies of the State Guards deserted the state militia for the Confederate Army units, such as John Hunt Morgan and his Lexington Rifles. Simon B. Buckner, inspector-general of the State Guards, deserted as well. By September 18, 1861, Buckner, as a general in the Confederate army, captured Bowling Green.² Even political leaders deserted the state. Throughout October and November 1861, political leaders such as United States Representative Henry C. Burnett, State Senators George W. Johnson and John M. Johnson, Thomas Monroe, Jr., Kentucky's Secretary of State left for the Confederate army and to fight against what they perceived as Northern aggression and interference in state affairs. Disillusioned with Kentucky's choice and the failure of neutrality, John C. Breckinridge, too, decided to abandon Kentucky and joined the Confederacy. Many other pro-Confederate Kentuckians fled after Kentucky chose to remain in the Union. These pro-Confederate men could not remain in the state to fight in a war that they perceived to be Northern coercion against Southern states.³

For the remainder of 1861, the Unionist General Assembly supported the Union.

² After Kentucky abandoned neutrality, the Confederate army fortified its position and sent out companies to march across Southern Kentucky. For more information on the Confederate military activities in Southern Kentucky see Lowell H. Harrison, "A Confederate View of Southern Kentucky, 1861" *RKHS* 70 (July 1972): 163-178.

³ Collins, *History of Kentucky*, 94-96. William C. Davis, *Breckinridge: Statesman, Soldier, Symbol* (Baton Rouge: Louisiana State University Press, 1974), 285-286; Lowell H. Harrison, "George W. Johnson and Richard Hawes: The Governors of Confederate Kentucky" *RKHS* 79 (Winter 1981): 8-9; Thomas Crittenden Cherry, *Kentucky: The Pioneer State of the West* (Boston: D. C. Heath and Co., 1935), 274-276. Magoffin and the General Assembly appointed and approved Union men to fill the seats vacated by the pro-Confederate Kentuckians. According to Nathaniel S. Shaler in *Kentucky: A Pioneer Commonwealth* (Boston: Houghton Mifflin, Co., 1884), 269 at least 40,000 Kentuckians joined the Confederacy during the four years of war. Lowell H. Harrison and James C. Klotter in *A New History of Kentucky* (Lexington: The University Press of Kentucky, 1997) estimated anywhere from 25,000 to 40,000 Kentuckians left to fight for the Confederacy. Many families divided due to the civil war. Occasionally, families split between support for the Union and support for the Confederacy. For example, John J. Crittenden's two sons, Thomas and George, joined the Union and Confederate armies, respectively. The Clay family also divided over the war. For information concerning the family of Brutus J. Clay, congressman and state legislator and brother to Cassius M. Clay, see Mary Clay Berry, *Voices from the Century Before: The Odyssey of a Nineteenth – Century Kentucky Family* (New York: Arcade Publishing, 1997).

The state legislature increased the money for the Military Board and replaced Magoffin and the other pro-Confederate on the board, Dr. John B. Peyton, with Unionist men,⁴ increased taxes to fund the war, and thanked Indiana, Illinois, and Ohio for sending troops to assist in the defense of the state. In the state senate, Kentucky's state senators passed an act prohibiting any Kentuckians who acted against the state or abetted those enemies of the state from holding real estate within Kentucky. However, the state house rejected the bill. By the end of November 1861, State Senator John A. Prall presented a resolution claiming that Kentucky "cherished and adhered to the Federal Union," and that since mediation had failed, the state would stand by the Union by calling out its "heroic sons" to aid in crushing the rebellion and to restore "the just supremacy of the national government." However in December 1861, James Speed introduced a bill into Kentucky's House of Representatives that allowed the Union army to confiscate slaves used by the Confederate army for military purposes.⁵ State representatives tabled the bill. In response to Speed's bill, the state senate amended Prall's resolution. First, Kentucky would not support a war of oppression. Second, Kentucky opposed the use of slaves as troops by both the Union and Confederate forces. Lastly, Kentucky stressed to the federal government the state's right to its own internal institutions. In other words, the General Assembly supported the preservation of the Union but not the federal intervention of slavery.⁶

⁴ The names of the two Union men were Edmund H. Taylor and John B. Temple.

⁵ Speed's confiscation bill mirrored the Confiscation Act of 1861 passed by Congress in August 1861. Congress passed the act to address the growing number of slaves who fled from the Confederacy and into Union camps.

⁶ *Acts of the General Assembly of the Commonwealth of Kentucky, 1861-1863* (Frankfort: Kentucky Yeoman Office, 1863), 24; *Journal of the Senate of the Commonwealth of Kentucky, 1861-1863* (Frankfort: Kentucky Yeoman Office, 1863), 245. 339-341; Collins, *History of Kentucky*, 94; Victor B. Howard, "Lincoln Slave Policy in Kentucky: A Study of Pragmatic Strategy" *RKHS* 80 (Summer 1982): 294-295.

Despite the General Assembly's amendments to the Prall resolution, the General Assembly did not abandon its support to preserve the Union. On December 10, after the United States Senate expelled Breckinridge, the state senate elected Unionist Garret Davis to replace Breckinridge in the United States Senate and then, the General Assembly further curbed the governor's powers. The General Assembly authorized military officers to call and hold elections for officers in addition to the governor. On December 23, the assembly gave the power to the Military Board to fill its own vacancies. On the other hand, the General Assembly did grant Magoffin one power during this session: the governor, the state's attorney-general, and secretary of state certified election results from insurrectionary counties.⁷

Despite the Union victories in the General Assembly, state's rights men tried to steer the state back to neutrality. During late 1861, state rights members of the state legislature introduced bills calling for the evacuation of the state of both Union and Confederate troops. However, the bills died in the predominately Unionist legislature.⁸

Opposing the war, Magoffin used his veto power to obstruct the legislature's Unionism. On September 20, 1861, in his veto explanation to the General Assembly's bill to expel Confederate troops from Kentucky, Magoffin refused to sign a bill requesting the Confederates to leave. Magoffin explained he could not demand one side to leave without demanding the same from the other side. By expelling both sides, Magoffin wanted to preserve neutrality. Magoffin argued that if the state invited the Union forces into Kentucky, then the military law would supplant civil law. Magoffin also disagreed with the placement of Colonel Thomas L. Crittenden, the son of John J.

⁷ *Acts, 1861-1863*, 45-46, 48-49.

⁸ Collins, *History of Kentucky*, 95.

Crittenden and a federal officer, in between the governor and the State Guards claiming it disrupted his role as commander-in-chief and he would not “concede [his] constitutional right.” The only part of the bill Magoffin agreed with was the section guaranteeing the safety of citizen’s rights to expression and property. Magoffin urged the General Assembly to sustain his veto; but, if it did not, he would reluctantly execute the law as was his duty as governor. The General Assembly overrode his veto.⁹

On September 25, 1861, Magoffin vetoed a bill calling for an additional 40,000 soldiers and a \$5 increase in pay. The state legislature again overrode the governor’s veto. Magoffin vetoed the bill because he was upset that he had been “unconstitutionally” stripped of his role as commander-in-chief. On October 1, Magoffin vetoed a bill to give Union forces surveys and topographical maps of the state claiming that to do so would undermine private property without due compensation. The state house sustained the veto. The next day, Magoffin refused to sign the state senate’s resolution proclaiming Breckinridge and Lazarus Powell as unfit senators who did not properly represent Kentucky. Due to his pro-Southern inclinations, Magoffin equated the civil war as Union coercion and if he could not have neutrality, he would work against the war. Magoffin did not want to fight in a civil war that he perceived to be coercion against the South and the abandonment of the Constitution that respected slavery. However, the General Assembly overrode most of Magoffin’s vetoes, as was the state legislature’s prerogative under the state constitution, and he would have to administer these acts.¹⁰

On October 1, 1861, State Senator Walter C. Whitaker introduced a resolution

⁹ *Senate Journal, 1861-1863*, 144-146.

¹⁰ General Order No. 17, 1 October 1861, Broadside, Filson Historical Society, Louisville, Kentucky.

calling for Magoffin's resignation if he did not follow "the will of the people of Kentucky." Reacting to Magoffin's vetoes, Whitaker hoped that Magoffin would not continue his obstruction of the General Assembly's acts or face forced resignation. Despite Whitaker's willingness to overthrow the governor, the majority of the state senators were not. Whitaker's resolution failed to pass the state senate. Though the state senate was not ready to impeach or force Magoffin to resign, the state senators still distrusted Magoffin and strongly disagreed with his vetoes.¹¹

With the Kentucky legislature siding with the North, state's rights men and Confederate sympathizers disillusioned and feeling that Unionists had hijacked the state legislature bolted from the state government and declared their independence. Meeting in Richmond, Kentucky on November 18, 1861, these Confederate sympathizers met in a special session and passed an ordinance of secession for Kentucky from the Union and declared their intentions to join the Confederacy. In their "Declaration of Independence and Constitution," the Kentucky Confederates referred to secession as their civic duty. The declaration emphasized the importance of state's rights and the belief in the compact theory of the Union. In the eyes of these Kentucky Confederates, the federal government had usurped powers not delegated to it in the Constitution in order to coerce seceded states back into the Union and to force on the states the perceived Republican agenda of abolition. Furthermore, the Unionist legislature of Kentucky had "abandoned the position of neutrality," "deceived and betrayed the people," and "invited into the State the organized armies of Lincoln." In all, the Unionist legislature created a "Military Despotism" and it was the duty of Kentuckians to declare "A FREE AND

¹¹ *Senate Journal, 1861-1863*, 203; Collins, *History of Kentucky*, 95.

INDEPENDENT STATE.”¹²

After declaring independence, the Kentucky Confederates voted former member of the Kentucky’s Senate, George W. Johnson, a cousin by marriage to Breckinridge, as their governor. In his November 26, 1861 address, Confederate Governor Johnson reaffirmed the reasons for secession. He decried the alleged military despotism created by the Unionist legislature. He blamed Unionists such as State Senator James F. Robinson and State Speaker John Fisk of thwarting the will of Kentuckians. According to Johnson, Unionist legislators used their positions to force the state into the Union camp. To demonstrate his point, Johnson used the state legislature’s vote to override Magoffin’s veto of the removal of Polk’s forces from the state. By siding with the Union, the legislature led Kentucky into the Union camp, or in Johnson’s eyes, the Republican and abolitionist camp. He and other Confederates would not tolerate such a course and seceded to preserve a state’s right to its internal affairs such as slavery.¹³

Johnson declared the abandonment of neutrality as a serious blow to Kentucky unity. During August and September of 1861, Johnson and other Kentucky Confederates had accepted neutrality as a means of avoiding a civil war with the Confederacy. Staying out of the war for Kentucky’s pro-Confederates meant that the Confederacy would avoid a Northwestern attack from the Union and continue trade between Kentucky and the Confederacy. By siding with the Union, the legislature confirmed the Kentucky Confederates worst fears, a perceived despotism and the perceived denial of property through abolition.¹⁴

¹² *Declaration of Independence and Constitution of the Provisional Government of the State of Kentucky* (Bowling Green, KY: W. N. Haldeman, 1861), 5 & 6.

¹³ *Declaration of Independence*, 9-16.

¹⁴ *Declaration of Independence*, 9-16.

Johnson also proposed a Confederacy consisting of the entire South and a separate one for the North. Both confederacies would exist as separate political entities, but be tied together through trade. Johnson theorized that a two confederacy solution would be the most perfect form of government “for the protection of States and the welfare of mankind.” Johnson’s dream never materialized. The Confederate government of Kentucky was a sham and never possessed authority and legitimacy. Johnson recognized his illegitimate power. He stated that he would fulfill his duties unless Magoffin “shall escape from his virtual imprisonment” in Frankfort, Kentucky as the rightful leader of the “movement for the emancipation of Kentucky” from under Union control.¹⁵

Magoffin agreed with the Kentucky Confederates in that the federal government could not coerce the seceded states back into the Union or disregard state’s rights to its internal institutions. However, Magoffin believed in a state government where the people reigned as sovereigns through majority rule. Back in November 1860, Magoffin disagreed with South Carolina for seceding due to Lincoln’s presidential election victory. He did agree that South Carolina could secede and that the federal government could do nothing about secession except compromise. Viewing and misconstruing the Confederate bombardment of Fort Sumter as federal coercion, Magoffin supported a state sovereignty convention to discuss the possibility of secession. However, the General Assembly passed an act of neutrality and Magoffin followed through with the policy even after it had failed and Kentuckians had abandoned it. Despite Kentucky having joined the Union side of the war in September 1861, Magoffin did not secede or resign to flee to the Confederacy or abandon a post that Kentuckians had elected him to hold whether the

¹⁵ *Declaration of Independence*, 14-15. For more information of George W. Johnson’s proposal of two confederacies see Lowell H. Harrison, “George W. Johnson and Richard Hawes: The Governors of Confederate Kentucky” *RKHS* 79 (Winter 1981): 15-16.

1861 electorate liked him or not. On December 13, 1861, Magoffin responded to the rival state government and Johnson's recognition of Magoffin as the rightfully elected governor of Confederate Kentucky and could lead the state if he could only escape his "virtual imprisonment" in Frankfort. Magoffin claimed he did not support the rival state government that did not represent Kentuckians. He stated he would always "abide by the will of the majority of the people of the state" and "stand by the constitution and laws of the state of Kentucky" and the United States.¹⁶ Magoffin did not join his pro-Southern colleagues in action. He remained in the position the people elected him to hold.

Though Kentucky sided with the Union, Magoffin remained adamant about not coercing the seceded states. Besides, he could still try and influence the state government through his position. However as 1861 came to a close, Magoffin realized that neutrality failed and Kentucky had sided with the Union and would not return to neutrality.

Politically, Magoffin was a has-been. By December 1861, the power in the state resided with the Unionist state legislature which executed a war and dealt with a hostile rival state government. The Unionists in the General Assembly distrusted Magoffin, fearing that as commander-in-chief, he might use the state militia to secede. As the war progressed, the Unionist legislature denied Magoffin control over the State Guards. In

¹⁶ Collins. *History of Kentucky*, 98; Harrison, "The Governors of Confederate Kentucky," 16-17. As governor, George W. Johnson worked unsuccessfully with Confederate General Albert S. Johnson and the Confederate military in fighting the war. Johnston and the Confederate military did not listen to Johnson. As a state within the Confederacy, Johnson had to fill troop quotas and pay taxes to Richmond, Virginia, the Confederacy's capital. However, Johnson lacked power and legitimacy in most of Kentucky, and only controlled the small region where the Confederate military could assert its power. After the Confederate military retreated from the state in February 1862, Johnson's government existed in name only. In April 1862, Johnson would die in the Battle of Shiloh. Johnson's replacement, Richard Hawes would briefly control Kentucky from Frankfort during the Confederate's invasion during the autumn of 1862. However, once again, the Confederate army retreated from Kentucky after the Battle of Perryville. For the duration of the war, Hawes and the Kentucky Confederate government sat in Richmond and waited for the hoped for Confederate victory.

1862, the General Assembly further eroded Magoffin's powers and overrode his vetoes.¹⁷

Frustrated over his political condition, Magoffin expressed his anti-administration feelings in an address written for the opening of the spring session of the 1862 General Assembly but never delivered. Magoffin harangued against the Republicans and the course of the war. Magoffin defended civil law claiming it always trumped martial law, even during wartime, in a democratic society. Magoffin stated that Kentucky and the nation possessed constitutions that Lincoln and all other political leaders had to follow. According to Magoffin, Congress through legislation was the only authority to authorize trials without juries, to suspend the writ of *habeas corpus*, or ignore the due process of law. Moreover, Magoffin warned that if citizens allowed the federal government to curb their rights then it could easily begin to confiscate all property and arrest in the name of protecting the public's interest, the first steps towards despotism.¹⁸

Finally, Magoffin called Lincoln a traitor for not standing by the Constitution even though Lincoln vowed at his first inaugural to preserve and defend the Constitution and the Union. According to Magoffin, Lincoln did not have the Constitutional right nor the authority to suspend the writ of *habeas corpus* and require extra oaths. Magoffin demanded the release of Kentuckians imprisoned so that they may have a fair trial. He urged the legislature to pass resolutions in agreement and form a committee to pressure for the release of prisoners.¹⁹

In addition, Magoffin added that military arrests harmed the cause of defending the Constitution. He feared that such disregard could form a precedent and soon the

¹⁷ Kirwan, *John J. Crittenden*, 435-436; Harrison, *The Civil War in Kentucky*, 10.

¹⁸ Governor's official correspondence file – executive journal, 1859-1862, Kentucky Department of Libraries and Archives, Frankfort, Kentucky.

¹⁹ Governor's executive journal, 1859-1862, KDLA, Frankfort, KY.

Constitution would be worthless. Instead, Magoffin called for tolerance and the liberty to express views different from the administration.²⁰

The message Magoffin sent to the General Assembly on February 14, 1862 did not possess the venom or urgency that his undelivered address possessed. Instead, Magoffin recognized he did not have the power or the money to suppress the rival government or protect citizens from the federal and Confederate armies. Instead, Magoffin spoke of Kentuckians' personal debts caused by the war due to property destroyed from skirmishes and battles and high taxes. Magoffin asked for the money and power to assist in relieving Kentucky's indebtedness. As for the Union and the Confederacy, Magoffin skirted the issue and prayed to the "Divine Providence" for "His wisdom" to "lead us in the right direction through the troubles which surround [Kentucky]" and the end of the war.²¹

However, the General Assembly did not move to give Magoffin more power but further diminished his powers and continued to execute the war. The General Assembly perceived Magoffin as a secessionist and distrusted him. On March 11, 1862, the General Assembly passed an Expatriation Law. The law stated that any Kentuckian who had joined the Confederates or gave aid or comfort to the rebellion lost their Kentucky citizenship and could not return unless they could prove their loyalty to the General Assembly. Magoffin vetoed the bill. Once again, the General Assembly overrode his veto. Four days later, the General Assembly reduced the Military Board to two men and increased their powers giving the board the authority to appoint agents to carry out its duties, protect and assist the sick and wounded, employ doctors and nurses, and deal

²⁰ Governor's executive journal, 1859-1862, KDLA, Frankfort, KY.

²¹ *Senate Journal, 1861-1863*, 397-400.

directly with the federal government thereby bypassing the governor. On March 17, the General Assembly amended the State Guard Law. All able-bodied men from 18 to 45 not already part of the United States forces or the civil service became part of the state militia thereby eliminating the Enrolled Militia. The governor could call military elections and call out the militia during crises, insurrections, or threats. However, the bill also authorized the president to call out the state militia which Lincoln tried to do in April 1861. The troops also swore to protect and defend the United States Constitution first and then the state constitution second and obey the orders of their superiors.²²

On March 23, 1862, Humphrey Marshall, a Kentucky Confederate, wrote to Magoffin demanding the governor to awake from his political “paralysis” and to secede Kentucky from the Union.²³ Marshall chastised Magoffin for weak leadership and for abandoning “his friends,” pro-Confederate Kentuckians, during their hour of need. Marshall railed against the governor for his passivity. According to Marshall, Magoffin could redeem himself by seceding Kentucky from the Union and placing the state with its sister Southern states in the Confederacy. Marshall explained that Kentucky Unionists and Lincoln had misled Kentuckians. According to Marshall, Kentucky’s Unionists and Lincoln were engaged in a war to defeat civil liberties and subjugate states to martial law, instead of preserving the Union and the Constitution. Marshall informed Magoffin that the governor should reinstate neutrality since the Confederates had left Kentucky. By exposing the “lies” of Kentucky’s Unionists and Lincoln, Kentucky troops would

²² *Acts, 1861-1863*, 70-71, 82-83, 96-102.

²³ During the Spring and Summer of 1861, Humphrey Marshall recruited Kentuckians into the Confederate Army. Because of his recruitment activities and support for the Confederacy, in November 1861, the federal district court of Frankfort indicted Marshall along with 32 other Kentuckians which included John C. Breckinridge and John Hunt Morgan. Throughout 1862, Marshall supported a Confederate invasion of Kentucky to “liberate” Kentucky from Union governance. At the end of August, the Confederate invasion led began and ended in the Battle of Perryville and a Confederate retreat.

abandon the Union army and aid in driving out the Union forces from Kentucky.

Marshall called upon Magoffin to head these troops and “emancipate the Southern-rights men of Kentucky” from Union lies and control, protect civil liberties, and preserve state’s rights. Taking a more critical stand and hoping to galvanize Magoffin into action, Marshall demanded that Magoffin obtain a backbone and resist Unionist activities that harmed state’s rights men. Marshall did not pity Magoffin even though the General Assembly limited the governor’s powers.²⁴

Magoffin resisted Marshall’s call to lead a secession movement in Kentucky. Instead, Magoffin sought to influence policy and prevent Union war measures which he perceived to be unconstitutional. Not having the full responsibility of conducting a war, Magoffin turned his attention elsewhere. Loyalty oaths captured the attention of Magoffin. The federal government used loyalty oaths since the beginning of the war. Initially used for federal government personnel, the loyalty oaths became a method to check the loyalty of its citizens. Though civil and military personnel, and eventually citizens, took these oaths not all of the people considered them binding. Some people considered the oaths as unconstitutional. Other people perceived the oaths as extra-legal. Still others took the oaths, but did not stop disloyal activities. Some refused. Perceiving the refusal to take the loyalty oaths as treason, the local militia or the federal government arrested and imprisoned those people who refused to take the oath. Magoffin perceived such oaths as extra-constitutional and non-binding on the citizens. For Magoffin, loyalty oaths were just one infringement on civil law by the military and the federal government, and a sign that the Lincoln administration was illegally fighting a war. By opposing loyalty oaths, Magoffin partially followed Marshall’s advice. Instead of betraying the

²⁴ *OR*, Ser. I, Vol. 10, Part 2, 468-475.

Union and seceding, Magoffin opposed the Lincoln administration and obstructed the federal government's duty to protect the Union and the Constitution from traitors and rebels.²⁵

Secondly, Magoffin worked to insure that the Union forces stationed in Kentucky respected the rule of law and the state constitution. Magoffin especially disliked the Union forces' interference with court proceedings. On May 12, 1862, Colonel S. Noble wrote to Judge W. P. Fowler of the Crittenden County Court in West Kentucky explaining his role in the region. He and the Union troops would "sustain and defend the constitution of the United States, to protect Union men, and punish treason wherever it may be found." To fulfill his mission, Noble required that all judges and jurors take a loyalty oath before holding court. Noble requested that Fowler and other judges to keep a record of the oaths and present them to him as proof of cooperation. On May 15, 1862, a concerned Fowler wrote to Magoffin complaining that Union forces disrupted his court proceedings by guarding the doors and watching his proceedings. Fowler informed Magoffin that Captain Stacy presented him a list of demands.²⁶ Fowler asked Magoffin what he should do. On May 20, 1862, Magoffin advised Fowler on May 20 to "pay no attention to the illegal, unconstitutional, and tyrannical action of Capt. Stacy" and to continue with his court duties. Magoffin's reply stated his belief in the freedom of the courts to operate without military interference. Several days later, Fowler wrote back to Magoffin informing him of the arrest of Kentuckians who refused to take the loyalty oath. Fowler proceeded to tell Magoffin of the loyalty oaths he and other civilians were

²⁵ Harold M. Hyman, *Era of the Oath: Northern Loyalty Tests During the Civil War and Reconstruction* (Philadelphia: University of Pennsylvania Press, 1954), 1, 13, 151-153.

²⁶ As expressed in the letter, Fowler attached the list of demands to the letter. However, Magoffin for some unknown reason did not turn over these demands to the General Assembly along with Fowler's letter and other letters surrounding the judge controversy in East Kentucky.

forced to take or face court-marshal. Fowler explained to Magoffin his and civilians' concerns over Noble's persistence in administering the loyalty oaths. Civilians such as Col. Bunch and Benjamin P. Cissell expressed to Fowler their concern that the loyalty oath might impede the oaths taken to the state and federal constitutions and refused to take another oath. Magoffin worked to aide Kentuckians who found themselves in prison for their defiance.²⁷ On May 22, 1862, Magoffin received a similar letter from Judge G. A. Flournoy of the McCracken County Court complaining he could not hold court due to Union troops. Magoffin could not see that the judges presented a resistance to Union control. After all, a rival government claimed Kentucky for the Confederacy. The Unionist legislature wanted to root out any challenge to its authority. The judges, even if they were sincere, challenged the Unionists through non-cooperation. By assisting the judges, Magoffin challenged the authority of the Unionists who already suspected him of Confederate sympathies.²⁸

Magoffin turned to John J. Crittenden, who represented Kentucky in the United States House of Representatives and who possessed influence within Washington, for assistance. On May 25, 1862, hoping that Crittenden could influence the Lincoln administration, Magoffin complained to Crittenden concerning the oaths forced upon the judges and jurors by the Union troops and their disrespect for civil authority. On June 2, 1862, Crittenden conveyed Magoffin's complaint to Secretary of War Edwin M. Stanton. Crittenden stressed that though the judges and civil servants may themselves be lawbreakers, lawbreaking officials should not be reason enough for the military to

²⁷ See *Senate Journal* 1861-1863, 617-618 for a complete list of imprisoned judges arrested in June and July 1862 and held at Camp Chase.

²⁸ *Senate Journal* 1861-1863, 610-615; Governor's official correspondence file, 1859-1862, folder unnumbered. Kentucky Department of Libraries and Archives, Frankfort, Kentucky.

disrespect the integrity and authority of the courts. Stanton handed the complaint off to Major General Henry W. Halleck, who was at the time busy conducting a war. By June 1862, Crittenden informed Magoffin that the military had begun an investigation into his claims. However, the internal investigation did not prevent Union troops from trying to root out rebels, perceived or real, from Kentucky.²⁹

Thirdly, Magoffin disproved of the military's authority within Kentucky. On June 1, 1862, the War Department appointed Brigadier-General Jerry T. Boyle military commandant of Kentucky. Boyle appointed provost-marshals in each county to help him carry out his duties. A week into the job, Boyle issued guidelines for the arrest of civilians. The military could arrest civilians who joined the Confederacy or aided the Confederates, who refused to take a loyalty oath, who organized or gave information to the Confederacy, who spoke words of encouragement to the Confederacy, or who acted as guerillas and destroyed property. On July 1, Boyle extended the arrest guidelines to include women.³⁰

Some Kentuckians complained about martial rule. On June 21, 1862, O. P. Hogan wrote to Magoffin complaining about the Union troops' interference with elections. Hogan lamented that only Unionists could run for political office. Hogan explained that if a non-Unionist ran for office such as himself, then the Union forces would prevent him and imprison anyone who was not a Unionist. Hogan would protest against the Union troops' interference, but feared he would be sent to Camp Chase, a military prison in Ohio. Hogan hoped that Magoffin would do something to restore his right to run for office. On July 1, 1862, Magoffin replied to Hogan that he agreed with him. According

²⁹ *Senate Journal* 1861-1863, 614-616; Governor's official correspondence file, 1859-1862, folder unnumbered, KDLA, Frankfort, KY; Kirwan, *John J. Crittenden*, 456-457.

³⁰ Collins, *History of Kentucky*, 102-104; Coulter, *The Civil War and Readjustment*, 151-152.

to Magoffin, Hogan should have had the right to run for office without federal interference. However, Magoffin admitted to Hogan that he did not possess soldiers or money to enforce the state constitution or protect his rights. A week later, Magoffin received a similar letter from J. M. Bigger who was denied a judgeship due to his political beliefs. Yet, once again Magoffin could do nothing. However, Boyle had not officially stated that pro-Confederates or pro-Southern Kentuckians could not run for political office. Not until July 21 did Boyle issue General Order Number 5 which prohibited anyone who expressed sympathy for the rebellion from running for public office. Prior to the issuance of this order, Magoffin admitted defeat by realizing he could not influence policy or counter federal activities.³¹

Magoffin's fears of military rule materialized. The military began to assert its authority on behalf of the Union and the Constitution. Though the military may have taken tough measures, Magoffin failed to realize that the federal and state governments waged a civil war, and that Kentuckians could well as be traitors. Though having retreated from Kentucky in February 1862, Confederates still threatened the state.³² Invasion still loomed over Kentucky. Furthermore, a rival and exiled government claiming to represent Kentuckians had joined the Confederacy in December 1861 and

³¹ Collins, *History of Kentucky*, 102-104.

³² On January 19, 1862, General Felix Zollicoffer ran into Union General George H. Thomas' troops at Mills Spring. The two forces fought. Shot and wounded, Zollicoffer died within several hours of battle. The Confederate troops held the Union advances until Thomas was reinforced. Thomas' troops and the Union reinforcements broke the Confederate lines. Leaderless, the Confederate troops retreated from East Kentucky. In February 1862, General U. S. Grant once again outmaneuvered the Confederate army led by General Albert Sidney Johnston who had taken over command of the Western theater from General Leonidas Polk. Grant attacked Forts Henry and Donalson via the Tennessee and Cumberland Rivers. With these forts taken, Johnston ordered a retreat into Tennessee. The Confederates evacuated Bowling Green and the Jackson Purchase. However, occasional raids occurred and the fear of a Confederate invasion still remained with Kentuckians. For more information on these two battles see Kent Masterson Brown, ed. *The Civil War in Kentucky: Battle for the Bluegrass State* (Mason City, IA: Savas Publishing Co., 2000), 23-78.

fought for Kentucky's "liberation."³³

As a border state, Kentucky existed between the Union and the Confederacy. The generals in the western theater of war acted with little guidance on the situation of treason. The general rule was simple: treason would not be tolerated. Initially generals and government officials were unorganized and quick to judge. Yet, the border states contained large numbers of citizens opposed to the Lincoln administration and the war, and supported the Confederacy. Whether through loyalty oaths or martial law, the federal government's goal was to preserve the Union. The federal government dealt with anyone who aided the Confederacy as a traitor. Treason stripped a citizen of his or her rights. Magoffin did not comprehend the administration's point of view, but viewed the situation through a pro-Southern lens that abhorred a strong central government.³⁴

Fourthly, Magoffin opposed Lincoln's plan of gradual emancipation. On March 6, 1862, Lincoln urged the border states to gradually emancipate its slave and colonize them in Africa. Lincoln also supported federal compensation for those states that adopted his plan. According to Lincoln, emancipation would rid the border states and the Union of a commonalty with the Confederacy. Lincoln hoped that by adopting gradual emancipation, the border states would dash the Confederate hope that the border states would secede and unite with the Confederacy which respected slavery. Kentucky's Congressional representatives led by Crittenden disapproved of Lincoln's measure. Crittenden expressed his belief that Kentucky and the border states had already given soldiers and money to the cause of preserving the Union. Crittenden believed that Lincoln was asking too much from Kentucky and the border states by asking them to

³³ Harrison, "The Governors of Confederate Kentucky," 10.

³⁴ Hyman, *Era of the Oath*, xii-xiv; Mark E. Neely, Jr., *The Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991), 12, 33-34, 53, 186.

sacrifice slavery. Lincoln worked with the border states' representatives throughout the spring and summer of 1862 to promote his emancipation plan. In July 1862, Lincoln once again urged the border states to gradually emancipate their slaves. However, Kentucky would not accept emancipation, nor would Magoffin.³⁵ Magoffin did not lead this opposition, but let Kentucky's congressional leaders oppose Lincoln's slave policy.³⁶

Lastly, the state experienced guerilla activity from unruly Home Guardsmen and Confederate raiders. The Union military and the state government punished guerilla activity with execution. The majority of the guerillas were Unionist and Confederate deserters who attacked pro-Confederate sympathizers or Unionists respectively. Guerillas retaliated against those who attempted to stop their plundering and destruction of property. However, guerilla activity never reached the levels experienced in Missouri and most of the state was calm after the Confederates retreated in 1862.³⁷

The most notorious Confederate raider in Kentucky was John Hunt Morgan who had left the State Guards in September 1861 to join the Confederate forces. On July 8, 1862, Morgan took his cavalry unit and invaded Central Kentucky. Morgan used hit and run tactics which proved no match for the Union forces. Morgan's cavalymen moved in and destroyed railroads, military depots, telegraph wires; they took what they needed and moved on to another target. In mid-July, Morgan captured Midway, Kentucky, and the

³⁵ After Magoffin resigned from office, the General Assembly rejected Lincoln's plan of gradual emancipation. The General Assembly stated that Kentucky was loyal to the Union, but that loyalty did not entail support for emancipation, supported the Union as it was prior to 1861, and supported Lincoln though the body expressed concern that abolitionists and Radical Republicans were leading the president astray on the issue of slavery.

³⁶ *The Collected Works of Abraham Lincoln, Volume 5* Edited by Roy P. Basler (New Brunswick, NJ: Rutgers University Press, 1953-1955), 144-146, 317-319; Kirwan, *John J. Crittenden*, 460; Russell F. Weigley, *A Great Civil War: A Military and Political History, 1861-1865* (Bloomington: Indiana University Press, 2000), 170-176. For more information on Lincoln and his slave policy in Kentucky see Victor B. Howard, "Lincoln Slave Policy in Kentucky: A Study of Pragmatic Strategy" *RKHS* 80 (Summer 1982): 281-308.

³⁷ Thomas D. Clark, *Kentucky: Land of Contrast* (New York: Harper and Row, 1968), 130; Cherry, *The Pioneer State of the West*, 283-283.

town's telegraph wires. Magoffin had a Canadian telegrapher, George Ellsworth, send false information concerning his whereabouts and the strength of his force to the Union troops stationed throughout the state. The falsified messages reached Louisville and Cincinnati causing panic. Louisville and Cincinnati officials, lacking trustworthy information on Morgan's whereabouts, prepared for the worst. Afterwards, Morgan headed towards Cynthiana, Kentucky to capture the town's railroad, but ran into a Union detachment. At Cynthiana, Morgan defeated this Union force. He and his men then turned towards Paris, Kentucky and defeated the forces of General Green Clay Smith. Morgan's cavalymen then captured Richmond. Frustrated that Kentuckians did not rally to Morgan's and the Confederate's side, Morgan and his cavalry left the state. As a result of Morgan's raid, Boyle's policies, and loyalty oaths, Magoffin declared that he did not have the power or the money to defend and protect Kentuckians from the Confederate and Union armies. Magoffin turned to the General Assembly for help. The beleaguered and frustrated governor urged the General Assembly to protect "the peaceable enjoyment of their property and rights under the constitution." Magoffin called for a special session of the General Assembly in hopes to aide Kentuckians.³⁸

On August 15, 1862, Magoffin addressed the special session of the legislature. The governor dwelled on two main points: the protection of civil liberties and mediation. Magoffin pleaded to the General Assembly to revise the laws concerning the Military Board to ensure the protection of citizens' civil rights to run for political office, trials with juries, and the respect of the constitution by the military. He requested that the

³⁸ Clark, *Land of Contrast*, 131-133; Cherry, *The Pioneer State of the West*, 283-285; Collins, *History of Kentucky*, 103-104; Kinkead, *A History of Kentucky*, 188-189. For more information on John Hunt Morgan's raids into Kentucky see Kent Masterson Brown, *The Civil War in Kentucky: Battle for the Bluegrass State* (Mason City, IA: Savas Publishing Co., 2000).

legislature reinstate his control over the state militia. He used the example of Missouri under military rule which resulted in guerilla warfare. Morgan's raid, martial law, and loyalty oaths proved to Magoffin that Kentucky was turning into another Missouri. Furthermore, Magoffin accused the federal government of changing its war goal from preservation of the Union to abolition. He stated, "You have no Government unless it be the Constitution and laws, and Congress cannot abolish slavery in the South by confiscation bills or otherwise, unless it does it by trampling upon the Constitution." Magoffin claimed that Lincoln was a dictator perpetrating unconstitutional acts, attacking property rights through confiscation bills, and using the army to strong-arm people into accepting Republican policies. Magoffin called Kentuckians to "guard [citizen's] liberties" from alleged Republican usurpers.³⁹

Once again, Magoffin noted that Kentucky could still act as the mediator and save the Union with slavery from destruction. Magoffin argued that Kentucky, situated between the North and the South, could mediate a truce between the sections, bring about peace, and reunion through the adoption of the Crittenden Compromise. If war continued, Magoffin warned, then "all will be confusion" and chaos.⁴⁰

In his most stirring writing, Magoffin made a desperate plea for unity:

I would sacrifice position, property – everything save honor, even life itself. I could make no greater sacrifice than this, and I should think it a small one indeed, to preserve the proudest and noblest of all human wisdom, to save the grandest, the greatest, and noblest of all human Governments, the Constitution –

³⁹ *Senate Journal* 1861-1863, 597-599, 603-604; Lowell H. Harrison, "Governor Magoffin and the Secession Crisis" *RKHS* 72 (April 1974): 108.

⁴⁰ *Senate Journal* 1861-1863, 608-610.

the Union of our fathers, and with it the liberties of the People.⁴¹

Magoffin wanted peace and reunion between the South and the North. Such a reunion entailed slavery and the protection of slavery from abolitionists. Unlike the Confederate sympathizers who believed in a perpetual separation of the North and the South, Magoffin believed that the two sections would only temporarily remain separate and that compromise would and could achieve reunion.

But, Magoffin also had an ulterior motive for the special session. The following day, August 16, 1862, Magoffin submitted his resignation to the General Assembly. Magoffin had been seeking a way to resign over the past “twelve or eighteen months.” In a letter to W. A. Dudley, the quartermaster of the State Guards and Magoffin’s friend, Magoffin stated that to resign then would have been misconstrued as admitting to his enemies’ accusations, bowing to threats, and abandoning his supporters to their enemies. He feared that his friends would be persecuted wrongfully as had the judges who denied taking a loyalty oath. He agreed to resign under one condition: naming his successor. Normally, the lieutenant-governor filled the vacant seat of a departed, impeached, or resigned governor. However, Lieutenant-Governor Linn Boyd died in December 1859 leaving the position unoccupied. Magoffin wanted “a conservative, just man, of high position and character” that may differ in opinion to his policies as long as his successor acted fair and within the law. Magoffin and the Unionist legislature agreed upon State Senator James F. Robinson, a Unionist who continued to assist the federal government.⁴²

⁴¹ *Senate Journal*: 1861-1863, 610.

⁴² *Senate Journal*, 1861-1863, 624-625; Harrison, “Governor Magoffin,” 109. On August 19, 1862, Governor Robinson wrote to Governor Richard Yates of Illinois. Robinson informed Yates that he, unlike Magoffin, would work with the Union to preserve the Union. However, Robinson stated that he would preserve the Union as it was and would not support federal regulation of slavery. Richard Yates Papers, 1861-1865, Filson Historical Society, Louisville, KY (uncataloged collection).

In his resignation address, Magoffin claimed he could no longer work with the Unionist legislature, protect civil rights, or use the militia to protect citizens from John Hunt Morgan's raids. By admitting he could no longer lead, Magoffin recognized his principles did not necessarily reflect the principles held by the majority in the General Assembly. The policies of the state legislature no longer corresponded with his conciliatory beliefs or his support for state's rights which included the right to secede and the federal government's inability to effectively respond to secession with force. Magoffin resigned on August 18, 1862 and returned to civil life. After resigning, the Unionist press applauded Magoffin for his political sacrifice. Magoffin made only one trip back into politics as state representative of Mercer County from 1867-1869. He reached the zenith of his political career with his 1859 gubernatorial win and his political nadir three years later with resignation.⁴³

With Magoffin gone from the governor's chair and the new governor a Unionist, the General Assembly rolled back its restrictions on the governor. The General Assembly resolved that the governor possessed the power to call out the Home Guards for service. On August 28, the General Assembly abolished the Military Board restoring the governor as the sole commander-in-chief. Several days later, the General Assembly re-enacted the State Guard Law with several amendments giving the governor the power to hold elections for officers, "full authority" to call out the troops and approve mustered companies. In addition, the General Assembly abolished the Home Guards making them part of the state militia. The act enabled the governor to disband and disarm those companies who refused to cooperate. The governor also held authority to provide arms,

⁴³ *Senate Journal, 1861-1863*, 623-624; Michael T. Dues, "The Pro-Secessionist Governor of Kentucky: Beriah Magoffin's Credibility Gap" *RKHS* 67 (July 1969): 230-231; Harrison, "Governor Magoffin," 109.

transportation, ammunition, and other war materials through purchase or impressment. These actions of the General Assembly following Magoffin's resignation demonstrated its wise lack of trust in Magoffin's leadership. The assembly felt more secure knowing that a governor sitting in Frankfort who would not support a state sovereignty convention or secession.⁴⁴

Magoffin criticized the administration for loyalty oaths and military law. As expressed in his undelivered address in February 1862 and his final two addresses in August 1862, Magoffin believed that the administration had abandoned constitutional law and moved towards despotism. Magoffin worked against the government by supporting the judges in West Kentucky appeal their case and vent against the administration in the undelivered address to the General Assembly in February 1862. The undelivered address and his opposition to the Lincoln administration, and most importantly his vetoes demonstrated Magoffin as an obstructor and resister to Unionist war measures. Magoffin moved towards treason though never fully crossing the thin line between obstructor and treason.

As Marshall had noted, Magoffin was a weak leader. Magoffin would not step outside of his executive role and guide legislation he approved through the state legislature. Instead, Magoffin left legislation to the General Assembly. Magoffin urged and suggested policies to the General Assembly such as restoring his constitutional powers of commander-in-chief or opposition to loyalty oaths. Magoffin did utilize the governor's veto power. Especially in 1861, Magoffin vetoed bills to obstruct the Union troops from conducting the war within Kentucky's borders. However, Magoffin lacked support in the General Assembly that distrusted the governor and resulted in his

⁴⁴ *Acts, 1861-1863*, 261, 269-272.

protesting Union war measures without soldiers or money to enforce his protests.

The General Assembly was fair in distrusting Magoffin. Magoffin perceived the war as a Northern war against the South. According to Magoffin, the Lincoln administration would stop at nothing to suppress the South and curb state's rights through loyalty oaths, confiscation acts, and military rule. Magoffin was strongly biased towards the South and against the Republicans and Lincoln. Yet, the federal government fought to preserve the Union as Lincoln had sworn to do in his presidential oath in 1861. The measures of the federal government may have been questionable to Magoffin, but necessary to weed out traitors and defeat a rebellion that had as its goal the destruction of the Union.

However, the General Assembly was unfair in distrusting Magoffin as a secessionist. In 1861, Magoffin supported a state sovereignty convention as a means to let Kentuckians decide their own fate. However, Magoffin had at least three opportunities to lead a secession movement or flee to the Confederacy in his last year as governor. First, in September 1861, Magoffin could have declared for secession or fled after the General Assembly abandoned neutrality much as Breckinridge and Buckner had done. Second, in December 1861, Magoffin could have agreed with Johnson and accepted his offer to lead the Confederate Government of Kentucky. Lastly, in March 1862, Magoffin could have followed Marshall's advice and redeemed himself in the eyes of Confederate Kentuckians. All three times, Magoffin did not try to secede Kentucky from the Union or flee to the Confederacy. In his response to Johnson in December 1861, Magoffin stated his reason for not seceding or fleeing. As a Democrat, Magoffin believed in majority rule. In Magoffin's eyes, the rival government did not represent the

majority of Kentuckians and therefore was illegitimate and illegal. Magoffin supported a state sovereignty convention for the same reason. The majority of the Kentuckians should decide Kentucky's fate, not one governor, or the few in the General Assembly. In December 1861, Magoffin recognized that the rival government did not represent Kentuckians for the majority had sided with the Union. Magoffin disagreed with the abandonment of neutrality in September 1861 and Marshall's dream that the General Assembly would reinstate neutrality and agree to a state sovereignty convention in March 1862. Magoffin did agree that someone needed to protect the civil liberties of the minority of state's rights men. During the course of the war, Magoffin consistently tried to uphold a strict construction of the Constitution denying the General Assembly or the federal government possessed the authority to lessen civil liberties. Guided by principles, Magoffin did not change or grow with the changing situations. Instead, Magoffin suffered from "principled paralysis." By 1862, stripped of his powers and facing a war he disagreed with Magoffin admitted defeat. Initially trying to obstruct and resist the tide towards Unionism, Magoffin lost touch with what the majority of Kentuckians supported – the Union. Paralyzed by his principles to do anything, Magoffin became a lame-duck whom the General Assembly tolerated until Kentucky could choose another governor in 1863. By 1862, Magoffin was a captain without a ship; a leader without a state to lead. Therefore he resigned.

CONCLUSION

Magoffin lived during a complex time and dealt with difficult issues. The artist who painted the portrait of Beriah Magoffin owned by the Kentucky Historical Society had an easy job. The artist only had to paint what he saw and not the human intricacies of Magoffin. As historians Lowell H. Harrison and Michael T. Dues argued, Magoffin possessed complex and principled political beliefs.¹ Born and raised in Kentucky, Magoffin inherited a political background that was Southern and Jacksonian in influence. As a Southern politician, Magoffin supported slavery and a state's right to its own internal affairs without federal interference. As a Democrat, Magoffin supported Jacksonian principles such as majority rule, distrust of a strong federal government, and sound fiscal spending. As a Kentuckian, Magoffin also inherited a political atmosphere supportive of the Union. For Magoffin, the Union was not perpetual as President Andrew Jackson and Governor John Breathitt had claimed in 1832. Instead, Magoffin believed that a state could secede from the Union as a last resort and after a state had sought recourse in Congress and the federal courts as he had done in *Kentucky v. Dennison*. In addition, Magoffin hoped that statesmen could compromise any crisis without rescinding support for slavery. During his term as governor from 1859 to 1862, Magoffin led Kentucky along his complex and principled political beliefs rooted in both state's

¹ Lowell H. Harrison, "Governor Magoffin and the Secession Crisis" *RKHS* 72 (April 1974): 91-110; Michael T. Dues, "Neither North Nor South: The Rhetoric of Confrontation, Compromise, and Reaction . . ." (Ph.D. diss., Indiana University, 1973).

rights and compromise.

Distrusting a strong executive role, Magoffin led by a hands-off style. The governor suggested policies to the General Assembly and in turn the General Assembly debated and voted on his suggestions. This hands-off approach worked best in the beginning of Magoffin's governorship. In 1859, Magoffin faced John Brown's raid and the possibility of a slave insurrectionist. Brown's raid resulted in hysteria among Southern politicians including Magoffin that the North would invade and lead an insurrection among the slaves. Magoffin realized that the General Assembly needed to pass legislation to deal with the state's poor militia and other measures to defend slavery. Therefore, Magoffin suggested measures that would defend slavery in Kentucky from abolitionists, emancipationists, and insurrectionists. In 1859 and 1860, the General Assembly and Magoffin shared the same concerns over slavery and agreed that action was needed to protect the institution. Magoffin succeeded in getting what he had requested. The General Assembly passed the State Guard Law, regulated the rewards for fugitive slaves, forced freed slaves to leave the state, and used imprisonment and the threat of slavery as punishments for freed African Americans. The General Assembly also followed Magoffin's suggestion on non-slavery related legislation such as election and penitentiary reforms.

During 1859-1860, Magoffin also took his own initiative and was not completely passive in his leadership. In *Kentucky v. Dennison* Magoffin defended slavery by suing Ohio over its personal liberty laws. As a Southerner, Magoffin opposed this Northern measure to circumvent the fugitive slave laws. For Magoffin, Ohio's refusal to extradite Willis Lago proved that the North obstructed the law and hindered Kentucky's right to

slavery. In addition, Magoffin did not object to the expulsion of John G. Fee from the state. With Fee gone, Kentucky rid itself of a perceived Brown-like figure. However, Fee was a non-violent abolitionist and disagreed with Brown's tactics. Magoffin also supported James C. Breckinridge for president in 1860 and opposed the Republican candidate, Abraham Lincoln who in Magoffin's eyes was a "Black Republican" bent on abolishing slavery and strong-arming the slave states to accept it.

Even though Magoffin's choice for president lost the election, Magoffin's first year in office was a success. Magoffin demonstrated a commitment to Southern political values by defending slavery and led the state during the aftermath of the Brown raid on Harper's Ferry. However, Magoffin's political success would not last long. Magoffin's success in 1859 and 1860 contrasted starkly with his failures in 1861 and 1862. The Secession Winter and the Civil War changed Kentucky and national politics. Lincoln had won the presidency; Republicans won control of Congress. South Carolina felt threatened by the majority decision of American voters who voted for Lincoln and seceded. The Deep South followed South Carolina's example and seceded from the Union. The sectional crisis which had festered in 1859 exploded in 1860. As a principled man, Magoffin looked towards compromise to solve the crisis. Magoffin used compromise - the political legacy of Henry Clay. Clay had compromised the sectional crisis in 1820, 1833, and 1850. As a Kentuckian, Magoffin continued the legacy of compromise by trying to compromise the secession crisis as did other Kentucky political leaders such as John J. Crittenden and John C. Breckinridge. However, Magoffin was no Clay but a mediocre politician who wanted to protect slavery by remaining within the Union, and even accepted the constitutionality of secession.

In 1860, Magoffin offered two compromises. In the first compromise, he disagreed with South Carolina's call for a sovereignty convention claiming Lincoln's election did not justify such a drastic measure. Instead of dismissing majority rule through secession, Magoffin supported a united Southern bloc in Congress to prevent Lincoln and the Republicans from enacting laws detrimental to slavery within the states and support slavery's expansion into the territories. Southern politicians ignored Magoffin's proposal. In December 1860, Magoffin again sought compromise. He promoted a convention of Southern slave states to discuss amending the Constitution to safeguard slavery. Again the majority of Southern leaders expressed interest in Magoffin's compromise. Those Southerners who did such as Stephen Hale and Governor A. B. Moore of Alabama did so in the hopes of influencing Magoffin to secede Kentucky from the Union and join the Confederacy. Instead, Hale outlined the "wrongs" the North afflicted on the South and argued that Republican ascendancy would mean the total destruction of Southern society.

Hale's persuasion reinforced Magoffin's erroneous beliefs concerning Republican governance. With the failure of his own compromises, the Crittenden Compromise in the Committee of Thirteen, and John C. Breckinridge's proposal for a border state convention, Magoffin supported a state sovereignty convention. In his January 1861 address, the governor claimed that secession was a fact, and that Kentucky and the federal government must recognize it. Magoffin believed a state possessed the right to secede if the federal government disrespected its rights. Mimicking President James Buchanan, Magoffin added that the federal government and Kentucky could do little to entice the seceded states back into the Union.

Though Magoffin supported a state sovereignty convention, he did not entirely abandon hope for compromise. Magoffin urged the General Assembly to hold a border state convention to provide a united front against the North and the South and force compromise. In his January 1861 address to the General Assembly, Magoffin affirmed that Kentucky would support secession if the federal government coerced the seceded states or if Kentuckians decided otherwise in a convention. In other words, Magoffin rejected the use of military force by the federal government on states which he believed had the right to secede according to the compact theory of the Union, and supported majority rule. Yet, Magoffin interpreted the Confederate bombardment of Fort Sumter as federal coercion. According to Magoffin's January 1861 address, Kentucky should have seceded from the Union. However, Magoffin supported majority rule more so than opposition to federal coercion. Pressured from supporters and opponents of a state sovereignty convention, Magoffin supported a state sovereignty convention because he believed that Kentuckians should make the decision for or against secession and not him or the General Assembly.

As Magoffin supported a state sovereignty convention, Kentuckians petitioned Magoffin and the General Assembly opposing a convention and supported compromise. Instead of calling a convention, the General Assembly supported peace measures such as the Washington Peace Convention and Magoffin's call for a border state convention.

While the General Assembly debated on Kentucky's future, political leaders such as Robert J. Breckinridge spoke not only for compromise but for neutrality. Not until John J. Crittenden spoke before the General Assembly in March 1861 and the failure of the Washington Peace Convention did the idea of meditative neutrality take hold. After

Fort Sumter, Crittenden, Unionist leaders, and public meetings supported meditative neutrality as a means to continue compromise measures and to avoid calling a convention. Once again, Magoffin called for a state sovereignty convention. Yet, Magoffin could not ignore the majority of Kentuckians who called for neutrality. By the mid-May 1861, the state House of Representatives enacted neutrality. Following the lead of the state house and public opinion, Magoffin proclaimed meditative and armed neutrality.

Despite Magoffin's support for neutrality in May 1861, Magoffin's actions over the next year and half caused Kentucky political leaders to question his loyalties. In April and May 1861, Magoffin sought weapons from the Confederates and supported a state sovereignty convention. Supporters of neutrality and the Union perceived Magoffin's actions as the initiation of secession. Countering Magoffin's actions, the General Assembly decreased his powers by stripping him of his commander-in-chief role by means of the Military Board. Originally opposed to neutrality, Magoffin supported the policy because he believed a majority of Kentuckians desired it. However, over time, Kentuckians chose sides and as expressed in the 1861 elections, the majority chose the Union. Yet, in September 1861, Confederate General Leonidas Polk's invasion destroyed any chance of neutrality seceding. Upset over Polk's breach of neutrality, the General Assembly passed a series of acts supporting the Union. Magoffin vetoed these acts in a failed attempt to prevent a war against the South.

Magoffin's vetoes upset the General Assembly. The General Assembly further stripped Magoffin of his powers distrusting the governor even though he opposed the rival Confederate government of Kentucky. Unlike his pro-Confederate friends,

Magoffin remained in Kentucky but held onto his powerless position. Without the responsibilities of commander-in-chief of Kentucky's militia, Magoffin turned towards other issues such as loyalty oaths and resisted the Union war measures. He opposed the Union war efforts because they restricted Kentuckians' civil liberties. However, in reality, the Union war measures served to protect and defend the Union and the Constitution from rebels. As a result of his opposition, the General Assembly further distrusted him and would not restore Magoffin's gubernatorial powers to defend civil liberties of pro-Confederates and pro-Southern Kentuckians. Magoffin's principles of majority rule, limited government, a constitution that upheld state's rights, the protection of civil liberties, and his support for the Union as it was conflicted with the Kentucky Unionists and the Lincoln administration. By 1862, Magoffin experienced "principled paralysis." Magoffin could not support a war he perceived as coercive. Nor could he abandon the Union that had served Kentucky well over the past decades. Coupled with the General Assembly's stripping of his powers, Magoffin ended his governorship. Unable to influence policy as he had done in 1859 and 1860 and defeated politically, Magoffin gave up. The majority of Kentuckians supported the war to preserve the Union even though some may have shared Magoffin's concerns over the federal government's war policies. As he stated to the General Assembly in January 1861, that Kentuckians must face the fact of secession, Magoffin in 1862 faced the fact that he was no longer the chief executive in Kentucky. Stripped of power, Magoffin's position was a shell of what it had been in 1859. By 1862, Magoffin was a casualty of the civil war. Though he did not physically die, Magoffin had died politically. His Southern-Democratic beliefs of state's rights according to the compact theory of the Union, slavery, and the Union as it

was had died.

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