

Oregon State University

States' Rights Nationalists

Governors Joseph Brown and Zebulon Vance versus Conscription

Susannah Dickerson

HST 407: Sem/Civil War Era

Dr. Stacey Smith

Winter 2019

On July 7, 1865, in the post-war uncertainty of Reconstruction, Robert Garlick Hill Kean, former Head of the Confederate Bureau of War, lamented in his diary over the failure of the southern cause. He cited seven reasons for the nation's demise: a bankrupt treasury, soldier desertion, lack of food, insufficient military officers, need of horses, and desertion of slaves. However, it is Kean's shortest cause out of the seven, which is distinctive from its wordier counterparts in its succinct condemnation of four people. Kean blames Vice President Alexander Stephens, Secretary of State Robert Toombs, and Governors Joseph Brown and Zebulon Vance, for creating "faction," or dissention from the Confederate cause.¹ That two of these men were governors of the problematic states of Georgia and North Carolina did not escape the attention of post-war southern apologists. Many men, like Robert Kean, saw Confederate governors engaged in a direct conflict of interest between protecting the rights of their respective states, and meeting the needs of the broader national cause of the Confederacy.

This paper will focus on the Confederate Conscription Act of 1862, as well as its later iterations, and how the policy of drafting soldiers for military service complicated the relationship between certain Confederate governors and the Confederate national government. This act represented the first case of mandatory conscription in United States history, and thus came with an understandable amount of contention. This paper will analyze the cases of two notorious Confederate governors, Joseph E. Brown of Georgia and Zebulon B. Vance of North Carolina, to answer the following research question: Did Confederate governors intentionally obstruct the implementation of the Conscription Act by prioritizing the rights of their individual states over the Confederacy?

As will be discussed later, two camps of historiography have risen to answer this question. Where previous historians envision these governors as either obstructionists or

¹ *The Diary of Robert Garlick Hill Kean*, ed. Edward Younger (New York: Oxford University Press, 1957), 214.

nationalists faithful to the southern cause, this paper argues for the existence of a spectrum between these two polarities. Case studies of Joseph Brown and Zeb Vance illustrate that conscription forced Confederate governors to reconcile their ideas of states' rights with their broader nationalist sentiments. Through this reconciliation, these two governors developed a middle ground approach to conscription as they struggled with what was best for their states, and what was best for the Confederacy

For many historians who have researched Confederate governors, the theme of nationalism vs. states' rights often takes central focus. As mentioned earlier, this is often the bilateral scale that historians judged the governors' actions. The earliest, and most prominent historians to touch on this topic was Frank L. Owsley in the 1920s, when he contended that the Confederacy "Died of State Rights,"² and pointed to Brown and Vance as major antagonists to Confederate nationalism.³ Albert Burton Moore, a contemporary of Owsley, reiterate this point and firmly states that Brown and Vance "pushed forward in State rights when other governors hesitated because of the danger of internal discord."⁴ All the historians that comment on the actions of Joseph Brown of Georgia, from any time period, appear to agree that he put the rights of his state above the needs of the Confederacy.⁵ It was not until later that historians begin to reassess Zeb Vance's actions. Gordon B. McKinney takes the extreme of this argument, asserting that Vance was "a Confederate nationalist who fought for Confederate independence throughout the war years."⁶ Less exuberant, though reiterating a

² Frank L. Owsley, *State Rights in the Confederacy* (Chicago: University of Chicago Press, 1925; Gloucester, Mass.: Peter Smith, 1961), 1.

³ Owsley, *States Rights in the Confederacy*, 203.

⁴ Albert Burton Moore, *Conscription and Conflict in the Confederacy* (New York: Macmillan Co., 1924; Columbia: University of South Carolina Press, 1996), 255.

⁵ Paul D. Escott, "Georgia," in *The Confederate Governors*, ed. W. Buck Yearns (Athens: The University of Georgia Press, 1985), 80; Joseph H. Parks, "State Rights in a Crisis: Governor Joseph E. Brown Versus President Jefferson Davis," *The Journal of Southern History* 32, no. 1 (Feb. 1966): 14, <https://www.jstor.org/stable/2204713>

⁶ Gordon B. McKinney, *Zeb Vance: North Carolina's Civil War Governor and Gilded Age Political Leader* (Chapel Hill: University of North Carolina Press, 2004), 413.

similar point is John G. Barrett, who claims that Vance was uncomfortable with the harsh enforcement of conscription, and only acquiesced to it as "a matter of necessity."⁷

Historians also address whether the governors were acting out of self-interest or trying to protect the people within their state. There seems to be a clear consensus among the historians that Brown and Vance were both popular leaders in their respective states. However, Owsley contends that the governors' main opposition to conscription was its stripping of the governor's constitutional powers.⁸ Parks supports this idea by depicting Governor Brown as a man who felt great pride in the title of Commander-in-Chief of Georgia's troops, and who felt extremely injured when Congress took that right away from him.⁹ Escott argues that Brown was an opportunist who capitalized on unpopular actions taken by the Confederate government in order to make himself more popular among Georgia's citizens, who were largely disillusioned by the war.¹⁰ While Owsley does vaguely apply the same principal to Vance, both McKinney and Barrett represent a very populist view of North Carolina's governor. McKinney argues that Vance was aware of fragile Confederate loyalties in North Carolina, and did his best to assure his constituents that he was protecting their state sovereignty in order to keep them fighting for the Confederate cause.¹¹ Barrett similarly argues that Vance had "deep concern for his native state," always working to strengthen its defenses, and that he only reached conflict with the Confederate government when he felt its national policy to be detrimental to his state.¹²

The final theme historians discuss is the implementation of the Conscription Act, and the exemption of certain officials from service. Both Moore and Owsley argue that Joseph

⁷ John G. Barrett, "North Carolina," in *The Confederate Governors*, ed. W. Buck Years (Athens: The University of Georgia Press, 1985), 153.

⁸ Owsley, *State Rights in the Confederacy*, 204.

⁹ Parks, *State Rights in a Crisis*, 3.

¹⁰ Escott, *Georgia*, 78.

¹¹ McKinney, *Zeb Vance*, 141.

¹² Barrett, *North Carolina*, 152.

Brown and Zeb Vance were so attached to protecting the rights of their states, that they actively obstructed the government through exemption of state officers and militiamen.¹³ Moore diverges slightly from this claim by acknowledging that Vance eventually did begin gathering those eligible for service.¹⁴ McKinney acknowledges that there was contention between Zeb Vance and the Confederacy when he made state officials exempt, but that was necessary to keep the state running, and thus maintain the morale of her soldiers.¹⁵ Moore, Parks, and Escott all acknowledge that while Brown was constantly opposed to conscription, initially he did turn over the men asked of him, and only later did he begin to obstruct it through state-authorized exemptions.¹⁶ Barrett and McKinney both present Vance as an active participant in conscription, actively rounding up deserters that he viewed as damaging the Confederate cause.¹⁷

This paper aims to add new insights and connections between the issues of nationalism vs. states' rights, self-interest vs. the interest of the people, and obstruction vs. assisting implementation. Instead of seeing these arguments in direct conflict to each other—such as the exemption of state officials to the detriment of the Confederate cause—this paper seeks to complicate previous arguments and find a middle ground in which the governors were both Confederate nationalists and strong proponents of states' rights. Whereas the previous historians rationalized that the fate of each state was tied to the Confederacy, this paper seeks to turn that argument around. By using the perspective of the governors, the purpose is to prove that they believed that fighting for states' rights was in line with the Confederate nation's founding principles.

¹³ Owsley, *State Rights in the Confederacy*, 205; Moore, *Conscription and Conflict*, 155-57.

¹⁴ Moore, *Conscription and Conflict*, 156-57.

¹⁵ McKinney, *Zeb Vance*, 143.

¹⁶ Moore, *Conscription and Conflict*, 156; Parks, *State Rights in a Crisis*, 9; Escott, *Georgia*, 73-74.

¹⁷ Barrett, *North Carolina*, 153; McKinney, *Zeb Vance*, 160.

This essay will look at both the words and actions of each governor in order to gain a well-rounded understanding of their intent. One of the downfalls of the historians listed above is that some of them rely more on the letters and words of the governors to make the case that they were obstructionists, with little attention to the actions that these men took. This paper will then try to place the actions and words of Joseph Brown and Zeb Vance within the context of their social and political situations in their respective states, considering both public opinion and opposition that they faced. Finally, this paper considers the relationship between states' rights and Confederate nationalism, and how these two ideologies possibly intersected in the minds of these two men.

This paper will consist of two major parts, analyzing the individual case studies of Joseph Brown and Zebulon Vance in their reactions to conscription. Each section aims to show the initial reaction of each of the governors, their relationship with the Confederate government, their reasons for opposing conscription, and how they both implemented or obstructed it. The purpose of these sections is to show that Joseph Brown and Zeb Vance constantly struggled to balance their roles as representatives of their individual states, and their desire to see the success of southern secession. In particular, they highlight the clash between nationalism and states' rights when considering the latter as the fundamental principle that drove the creation of the Confederacy.

The first half of 1862 marked a tumultuous time for the Confederacy and its armies. Union Victory at Fort Donelson marked one of the bloodiest battles to date, with Confederate casualties estimated at 15,067 men, a number seven times higher than the Union's losses.¹⁸ As William C. Davis points out in his biography of Jefferson Davis, military disasters such as Fort Donelson were exacerbated by a "lack of volunteers to replace both the military men

¹⁸ Union casualties are listed as 2,337 men. "Battle Summary: Fort Donelson, TN" *National Parks Service*, U.S. Department of the Interior, accessed March 1, 2019, <https://www.nps.gov/abpp/battles/tn002.htm>.

lost...and the twelve-months' regiments first enlisted in early 1861 and now ready to muster out."¹⁹ Feeling the pressure of the war and realizing that voluntary service alone would not be enough to bolster the Confederate army, Davis became discontent with the policy of short-term enlistments. On March 28, 1862, Davis wrote to the Confederate Congress to modify the process by which the Confederate government raised its armies. In this letter, Davis wrote that "it is necessary that, in a great war like this,...all persons of intermediate age not legally exempt for good cause should pay their debt of military service to the country, that the burthens should not fall exclusively on the most ardent and patriotic."²⁰ Davis's remarks belied a weariness in the Confederate war effort as it entered its second year, no longer riding the initial fervor of secession. Soldiers and civilians alike, feeling disillusioned by the terrible realities of war illustrated at Fort Donelson, were experiencing a waning enthusiasm to enlist. Davis knew Congress had to act fast.

On April 16, 1862, the Confederate Congress passed the first national Conscription Act in American history.²¹ The Confederate Conscription Act of 1862 drafted "all white men... between the ages of 18 and 35 years...[into the Confederate army] for three years... who [were] not legally exempted from military service."²² The act also extended the service of those already enlisted in the army by three years from their primary enlistment.²³ The Confederate public were greatly incensed when the Conscription Act made it through the Confederate Congress. A contributor for the *Manon Telegraph* in Georgia, reprinted in the *Raleigh Weekly Standard*, called the Conscription Act "a tremendous engine of military

¹⁹ William C. Davis, *Jefferson Davis: The Man and His Hour* (New York: HarperCollins, 1991), 453.

²⁰ "Thirty Fourth Day—Friday, March 28, 1862" in *Journal of the Congress of the Confederate States of America, 1861-1865* (Washington: Government Printing Office, 1905; The Library of Congress), 5:157, <http://tinyurl.com/y6x9gyls>.

²¹ William L. Shaw, "The Confederate Conscription and Exemption Acts," *The American Journal of Legal History* 6, no. 1 (Oct., 1962):374, <https://www.jstor.org/stable/844108>.

²² James M. Matthews, ed., *The Statutes at Large of the Confederate States of America, Commencing with the First Congress; 1862* (Richmond: R.M. Smith, Printer to Congress, 1862; Documenting the American South, 1999), 30, <https://docsouth.unc.edu/imls/statutes/statutes.html>.

²³ Matthews, *The Statutes at Large*.

despotism [and] the devil's own invention for the subjection of liberty."²⁴ The *Western Sentinel* in North Carolina declared that the war should be "fought to the end upon the principles of constitutional law and a free government," and that a "measure so despotic [as conscription was] ill advised."²⁵ Placed precariously between the Confederate national government and the public were the state governors. Section 3 of the Conscription Act required the president ask the consent of the respective governors to employ state officers in the enrollment of conscripts, or else use their own Confederate officers.²⁶ This is the only right allocated to the state governors by the act, creating friction at this apparent over-step by the national government. No governor was louder in his discontent with the Conscription Act than Joseph E. Brown of Georgia.

Early in the days of secession, Brown marked himself as a man that did not follow the status quo, nor wait for things to work themselves out. After Lincoln won the presidency in 1860, Brown warned that his leadership would lead to the "utter ruin of the South in less than twenty-five years...[and] if we fail to resist now, we will never again have the strength to resist."²⁷ Before becoming governor, Brown had worked twenty years as a lawyer and Circuit Judge, familiarizing himself with all aspects of the law and how to effectively litigate it.²⁸ When accepting his gubernatorial nomination by the Democratic party, Brown made it clear that he stood for the Constitution and the preservation of states' rights against "fanaticism and error."²⁹ Where other governors acquiesced to the Conscription Act while still questioning its constitutionality, Brown constantly questioned, and in some cases impeded, the authority of

²⁴ "Military Conscription," *Raleigh Weekly Standard*, April 16, 1862, <https://cwnc.omeka.chass.ncsu.edu/files/original/f8e294151a22c7c7dfe2750e35f27bf5.jpg>

²⁵ "The Conscription Bill," *Western Sentinel*, April 18, 1862, <http://tinyurl.com/yyo9tgld>.

²⁶ Matthews, *The Statutes at Large*, 31.

²⁷ Joseph Howard Parks, *Joseph E. Brown of Georgia* (Baton Rouge: LSU Press, 1999; Google Books), 115, https://books.google.com/books?id=NhSyPM9smq8C&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

²⁸ Parks, *Joseph E. Brown of Georgia*, 17.

²⁹ Parks, *Joseph E. Brown of Georgia*, 28.

the President and the Confederate Congress. It is for this reason that historians described Brown as an obstructionist to conscription and Confederate nationalism.

This paper argues that Brown's states' rights stance and commitment to constitutionality was in-line with his understanding of Confederate nationalism. In a letter sent to Jefferson Davis on April 22, 1862, Brown addressed the recent passing of the Conscription Act. Brown was clear that while he preferred to keep all of Georgia's troops within state lines, he did not dare to cause conflict with the Confederate government "in the face of the enemy."³⁰ It was due to this necessity that Brown transferred into the command of Confederate General Lawton, "not only the conscripts of the state army, but also those not conscripts for the unexpired term of their enlistment."³¹ From the early part of this letter, it seems clear that Brown acquiesced to the wishes of the Confederate government, despite his own reservations. He asserted that Georgia had always responded promptly to every call for troops prior to conscription, even giving more men than requested. With over 60,000 troops sent, and a willingness to send 20,000 more if asked, Brown began to make the argument that he was already willing to meet the Confederacy's call for troops. Jefferson Davis could not make the case that a law was necessary to force the states to provide troops when Brown had always met every quota for men.³² Instead, Brown argued that conscription put it within the power of the President to "disorganize [state] troops, which she was compelled to call into the field for her own defense... [and the power] to destroy her State government by disbanding her law-making power."³³ It is here that Joseph Brown began to make his demands for exemptions that became his most well-known obstructionist tool. Brown insisted that he would not permit the enrollment of members of Georgia's General Assembly, or any other

³⁰ Joseph E. Brown to President Jefferson Davis, 22 April 1862, in *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*, series 4, vol. 1 (Washington, D.C.: Government Printing Office, 1900; InfoWeb), 1083, <http://tinyurl.com/y5o8hx6l>.

³¹ Brown, *The War of the Rebellion*, vol. 1, 1083.

³² Brown, *The War of the Rebellion*, vol. 1.

³³ Brown, *The War of the Rebellion*, vol. 1.

members of the executive department, nor people that held jobs necessary for the state to function.³⁴ There were a couple of exemptions, such as plantation overseers, that Brown asked for without demanding, only considered "as the public necessity may require."³⁵

Two things become clear from this letter. First, Brown undeniably obstructed the application of conscription in Georgia by refusing to enroll people that he perceived as necessary to the function of the state. However, under section 3 of the Conscription Act, the governor did not have to consent to using state officers and resources to collect conscripts for the Confederate army, as Brown reiterated in his letter.³⁶ Next, it is apparent that the larger issue was not taking troops out of the state, but rather denying the state the power to choose who to send. As governor, Joseph Brown saw what occupations were vital to state function, and before conscription he could choose men from less-vital sectors. Brown made a reasonable argument by claiming that the broad nature of the initial Conscription Act had the propensity to disrupt important functions of the state. While the Confederacy did need troops to bolster its army, it also relied on the stability of the states to enforce laws, move resources, and collect taxes and supplies. In taking away the power of the governors to decide who was dispensable, the Confederate government not only offended the pride of the states, but threatened the stability of their infrastructure. As the elected representative of the state, Joseph Brown understood his job to mean representing Georgia's interests to the Confederate government and not concede when he did not perceive the necessity to do so.

Joseph Brown's main argument against the Conscription Act dealt with the question of its constitutionality. In a letter to Davis published in the *Richmond Enquirer* in June of

³⁴ Brown, *The War of the Rebellion*, vol. 1, 1083-1084. Joseph Brown lists his demands for exemptions as follows: Members of the General Assembly, supreme and superior court judges, secretaries of the executive board, heads and clerks of other departments of the State Government, tax collectors; staff of the commander-in-chief, state quartermaster, commissary, ordnance, engineer departments; major general, brigadier generals, and other field officers of the militia; Western and Atlantic Railroad officers and workmen; cadets at the Georgia Military Institute; plantation overseers; persons engaged in the branch of manufacturing.

³⁵ Brown, *The War of the Rebellion*, vol. 1, 1084.

³⁶ Brown, *The War of the Rebellion*, vol. 1, 1085.

1862, Brown made his lengthy argument that conscription overstepped the constitutional power given to Congress in times of war, and violated each state's rights to maintain its own militia and appoint officers.³⁷ In this letter, Brown made a semantic argument by questioning the meaning of the president's right to "raise armies." Brown pointed out that there was a distinct difference between Congress calling forth the state militias versus calling forth all men in the state who compose it. He claims that, "in the one case you term it *calling forth the militia*; and admit that the State has the right to appoint the officers.—In the other case, while every man called forth may be the same, you term it raising an army and deny to the State the appointment of officers."³⁸ It is important to acknowledge that Joseph Brown was deeply involved with his own state's militia. After Brown was re-elected as governor in 1859, he turned his attention to the neglected military organization of the state, recommending the creation of volunteer corps. He suspended all existing laws pertaining to military service in order to leave the volunteer corps as the sole fighting force in Georgia.³⁹ As Georgia's only fighting force, and one which he was heavily involved in creating, Brown felt his rights ignored when Congress stripped away his militia, and he was no longer in control of it. This frustration was not soothed when he wrote to Davis, and received the response that Congress was the only judge of conscription's constitutionality and necessity.⁴⁰

The idea that Congress could translate the Constitution in any way it saw fit conflicted greatly with the ideas of southern secession and state sovereignty. From Brown's understanding, the Constitution was not created to centralize power within Congress and the presidency, but rather to give to these entities "limited powers, to be exercised for the good of all the principals...[therefore, the national government] was expected to be rather the servant

³⁷ Joseph E. Brown, "Answer of Gov. Brown to President Davis," *Richmond Enquirer*, June 21, 1862, <http://tinyurl.com/y2qbnfhj>.

³⁸ Brown, "Answer of Gov. Brown to President Davis," June 21, 1862.

³⁹ Parks, *Joseph E. Brown of Georgia*, 92.

⁴⁰ From a quote attributed to Jefferson Davis by Joseph located at the bottom of the second column. Brown, "Answer of Gov. Brown to President Davis," June 21, 1862.

of several masters than the master of several servants."⁴¹ This was not the case, however, when Congress enacted laws which, as Brown would claim, had no constitutional basis. Joseph Brown attempted to prove this by using the Attorney General's argument that constitutional terms carried Great Britain's definition of these words from the Revolutionary War. Brown applied these definitions to the terms "armies," and to "raise armies," and contended that Great Britain did not have a Conscription Act. Therefore, the term of "raising armies" could not mean forced conscription, and Brown would argue that neither could the Confederate Constitution.⁴²

Joseph Brown could not abide by any form of Confederate nationalism that did not prioritize the constitutional rights of the states. He clearly expressed this sentiment in his letter to Jefferson Davis on May 9, 1862, saying:

"Should you at any time need additional troops from Georgia to fill up her just quota, in proportion to the number furnished by the other States, you have only to call on the Executive for the number required to be organized and offered as the Constitution directs, and your call will, as it ever has done, meet a prompt response from her noble and patriotic people, who, while they will watch with a jealous eye, even in the midst of revolution, every attempt to undermine their constitutional rights, will never content to be behind the foremost in the discharge of their whole duty."⁴³

The issue was not whether Joseph Brown and the state of Georgia were willing to fight for the Confederate cause, but rather the importance Brown placed on their choice in the matter. Albert Moore, Joseph Parks, and Paul Escott all acknowledge that despite voicing his disapproval, Brown always furnished the troops required of his state before the enactment of conscription.⁴⁴ Brown did not obstruct conscription because he was not a Confederate nationalist, but rather because he did not see conscription as representative of the Confederate

⁴¹ Brown, "Answer of Gov. Brown to President Davis," June 21, 1862.

⁴² Brown, "Answer of Gov. Brown to President Davis," June 21, 1862.

⁴³ Joseph E. Brown to President Jefferson Davis, 9 May 1862, in *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*, series 4, vol. 1 (Washington, D.C.: Government Printing Office, 1900; InfoWeb), 1120, <http://tinyurl.com/y459s7o4>.

⁴⁴ Moore, *Conscription and Conflict*, 156; Parks, *State Rights in a Crisis*, 9; Escott, *Georgia*, 73-74.

values that he supported. In seceding from the Union early on, Brown showed that he was not willing to stand with a country that he did not believe upheld the principles of its own constitution. Throughout his letters, Brown showed a steadfast commitment to the Confederate cause as long as it was faithful to the commitment to uphold states' rights. Joseph Brown thus found himself in an odd dichotomy, in which he was a nationalist to the states' rights focused Confederacy that seceded from the Union, and an obstructionist to the Confederate government that used the argument of necessity to centralize its power.

Unlike Brown, Zebulon Vance initially condemned secession, and quickly made a name for himself in the United States Congress as a leading southern Unionist who preached for peace and union.⁴⁵ As recounted by Vance biographer Gordon B. McKinney, Vance found himself in a precarious situation when Lincoln was elected to the presidency without the support of the southern states. In response, Vance expressed an uneasy commitment to the Union that was conditional on Lincoln's ability to be a national president that represented the interests of both North and South.⁴⁶ Still, Vance ardently believed that secession was not the answer to southern grievances, acquiescing that only his sense of solidarity with southern border states would compel North Carolina to secede.⁴⁷ Later, Vance turned the question of secession over to North Carolina's citizens by calling on a state convention to address the issue. McKinney argues that Vance "sensed the tremendous toll on popular morale that the strife would take [and stressed that] it was terribly important that the entire free population be involved in the discussion of the secession issue."⁴⁸ Ultimately, the first shots fired at Fort Sumter forced a reluctant Vance to cast his fortunes with southern secession, replacing his initial uncertainty with anger toward Lincoln and a desire to "defend the honor and dignity of

⁴⁵ McKinney, *Zeb Vance*, 71, 76.

⁴⁶ McKinney, *Zeb Vance*, 71.

⁴⁷ McKinney, *Zeb Vance*.

⁴⁸ McKinney, *Zeb Vance*, 73.

[his] State to the last extremity."⁴⁹ In his activities leading up to secession, it is clear that despite having the same sentiment of extreme loyalty to his state and its interests, Vance did not represent the same disruptive political spirit that motivated Joseph Brown. Instead, he had a strong sense of nationalism and understood the importance of union, only disrupting it when he felt leaders had not lived up to their promises or respected the needs and rights of his state.

When the Civil War commenced, Zeb Vance dropped his political work to raise a company of guards to join the fighting, and was later elected as colonel of the Twenty-Sixth North Carolina Regiment.⁵⁰ From the beginning, it is hard to question Vance's commitment to the Confederate cause, for which he helped raise troops, "train a regiment, and fought in two battles without making any major mistake."⁵¹ He quickly became a local hero, known for his courage and concern for the soldiers under his command.⁵² When Congress passed conscription in April of 1862, far from obstructing its application, Vance wrote to the North Carolina newspapers that he had received permission from the Secretary of War to "raise a legion for the war."⁵³ In line with the policy of the Conscription Act, Vance offered one hundred dollars to each man who enlisted and the "best arms and equipment to be had in the Confederacy."⁵⁴ This shows that Zeb Vance was fully committed to the Confederate war effort, in which his active participation in the army both met his needs to protect his state and fight for the broader Confederate cause. The fact that he fought in the war is what ultimately gave him the advantage in the gubernatorial race in the summer of 1862. Vance was able to secure two-thirds of the army vote, and three-quarters of the civilian vote, winning the first

⁴⁹ McKinney, *Zeb Vance*, 76.

⁵⁰ Barrett, *North Carolina*, 150.

⁵¹ McKinney, *Zeb Vance*, 96.

⁵² McKinney, *Zeb Vance*.

⁵³ Zebulon Vance to North Carolina Newspaper, 18 April 1862, in *The Papers of Zebulon Baird Vance*, ed. Frontis W. Johnston, vol. 1 (Raleigh: State Department of Archives and History, 1963), 133.

⁵⁴ Vance, *The Papers of Zebulon Baird Vance*.

land-slide election in North Carolina history.⁵⁵ When Vance arrived in Raleigh at the beginning of his term, he addressed the crowd and made clear that his primary focus was "to beat back the invaders and establish the independence of this glorious Confederation of States."⁵⁶

With the large support of North Carolina's population came the weight of protecting the interest of the people that depended on him and maintaining their dedication to the Confederate cause. However, Vance's support of conscription began to wane, and not because he was fundamentally opposed to it. Vance's personal opinion was similar to Brown's in that he viewed conscription as harsh, but acquiesced to it as a "matter of necessity."⁵⁷ While other governors avoided the topic leaving the task of conscription to Confederate conscription officers, Vance used the state militia to enroll those eligible, and proclaimed that resistance was equal to treason.⁵⁸ As historian John G. Barrett points out, Vance was so committed to administering the Conscription Act that North Carolina "provided the Confederate army with seven thousand more conscripts than any other state."⁵⁹ Problems only began to arise once Vance and the people of North Carolina began to feel that the Confederate government was not as committed to helping them.

Conflict emerged early on when Vance perceived that Jefferson Davis had reneged on his promise to allow conscripts who had enlisted willingly to choose their own regiments. In a letter to Davis on October 25, 1862, Vance made it clear his understanding that Davis and the Secretary of War had agreed upon this arrangement. Despite this, he was "much surprised and grieved to find an order coming from the Secretary to Major Mallett to disregard any

⁵⁵ McKinney, *Zeb Vance*, 106.

⁵⁶ "Col. Vance, The Governor Elect.," *The North Carolina Standard*, August 20, 1862, <https://newspaperarchive.com/weekly-standard-aug-20-1862-p-3/>.

⁵⁷ Barrett, *North Carolina*, 153.

⁵⁸ Barrett, *North Carolina*.

⁵⁹ Barrett, *North Carolina*.

order to this effect... and to place them all in certain brigades under General French."⁶⁰

Vance warned Davis that it was his own popularity as governor that allowed him to convince the people of North Carolina, who had been "eminently conservative and jealous of their political rights," of the necessity of conscription.⁶¹ This was in no small part due to the promise that they could choose their regiments and have local officers lead them. As Gordon B. McKinney points out, Vance was well aware that "any violation of state sovereignty would be greatly resented by many North Carolinians," who were not excited by the prospect of secession since the beginning.⁶² Vance worked hard to keep public opinion in favor of the Confederate cause, but found it difficult when the government in Richmond failed to uphold its promises. In the same letter, Vance made it clear that he could not continue to work on behalf of the Confederacy if, "West Point generals who know much less of human nature than [him, were] to ride roughshod over the people drag them from their homes and assign them...to strange regiments and strange commanders without regard to their wishes or feelings."⁶³ The incident suggested that the government in Richmond would not show the same commitment to the well-being of the states as it expected the states to show towards the Confederacy.

This unequal relationship troubled Vance's political career during the Civil War. He was one of the few governors to involve state authorities in rounding up conscripts and deserters to aid the Confederacy, but received very little aid back for his state.⁶⁴ Since the beginning of the war, much of the eastern and coastal region of North Carolina had been under federal control, conducting raids "as far west as Goldsboro," just 50 miles from

⁶⁰ Zebulon B. Vance to Jefferson Davis, 25 October 1862, in *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*, series 4, vol. 2 (Washington, D.C.: Government Printing Office, 1900; Google Books), 146,

<https://play.google.com/books/reader?id=5w1HAQAIAAJ&hl=en&pg=GBS.PA460>

⁶¹ Vance, *The War of the Rebellion*, vol. 2, 147.

⁶² McKinney, *Zeb Vance*, 140-141.

⁶³ Vance, *The War of Rebellion*, vol. 2, 147.

⁶⁴ Barrett, *North Carolina* 153.

Raleigh.⁶⁵ In the western counties Vance had problems with "bands of marauding deserters and refugees," for which he asked for aid from the government in Richmond and received a lukewarm response.⁶⁶ It angered Vance to find that "neither Davis nor Lee [were] inclined to weaken the Virginia front to an great extent," by sending a large number of troops into North Carolina.⁶⁷ This frustrated Vance to no end, as he pointed out in a letter to Jefferson Davis in March of 1863:

"[the execution of Conscription] in North Carolina has stripped it so bare of its laboring and official population as to render its further operation a matter of anxiety in various respects. In addition to sweeping off a large class whose labor was, I fear, absolutely necessary to the existence of the women and children left behind, the hand of Conscription has at length laid hold upon a class of officials without whose aid the order and wellbeing of society could not be preserved nor the execution of the laws enforced, and whose Conscription is as insulting to the dignity as it is certainly violative of the rights and sovereignty of the State"⁶⁸

Vance was thus put in a tough position when he realized that conscription, combined with the demands of war, had drained North Carolina of all its resources, and that he could not depend on the Confederate government for assistance. With this realization, Vance had to make the hard choice between his state and the Confederacy.

Vance never refused to aid in conscription, nor did he waver in his effort to round up deserters. However, in March of 1863 he made it clear to Jefferson Davis that he could not concede to the conscription of vital state officials "who could do little toward increasing the ranks or officering of the Army but who as a part of the government are deemed necessary at

⁶⁵ Barrett, *North Carolina*, 150.

⁶⁶ James A. Seddon to Gov. Zebulon B. Vance, 26 March 1863, United States War Records Office, *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*, series 4, vol. 2 (Washington, D.C.: Government Printing Office, 1900; Google Books), 460-461, <https://play.google.com/books/reader?id=5w1HAQAIAAJ&hl=en&pg=GBS.PA460>

⁶⁷ Barrett, *North Carolina*, 151.

⁶⁸ Zebulon B. Vance to Jefferson Davis, 31 March 1863, United States War Records Office, *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*, series 4, vol. 2 (Washington, D.C.: Government Printing Office, 1900; Google Books), 464. <https://play.google.com/books/reader?id=5w1HAQAIAAJ&hl=en&pg=GBS.PA460>

home."⁶⁹ Vance asked for the exemption of the magistracy of the state, who "levy more than half the taxes of the State, assess all the property for taxation, provide for the poor," and render the proceedings of the law valid.⁷⁰ He also asked that municipal officers be exempt, including mayors and police officers, whose absence would turn the state over to "lawlessness and anarchy...[leaving Vance] at a loss to know what would be left of the power or sovereignty of this State or any other."⁷¹ Vance also sent a letter to Colonel August, the commandant of conscripts assigned to North Carolina, informing him that he would not permit the enrollment of state officers whom he viewed as vital to the function of the state.⁷² When Vance failed to get the central government to change its position, he turned to North Carolina's delegation in the Confederate Congress to pass a law exempting all the officers that Vance saw as vital to state function.⁷³ It was at this point that Vance began to obstruct conscription as a matter of necessity to bring balance back to his state after his steadfast application of conscription drained it of the forces necessary to protect and maintain it.

To question Vance's commitment to the Confederacy is to ignore how he fought constantly for it, both on the battlefield against Union soldiers, and politically to his constituents who distrusted the government in Richmond. It was easy for Vance to commit to the Confederate cause when it did not prove to be in direct conflict with the commitment and responsibility he had to his state. However, when Jefferson Davis and the Confederate government failed to furnish troops for North Carolina's defense, reneged on promises, and ignored Vance's requests for exemptions, it became clear to Vance that they had gone too far. As governor, it was his job to be a representative of his people and to fight for the well-being of his state. Vance made it clear that while he was committed to the Confederacy and would

⁶⁹ Vance, *The War of the Rebellion*, vol. 2.

⁷⁰ Vance, *The War of the Rebellion*, vol. 2.

⁷¹ Vance, *The War of the Rebellion*, vol. 2, 465.

⁷² Barrett, *North Carolina*, 155.

⁷³ Barrett, *North Carolina*.

enact conscription as a matter of necessity, he would not allow the government to overreach in its application to the point that his state could not function.

In his book, *The Rise and Fall of the Confederate Government*, Jefferson Davis recounted what led many southern states to secede. He claimed that "when a constitutional Government once oversteps the limits fixed for the exercise of its powers, there is nothing beyond to check its further aggression, no place where it will voluntarily halt until it reaches the subjugation of all who resist the usurpation."⁷⁴ This slippery slope concept permeated many southerners' minds when it came to the expropriation of certain inalienable rights, and unsurprisingly it became the driving idea behind protests against conscription. Governors such as Joseph Brown and Zebulon Vance were clearly committed to the Confederate war effort, but became uncomfortable with conscription's apparent over-reach that threatened the stability of their states. After all, it was the U.S. government's disregard for state sovereignty that led many southern states to secede and create the Confederacy, and the idea of home-rule that made many southerners willing to fight for it. When the Confederate government disregarded the sovereignty of the states through the Conscription Act, it placed governors in the difficult situation of choosing between their state and their nation. However, Joseph Brown and Zeb Vance were easily able to rationalize obstruction as necessary to protecting states' rights, which they saw as the promise and founding principle of the Confederacy.

The passage of the first Conscription Act in U.S. history forced Confederate governors to reconcile their beliefs of state sovereignty with their desire to see the South win the Civil War. Governors' reactions to conscription connects to a larger historical question that historians have asked repeatedly: why did the South lose the Civil War? Returning to Robert Garlick Hill Kean from the introduction, the South lost the Civil War for a myriad of

⁷⁴ Jefferson Davis, *The Rise and Fall of the Confederate Government* (New York: D. Appelton and Company, 1881), 293.

reasons, many of which had to do with internal division and waning enthusiasm. Historians like Frank L. Owsley and Albert Burton Moore reiterated this point when they blamed governors' commitments to states' rights as failing to create a unified front against northern aggression. However, through the case studies of Joseph Brown and Zebulon Vance, this paper has instead argued that it was the failure of the Confederacy to protect the sovereignty of the states that created much of this internal division. For both Zeb Vance and Joseph Brown, it was the idea of state sovereignty that led them to secede from the Union, and prevented them from completely bowing to the demands of Jefferson Davis and the Confederate Congress. This was not because they wished to see the Confederacy fail, but rather because they believed that protecting the sovereignty of the states was a central Confederate ideal. The Confederate government's failure to uphold the ideal of state sovereignty in the eyes of many southerners, including the governors, created the internal division that weakened the Confederate cause and led to its downfall.

Bibliography

Primary Sources:

- Brown, Joseph E. Joseph E. Brown to President Jefferson Davis, 22 April 1862. In *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*. Series 4. Vol. 1. Washington, D.C.: Government Printing Office, 1900; InfoWeb. <http://tinyurl.com/y5o8hx6l>.
- Brown, Joseph E. Joseph E. Brown to President Jefferson Davis, 9 May 1862. In *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*. Series 4. Vol. 1. Washington, D.C.: Government Printing Office, 1900; InfoWeb. <http://tinyurl.com/y459s7o4>.
- Brown, Joseph E. "Answer of Gov. Brown to President Davis." *Richmond Enquirer*, June 21, 1862. <http://tinyurl.com/y2qbnfhj>.
- "The Conscription Bill." *Western Sentinel*, April 18, 1862. <http://tinyurl.com/yyo9tgld>.
- Davis, Jefferson. *The Rise and Fall of the Confederate Government*. New York: D. Appelton and Company, 1881.
- Kean, Robert. *The Diary of Robert Garlick Hill Kean*. Edited by Edward Younger. New York: Oxford University Press, 1957.
- "Military Conscription." *Raleigh Weekly Standard*, April 16, 1862. <https://cwnc.omeka.chass.ncsu.edu/files/original/f8e294151a22c7c7dfe2750e35f27bf5.jpg>.
- Seddon, James A. James A. Seddon to Gov. Zebulon B. Vance, 26 March 1863. In *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*. Series 4. Vol. 2. Washington, D.C.: Government Printing Office, 1900; Google Books. <https://play.google.com/books/reader?id=5w1HAQAAIAAJ&hl=en&pg=GBS.PA460>
- "Thirty Fourth Day—Friday, March 28, 1862." In *Journal of the Congress of the Confederate States of America, 1861-1865*. Vol. 5. Washington: Government Printing Office, 1905; The Library of Congress, 153-159. <http://tinyurl.com/y6x9gyls>.
- Vance, Zebulon B. Zebulon Vance to North Carolina Newspaper, 18 April 1862. In *The Papers of Zebulon Baird Vance*, edited by Frontis W. Johnston. Vol. 1. Raleigh: State Department of Archives and History, 1963.
- Vance, Zebulon B. Zebulon B. Vance to Jefferson Davis, 25 October 1862. In *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*. Series 4. Vol. 2. Washington, D.C.: Government Printing Office, 1900; Google Books. <https://play.google.com/books/reader?id=5w1HAQAAIAAJ&hl=en&pg=GBS.PA460>

Vance, Zebulon B. Zebulon B. Vance to Jefferson Davis, 31 March 1863. In *The War of the Rebellion: a Compilation of the Official Records of the Union And Confederate Armies*. Series 4. Vol. 2. Washington, D.C.: Government Printing Office, 1900; Google Books.
<https://play.google.com/books/reader?id=5w1HAQAIAAJ&hl=en&pg=GBS.PA460>

Secondary Sources:

- Barrett, John G. "North Carolina." In *The Confederate Governors*, edited by W. Buck Yearns, 140-161. Athens: The University of Georgia Press, 1985.
- Davis, William C. *Jefferson Davis: The Man and His Hour*. New York: HarperCollins, 1991.
- Escott, Paul D. "Georgia." In *The Confederate Governors*, edited by W. Buck Yearns, 69-82. Athens: The University of Georgia Press, 1985.
- Matthews, James M., ed. *The Statutes at Large of the Confederate States of America, Commencing with the First Congress; 1862*. Richmond: R.M. Smith, Printer to Congress, 1862; Documenting the American South, 1999.
<https://docsouth.unc.edu/imls/statutes/statutes.html>.
- McKinney, Gordon B. *Zeb Vance: North Carolina's Civil War Governor and Gilded Age Political Leader*. Chapel Hill: University of North Carolina Press, 2004.
- Moore, Albert Burton. *Conscription and Conflict in the Confederacy*. New York: Macmillan Co., 1924; Columbia: University of South Carolina Press, 1996.
- Owsley, Frank L. *State Rights in the Confederacy*. Chicago: University of Chicago Press, 1925; Gloucester, Mass.: Peter Smith, 1961.
- Parks, Joseph Howard. *Joseph E. Brown of Georgia*. Baton Rouge: LSU Press, 1999; Google Books. https://books.google.com/books?id=NhSyPM9smq8C&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.
- Parks, Joseph H. "State Rights in a Crisis: Governor Joseph E. Brown Versus President Jefferson Davis." *The Journal of Southern History* 32, no. 1 (Feb. 1966): 3-24.
<https://www.jstor.org/stable/2204713>.
- Shaw, William L. "The Confederate Conscription and Exemption Acts." *The American Journal of Legal History* 6, no. 1 (Oct., 1962): 368-405.
<https://www.jstor.org/stable/844108>.
- U.S. Department of the Interior. "Battle Summary: Fort Donelson, TN." *National Parks Service*. Accessed March 1, 2019. <https://www.nps.gov/abpp/battles/tn002.htm>.