

Perspectives  
in  
HISTORY

*ALPHA BETA PHI*  
*CHAPTER*  
*PHI ALPHA THETA*



JOURNAL OF THE ALPHA BETA PHI  
CHAPTER OF PHI ALPHA THETA

**Perspectives  
in  
HISTORY**

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Vol. XII, 1996-1997

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## FOREWORD

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It is with a profound sense of satisfaction that I write these few words about Alpha Beta Phi Chapter's *Perspectives in History*. The quality of scholarship in these articles is quite apparent through each author's enthusiasm for their respective topics. The experience of acting as editor has proven to be very rewarding.

A publication, such as this one, is not produced without the aid and influence of many people. The most important of these people is chapter advisor Dr. Jim Ramage. His inspiration and untiring devotion to the chapter are reflected in every page. Additionally, many thanks need to be given to Jan Rachford and Bertie Sandy for their help with inputting various drafts of these papers onto computer disks, for aiding in multi-faceted forms of technical support, and for always being cheerful in their endeavors. I would also like to thank Dr. Frank Steely and Dr. Doug Knerr for reviewing various articles contained herein. Dr. Robert C. Vitz, Chair of the History and Geography Department, has supported the journal with enthusiasm, and Dr. Rogers Redding, Dean of the College of Arts and Sciences, continues to encourage the publication. The editors are grateful to Kathy Stewart and University Relations and Kathy Dawn and the staff in Printing Services for their careful work in producing and printing this volume.

A final word of thanks and appreciation goes to those authors who have contributed their work to the journal. Their work is presented here as a testament to their highly regarded skills as historians. I thank them for their submissions and for their help in producing this volume.

Sarah E. Adams  
Editor and President





# **“I’m Not A Draft Evader . . . I’m A Runaway Slave:” African-Americans and Draft Resistance During the Vietnam War**

**by  
James E. Westheider**

On January 6, 1966, John Lewis, an official of the Student Non-Violent Coordinating Committee (SNCC) issued a statement condemning American participation in the Vietnam War and the use of the draft to raise the manpower needed in the conflict. Lewis stated that SNCC was “in sympathy with and supports the men in this country who are unwilling to respond to a military draft which would compel them to contribute their lives to United States aggression in Vietnam . . . in the name of the “freedom” we find so false in this country.”<sup>1</sup>

In the following weeks, SNCC’s stance on the draft would gain the support of many prominent black leaders, including Congressmen Adam Clayton Powell and John Conyers, Georgia State Representative-Elect Julian Bond, and the Black Panther Party’s Eldridge Cleaver.<sup>2</sup> Dr. Martin Luther King Jr. would not go as far as to endorse SNCC’s anti-draft policies, but he did urge all those opposed to the draft to seek Conscientious Objector (C.O.) status.<sup>3</sup>

African-Americans often opposed the draft for many of the same reasons cited by whites. Both argued that the war in Vietnam was illegal and immoral, and that it was wrong to force anyone to participate in the conflict against their will.<sup>4</sup> But in addition to these common concerns, African-Americans often had other reasons unique to the black community for opposing the Selective Service system. Some, like NAACP Executive Secretary Roy Wilkins, and Detroit Congressman Charles C. Diggs were conservative in their approach, and did not necessarily oppose the war or the draft, but felt the present system was unfair and simply wanted the inequities corrected. A few, like Army Colonel John Thomas Martin, even believed that in some respects the draft was beneficial to young black males because it rescued them from the ghetto and provided them with educational and economic opportunities.<sup>5</sup>

Most young African-American leaders, however, usually held a far more critical view of the draft, and like John Lewis and SNCC, they opposed it on both philosophical and political grounds. Essentially, they argued that since African-Americans were not accorded the rights and privileges of citizenship, they were not

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James E. Westheider received his Ph.D. from the University of Cincinnati in 1993, and is currently full-time lecturer at Northern Kentucky University. His book on the African-American experience in Vietnam, *Fighting on Two Fronts: African-Americans and the Vietnam War*, has just been published by New York University Press.

obligated to fight and possibly die, for the United States.<sup>6</sup> This position was one of the most important and powerful arguments given by African-Americans in the anti-draft movement, and significantly, it was one of the first justifications cited by black activists. As early as New Year's Eve, 1964, Malcolm X, in a speech in McComb, Mississippi, condemned the Selective Service system on these grounds, stating that the U.S. Government was the most "hypocritical since the world began," because it "was supposed to be a democracy, supposed to be for freedom," but, "they want to draft you . . . and send you to Saigon to fight for them," even though you still have to fight for the "right to register and vote without being murdered."<sup>7</sup>

It was a position echoed by many draft age African-Americans. "White people intellectualize," explained University of California student Leonard Henderson in 1968. "We have a different reason for not going. We haven't enjoyed the benefits of this society. The whites are resisting as citizens. We resist on the grounds we aren't citizens. He who has no country should not fight for it."<sup>8</sup> One young African-American who avoided the draft by going to Canada put it more succinctly: "I'm not a draft evader," he explained, "I'm a runaway slave. I left because I was not going to fight white America's war."<sup>9</sup>

To many of the young radicals the draft was viewed as simply one facet of an overall plan to use African-Americans to fight white America's racist war against the Vietnamese people. Young blacks were being channeled into the military, either indirectly because of a lack of opportunity in the civilian sector, forcing them to seek employment in the Armed Forces, or by the more direct and coercive draft. Once forced into the military, a racially based system of testing, training, and assignment worked to keep blacks out of the more lucrative and rewarding technical fields, and concentrated them into combat units. Consequently, a young African-American was far more likely to be drafted, sent to Vietnam, and killed, than a young white male. Some even expressed the fear that the draft was actually a sinister attempt to systematically murder young African-Americans. Walter Collins of SNCC voiced these concerns when he denounced the draft as "a totalitarian instrument used to practice genocide against black people,"<sup>10</sup> a theme often reflected in the pages of *The Black Panther*, and *The Black Liberator* newspapers.<sup>11</sup>

Though the U.S. Government was not using the draft to systematically exterminate young African-American males, blacks had good reason for believing the Selective Service system was inherently racist and placed an undue burden on minorities. African-Americans were being drafted in disproportionately high numbers, and one reason was the highly complicated deferment system. Technically, the deferment system did not discriminate against minorities because it was just as easy for a black student to get a college deferment as it was for a white. But the system was inherently biased along class and economic lines, and clearly favored those who could afford the cost of a higher education. Most black families could not, and while this may not have constituted overt racial discrimination it clearly represented a case of systemic or institutional racism. It is interesting to note that though blacks and whites were both active in the anti-draft movement, the

fairness of college deferments was never really a major issue among the white activists, many of whom were either still in college or were recent graduates.<sup>12</sup>

If the deferments represented a form of institutional racism, the actions of many of the local draft boards were often classic examples of overt and personal racial discrimination, and often attracted the attention of the anti-draft movement. There were over 4,080 local draft boards and African-Americans were chronically under-represented on them. In 1967, for example, there were only 278 blacks sitting on local boards, a mere 1.3% of the total, and none at all in seven southern states.<sup>13</sup> The situation was so bad in the South that in 1968, Charles Evers, NAACP Executive Secretary for Mississippi, sued Governor John Bell Williams in federal court in an attempt to force him to appoint blacks to the boards in that state. Evers stated that "Negroes were tired of having their sons and husbands sent off to Vietnam by all white draft boards."<sup>14</sup> In South Carolina, the NAACP and the American Civil Liberties Union (ACLU) filed a class action suit to halt the drafting of African-Americans, based on their exclusion from that state's boards, and in Georgia, SNCC activist Cleveland Sellers and the ACLU successfully fought his induction on these same grounds.<sup>15</sup>

Another point of contention between the local boards and black draft resisters was in the granting of Conscientious Objector deferments to those opposed to the war on religious or moral grounds. One sect in particular, The Nation of Islam, or Black Muslims, found it nearly impossible to get C.O. exemptions. Many whites refused to accept the Nation as a legitimate religion, and the Justice Department had ruled that they did not meet the criteria as a traditionally pacifistic organization because they "only objected to certain wars under certain conditions," and not all armed struggles.<sup>16</sup> During the Vietnam War, the most famous dispute between the Nation of Islam and the Selective Service involved then heavyweight boxing champion Muhammad Ali. Between 1964 and 1966 Ali twice failed the pre-induction intelligence test and was classified I-Y, mentally unfit for service. But in April, 1965, the Selective Service lowered the physical and mental standards for induction. Ali was then reclassified, and in February, 1966, was sent an induction order by his local draft board in Louisville, Kentucky. Ali then filed for C.O. status based on his Muslim faith.<sup>17</sup>

Ali's application for a religious deferment was denied on April 28, 1967, and he was ordered to report at Houston, Texas, for induction. Ali refused, and on June 20, 1967, he was convicted and sentenced to five years in prison for draft evasion. Four years later, on June 28, 1971, the Supreme Court reversed his conviction on a technicality.<sup>18</sup> Other followers of the Honorable Elijah Mohammad were not as fortunate. Nearly one hundred Black Muslims served federal prison sentences for draft evasion during the Vietnam War.<sup>19</sup>

Like Ali, many black draft resisters successfully fought induction through the legal system. Attorneys specializing in Selective Service law could usually guarantee a client non-induction for around \$2500.<sup>20</sup> For the vast majority of African-American resisters, however, the legal system was not a viable option. The costs

were prohibitive, and few had the resources of a Muhammad Ali, or the support of the ACLU like a Cleveland Sellers. As a result many black draft resisters, and in particular many African-American organizations opposed to the draft, decided to pursue extra-legal means of defying the Selective Service system. The more radical organizations, such as SNCC, the Black Panther Party, and the Chicago-based Black Antiwar Antidraft Union actually preferred "direct action" tactics such as mass demonstrations, or raids on draft board offices, to counseling and passive resistance. On August 18, 1966, SNCC organized a demonstration in front of an Atlanta induction center,<sup>21</sup> and on March 31, 1967, the "Spring Mobilization for Peace," a biracial organization led by Civil Rights Activist the Rev. James Bevel, staged a protest and sit-in at the Selective Service Headquarters in Washington, D.C.<sup>22</sup> In October, 1967, the Black Panther Party staged a "Stop the Draft" week at the Oakland Induction Center.<sup>23</sup> In Chicago, fifteen members of the Black Antiwar Antidraft Union temporarily disrupted Selective Service call-ups in that city, in September, 1969, by breaking into the 63rd Street Selective Service office and burning the 1-A files.<sup>24</sup>

The black militant organizations opposed the draft because they believed it was a racist attempt to commit genocide against African-Americans. Linda Quint, spokesperson for the self-styled "Chicago Fifteen," who raided the 63rd Street offices, claimed their actions were "designed to free African-Americans from the draft and to highlight the connection between racism and the military." Quint added that "Most whites stay at home and argue about the immorality of the war while the minorities are sent off to fight."<sup>25</sup> Members of the Black Union, SNCC, and the Black Panther Party, however, usually resisted induction and refused to be "sent off to fight." Between January and May, 1967, fifteen members of SNCC refused induction, and National Chairman Stokely Carmichael announced that he would refuse to go if drafted.<sup>26</sup> Carmichael was spared a confrontation with the Selective Service, because in March, 1967, his draft board in New York City classified the rights leader 4-F after failing his medical examination.<sup>27</sup>

Members of the Black Panther Party were explicitly forbidden to fight in "colonial wars of aggression," and were supposed to resist induction. Rule #6 of the party's by-laws stated that "no party member can join any army or force other than the Black Liberation Army."<sup>28</sup> But it was often far more difficult for rank and file members of the Panthers, SNCC, or one of the other so-called "militant" groups to successfully avoid induction, than it was for their leadership. Black Panther Party member Isaac Barr, for example, finally exhausted all of his options and appeals just two days before his twenty-sixth birthday and was promptly drafted.<sup>29</sup>

SNCC and the Panthers not only sought to protect their own members from the Selective Service System, they also urged other young African-Americans to resist induction, and praised those who publically defied the draft. An October, 1968, editorial in the *Black Panther* was typical. It proudly claimed that "the Black Liberators strong opposition to U.S. imperialism's aggressive war against Vietnam was sharply highlighted by the refusal of many young Black Liberators to be

drafted. They burnt their draft cards and drove away draft officials.”<sup>30</sup>

Many young African-Americans did in fact burn their draft cards and refuse induction, but most paid a high price for their actions. David Bell, a SNCC official, spent two years in the Danbury Federal Correctional Institute for resisting the draft.<sup>31</sup> Robert James, a civil rights activist from Mississippi, was convicted of refusing induction and was sentenced to five years in a federal prison.<sup>32</sup> Warren Crawford, son of New Orleans civil rights activist Jeanette Crawford, was drafted within a week of his mother’s refusal to appear before the Louisiana House Committee on Un-American Activities. He refused induction, and was eventually given six concurrent five-year prison terms, the most severe sentence given to a non-violent draft resister during the war.<sup>33</sup> On average, African-American draft resisters were generally given longer prison sentences than white resisters, five years for African-Americans, as opposed to three to four years for whites. African-Americans also tended to serve nearly a year longer in prison than did white resisters.<sup>34</sup>

But most young men facing the draft, whether white or black, were either unable or unwilling to defy the law. And like most of their white counterparts, most blacks often simply, if reluctantly, accepted induction. Even though their fates were often similar, in one key respect, the draft-eligible African-American differed from his white, working class counterpart. Whites with potential for great success in civilian life could normally avoid the draft. In the black community, those with the least chance for success were those least likely to be drafted. Instead the draft drained the intelligent and most physically fit from the community, or, as Whitney Young described them, “the cream of the crop” . . . the “potential forces of leadership . . . in the battle cry for freedom at home.”<sup>35</sup>

## Endnotes

1. "Viet Rebuke Stirs Storm," *The Baltimore Afro-American*, January 22, 1966, 14. Lewis issued his remarks on behalf of SNCC at an Atlanta press conference. For the complete text of the statement see John Lewis, "SNCC Statement on Vietnam," *Freedomways* (Spring, 1966), 6, 6-7.
2. "Conyers Explains Vietnam Vote," *The Baltimore Afro-American*, March 12, 1966, 14; "Draft Test Unfair Says Adam Powell," *The Baltimore Afro-American*, May 21, 1966, 1; Ralph Matthews, "Oscar DePriest Once Faced Ordeal of Julian Bond," *The Baltimore Afro-American*, February 19, 1966, 14.
3. *The Baltimore Afro-American*, January 22, 1966, 14; and L. Deckle McClean, "The Black Man and the Draft," *Ebony*, August, 1968, 62. For further elaboration on both SNCC's and Dr. King's position on the draft and the war in Vietnam, see Herbert Shapiro, "The Vietnam War and the American Civil Rights Movement," *The Journal of Ethnic Studies* (1989) 16, no. 4, 117-141.
4. Two essays detailing white draft resistance, Sam Brown, "The Legacy of Choices," and Paul Goodman, "A Young Pacifist," can be found in Grace Sevy, ed., *The American Experience in Vietnam* (Norman, 1989). See also, Lawrence M. Baskir, and William Strauss, *Chance and Circumstance: the Draft, the War and the Vietnam Generation* (New York, 1978).
5. McClean, "The Black Man and the Draft," 61-62.
6. A good example of the militant African-American stance on the war and the use of the draft, linking both to racism, black liberation, and the solidarity of blacks with third world peoples, especially the National Liberation Front of Vietnam, can be seen in "Manifesto of the American Deserters Committee," *The Black Panther*, February 17, 1969, 11.
7. Robert W. Mullen, *Blacks in America's Wars* (New York, 1973), 65.
8. McClean, "The Black Man and the Draft," 63.
9. Vietnam Veterans Against the War, "Position Paper on Amnesty," unpublished, 1973. Citizen Soldier File #7037, Vietnam War Veterans Archive, Cornell University, Ithaca, New York.
10. "Refuses Induction, Youth Gets 25 Years," *The Pittsburgh Courier*, July 26, 1969, 2; "Black Draft Resister is Sentenced," *The Black Panther*, August 16, 1969, 20.

11. For examples see "An Undying Love," *The Black Panther*, March 16, 1968, 5; Eldridge Cleaver, "The Black Man's Stake in Vietnam," *The Black Panther*, March 23, 1969, 16; "Editorial Policy," *The Black Liberator*, March 1969, 2; and "Black Antiwar Union," *The Black Liberator*, September, 1969.
12. Office of the Deputy Assistant Secretary of Defense for Equal Opportunity and Safety Policy, *Black Americans in Defense of Our Nation* (Washington, 1984), 43; "Abuse of the Draft," *The Baltimore Afro-American*, January 15, 1966, 4; "Lottery Draft Won't alter Race Ratio," *The Pittsburgh Courier*, May 24, 1969, 3.
13. "The Marshall Commission Report," *Current History*, July, 1968, 49; McLean, "The Black Man and the Draft," 63-64; Martin Binkin, and Mark J. Eitelberg, *Blacks and the Military* (Washington, D.C.: The Brookings Institute, Studies in Defense Policy Series, 1982), 33; Jack D. Foner, *Blacks and the Military in American History* (New York, 1974), 203. Six southern states that had no African-American representation on local boards in 1966 were Alabama, Arkansas, Georgia, Louisiana, Mississippi, and South Carolina.
14. "Suite Urges Negroes for Draft Boards," *The New York Times*, April 19, 1968, 21.
15. "Halt Asked in Draft in 2 Southern States by Liberties Union," *The New York Times*, March 7, 1967, 33; Gene Roberts, "Rights Leader Refuses to be Inducted into Army," *The New York Times*, May 2, 1967, 7; McClean, "The Black Man and the Draft," 63.
16. Baskir and Strauss, *Chance and Circumstance*, 97; Martin Waldron, "Clay Guilty in Draft Case; Gets Five Years in Prison," *The New York Times*, June 21, 1967, 1.
17. "Cassius Faces March Draft," *The Baltimore Afro-American*, February 19, 1966, 1; "Board in Kentucky Refuses to Reclassify Clay as Conscientious Objector," *The New York Times*, January 11, 1967, 62; "Clay Draft Plea Denied By Board," *The New York Times*, February 1, 1967, 31.
18. *The New York Times*, June 21, 1967, 1; David E. Rosenbaum, "Ali Wins in Draft Case Appeal," *The New York Times*, June 29, 1971, 1; "Muhammad Ali—The Measure of a Man," *Freedomways* (Spring, 1967), 7, 102.
19. Baskir and Strauss, *Chance and Circumstance*, 97.

20. David F. Addlestone, "A Background Paper on the Question of Less Than Fully Honorable Discharges Issued During the Vietnam War," unpublished, April 27, 1979, 2, Flower of the Dragon #7020, Box #1, file #13, Vietnam War Veterans Archives, Cornell University.
21. VVAW Steering Committee Meeting, 16; "Seven Antidraft Pickets are Indicted in Atlanta," *The New York Times*, February 18, 1967, 16; "Black Antiwar Union," *The Black Liberator*, September, 1969, 9.
22. Ben A. Franklin, "Protest on Vietnam Disrupts Draft Headquarters," *The New York Times*, April 1, 1967, 5.
23. "Draft Cases Snag U.S. Courts," *The Black Panther*, September 13, 1969, 20.
24. Johnny Woods, "Draft Resistance," *The Black Liberator*, September, 1969, 8.
25. Ibid.
26. *The Black Liberator*, September, 1969, 9; *The New York Times*, May 2, 1967, 7.
27. "Carmichael Classified 4-F by Draft Board in the Bronx," *The New York Times*, March 14, 1967, 39.
28. "Rules of the Black Panther Party," *The Black Panther*, September 28, 1968, 2.
29. "Brass Forces Black G.I. To Vietnam," *The Black Panther*, April 27, 1969, 6.
30. "Black Soldiers in Vietnam Support the Struggle Back Home," *The Black Panther*, October 19, 1968, 10.
31. McClean, "The Black Man and the Draft," 63.
32. Baskir and Strauss, *Chance and Circumstance*, 99.
33. Ibid., 99-100.
34. Ibid.; *The Pittsburgh Courier*, July 26, 1969, 2; *The Black Panther*, August 16, 1969, 20.
35. Whitney M. Young, Jr., "When the Negroes in Vietnam Come Home," *Harpers*, June, 1967, 66.



# The Nature of Slavery in Kentucky

by

Bonnie W. May

African-Americans moved into Kentucky with early parties of exploration and they were among the first settlers. A black slave accompanied Christopher Gist as he explored the Ohio Valley for the Ohio Company in 1751. Gist recorded meeting another black man at a Native American town on the Scioto River. In 1760, a slave was reported to have guided Daniel Boone across the Blue Ridge Mountains. In 1773 Daniel and his brother Squire Boone and five families brought slaves with them in an attempt at settlement that ended in failure when the Indians attacked. A count of the inhabitants of Harrodsburg in 1777 revealed that of 198 people, 19 were slaves, and 7 of them were children under ten years of age. According to Lowell Harrison in *The Antislavery Movement in Kentucky* there is speculation that the first child of European-African heritage born in Kentucky was a son born to a black woman in the family of N. Hart of Boonesborough. Early records include numerous accounts of slaves helping defend Boonesborough and other frontier forts and individual farms against Indian attacks.<sup>1</sup>

The first federal census in 1790 indicates that Kentucky, a county of Virginia, had 61,133 whites, 11,830 slaves and 114 free blacks.<sup>2</sup> Compared to areas in the lower South, Kentucky had a smaller proportion of slaves in the population. From 1790 to 1860 the number of slaves never exceeded 24% of the population, less than half of the number in the lower South. (See the Appendix, Tables I and II.) After 1830 the percentage decreased, and in 1850 Kentucky farms averaged 5.5 slaves, while to the South there were 11.7. In 1860 Kentucky had 236,000 slaves, 19.5% of the population.<sup>3</sup>

The center of the slave population in the state was the Bluegrass area centered in Lexington and Fayette County. The rolling farm land and fertile limestone soil was ideal for hemp, and Bluegrass farmers diversified as well, growing small grains and other crops and raising blooded horses and other livestock. Slaves worked as laborers in the manufacture of hemp in Lexington, producing cotton bagging and bale rope used in the packaging of cotton for shipment, and they worked in cotton and woolen textile factories in Lexington and Louisville. Several large concentrations of slaves worked the tobacco fields in western Kentucky, especially in the areas of Henderson, Owensboro, Madisonville and Hawesville. The mountainous areas of eastern Kentucky had a very small slave population; only Bath County had

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Bonnie W. May, a member of Alpha Beta Phi Chapter, graduated from the University of Kentucky with a major in Sociology and earned a Masters in Public Administration at Eastern Kentucky University. She is currently completing her degree in History and Secondary Education/Social Studies at Northern Kentucky University.

more than 10% black population. Since Kentucky had only a very small amount of cotton growing, the crops were less labor intensive and not as many slaves were needed as on cotton plantations.<sup>4</sup>

When the state was writing its first Constitution in 1792, the delegates vigorously debated slavery. The Revolutionary War had inspired a general questioning of slavery. Thomas Jefferson's idea that "all men are created equal" caused many people to question the morality of holding human beings in bondage. The Great Awakening in the 1730s and 1740s and the Great Revival in the early nineteenth century brought new intense religious feelings, leading to the questioning of slavery as sinful. Reverend David Rice, founder of the Western Presbyterian Church, presented a strong abolitionist speech at the Constitutional Convention in Danville in April, 1792. This speech was published as the pamphlet *Slavery Inconsistent with Justice and Good Policy*, the first anti-slavery tract published in Kentucky. Rice and others were unsuccessful and the Constitution recognized and protected the legality of slavery. In the convention for the second state Constitution in 1799 a measure restricting slavery was defeated 26 to 16.<sup>5</sup>

Abraham Lincoln noted: "When the Kentuckians came to form the Constitution, they had the embarrassing circumstances of slavery among them—they were not a free people to make their Constitution."<sup>6</sup> However, the delegates included provisions for the protection of slaves. Article IX stated: "The legislature shall pass laws to permit the owners of slaves to emancipate them," and "to oblige the owners of slaves to treat them with humanity, to provide for their necessary clothing and provision, and to abstain from all injuries to them extending to life or limb."<sup>7</sup>

In the nineteenth century when King Cotton dominated the economy of the deep South, the planters needed meat and corn, and whiskey and cotton bagging and bale rope and other products produced in Kentucky. Slaves worked in factories and mines and as house servants, and as laborers on the construction of the Louisville and Nashville Railroad. A large number worked as dock workers and steamboat crew members on the rivers. Most Kentucky slaves, however, worked on small self-sufficient farms. In 1850, among the 38,456 slave owners, only 53 owned from fifty to one hundred slaves and only five owned more than 100.<sup>8</sup>

J. Winston Coleman, Jr., in *Slavery Times in Kentucky*, provides an account of slave life on a Kentucky farm:

On Sunday morning the overseer goes to the meat house, and there assembles the Negroes. Four pounds of pork are weighed out to each one, and they get a peck of meal and a half gallon of molasses. Beans, sweet potatoes and other vegetables, they raise in moderate quantities. They are allowed to raise chickens and always have a supply of eggs. [They go] to work at daylight and stop at sundown, with a rest of two or three hours during the middle or heat of the day; but have every Saturday afternoon to wash and mend and cultivate their little truck patches.<sup>9</sup>

Harriet Beecher Stowe reflected the general opinion of both whites and blacks at the time that Kentucky slaves had an easier life than slaves in the deep South when she said that "perhaps the mildest form of the system of slavery is to be seen in Kentucky."<sup>10</sup> Several modern studies on the nature of slavery emphasize that while slavery varied greatly, most masters allowed their slaves to develop individual attributes and maintain their sanity through family life, religion and culture.<sup>11</sup> In *The Peculiar Institution: Slavery in the Antebellum South* (New York, 1956), Kenneth M. Stampp, on the other hand, stressed that under the surface the plantation seethed with conflict; many slaves resisted almost continually. James Oakes, in *The Ruling Race* (New York, 1982) described how some slaves regularly slowed down at work, feigned illness, broke tools, and ran away. Oakes developed the theme even farther in *Slavery and Freedom: An Interpretation of the Old South* (New York, 1990) when he declared that Southern slave owners embraced liberal capitalism for themselves but denied it to their slaves. Therefore, the slaves were treated as property and dehumanized by the breakup of families—one in three slave marriages were broken—and by public auctions and flogging.

In Kentucky, where the number of slaves owned by one farmer was usually small, often a slave had to marry someone owned by a different master. That made sale and permanent separation more likely than in the deep South where slave holdings were larger. Also migration through sale to the deep South was great; in the 1850s sixteen percent of the Kentucky slave population was exported. One escaped slave stated that Kentucky masters treated their slaves as well as nature and the condition of servitude permitted, but there were many abuses. Virtually all slave owners used whips to impose authority, and they branded and cropped the ears of recalcitrant slaves. Ankle bracelets and iron collars were used, and slaves were usually hanged for capital offenses. For whites the only capital crime punishable by execution was murder in the first degree, but for slaves and free blacks, manslaughter, rape of a white woman, arson, rebellion, and sabotaging or destroying bridges, dams and canal locks were capital crimes as well. Blacks could only testify in their own confessions and were prohibited from testifying against whites. Kentucky slavery was often harsh and degrading. Marion B. Lucas wrote, in *A History of Blacks in Kentucky*: "All they had to look forward to was the setting of the sun."<sup>12</sup>

Most historians today agree that slavery was as profitable as an investment in business in the North. Robert W. Fogel and Stanley L. Engerman's book *Time on the Cross: The Economics of American Negro Slavery* (Boston, 1974), a quantitative study, has been much criticized but its central thesis holds. They argued that slavery was profitable and efficient, that per capita income was increasing more rapidly in 1860 than in the rest of the nation. In Kentucky in 1845, slaves between the ages of twenty and thirty sold for between \$500 and \$750. By 1850, with increased demand for slaves in the cotton South, prices had increased to over \$1,000. Historians Fogel and Engerman estimated that a slave born to an owner had to reach age twenty-six to begin to turn a profit. The Louisville *Examiner* estimated the annual costs of owning a slave:

Interest on the cost of the slave .....	\$36.00
Average insurance .....	\$21.00
Diet . .....	\$36.00
Lodging . .....	\$05.00
Clothing . .....	\$20.00
Expenses in Sickness .....	\$05.00
Loss of time .....	\$05.00
Pilfering .....	\$10.00
Neglect of Business .....	\$10.00
Taxes .....	\$01.90
Waste and Destruction .....	\$20.00
Total annual cost: \$ .....	\$169.90. <sup>13</sup>

Many Kentucky residents argued that slavery was not economically feasible or productive as a labor system. However, in 1864, when the state was considering compensated emancipation, the value of slave property was estimated at \$34, 179, 246.00.<sup>14</sup>

Perhaps the best evidence of the profitability of slavery in Kentucky is the refusal of the slave owners to accept emancipation. Kentucky had the strongest antislavery movement in the slave states. David Rice, Cassius Clay, John G. Fee, William Shreve Bailey and others campaigned vigorously to abolish the institution. Their influence increased from the 1820s and 1830s and they succeeded in the enactment of a state law restricting slave importation, the only such law in a slave state. The Nonimportation Act of 1833 prohibited commercial importation and made it illegal for Kentucky residents to import slaves for their own personal use. It was hoped that the law would weaken slavery, but it was ignored, and finally repealed in 1849. Most voters turned against the abolitionists in the election of delegates to write Kentucky's third constitution in 1849—only ten percent voted anti-slave. The new constitution was the strongest pro-slavery state constitution in the nation.<sup>15</sup>

During the Civil War slavery collapsed, but Kentucky slave owners refused to surrender. The estimate of the value of slaves increased from thirty four million dollars to over one hundred million, and the owners demanded compensation from the federal government. The Kentucky House rejected ratification of the 13th Amendment to the United States Constitution by a vote of 56 to 28, and the Senate by 21 to 12.<sup>16</sup> Other states ratified and slavery was abolished in Kentucky, in spite of the state legislature. One of the truisms of Kentucky history is that the state remained in the Union but with their hearts Kentuckians joined the South during and after the Civil War. The state's refusal to accept the end of slavery was part of the trend. The state's opposition to emancipation and support of segregation were major obstacles to development and progress.

# Appendix

Table I

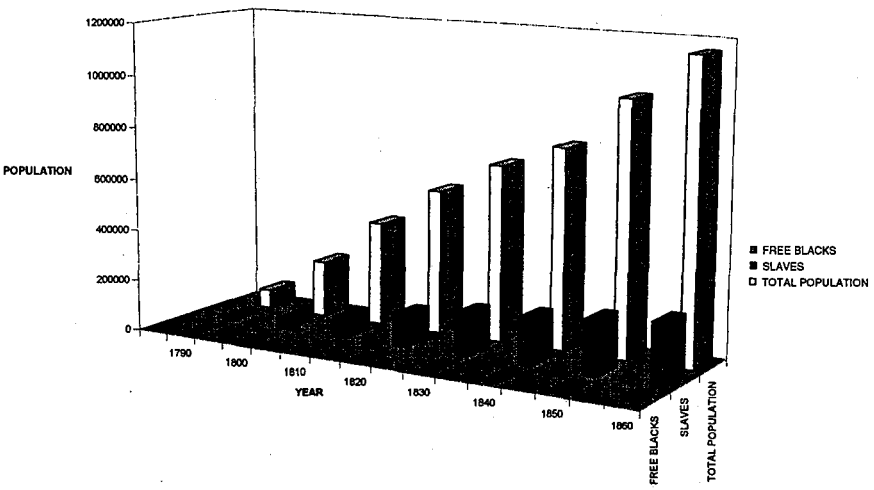
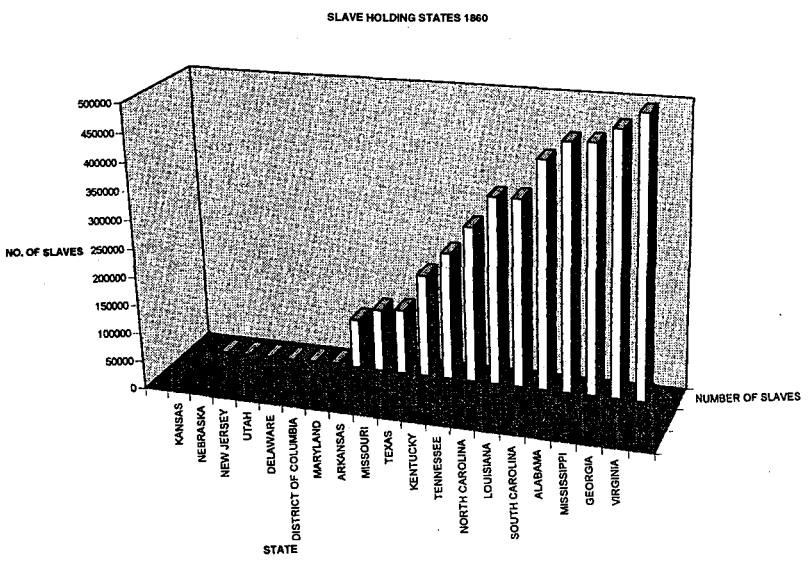


Table II



## Endnotes

1. J. Winston Coleman, Jr., *Slavery Times in Kentucky* (Chapel Hill, 1940), 6-11; Lowell H. Harrison, *The Antislavery Movement in Kentucky* (Lexington, 1978), 1; Marion B. Lucas, *A History of Blacks in Kentucky* (Frankfort, 1992) I, xi-xiv.
2. Lucas, *Blacks in Kentucky*, I, xvi.
3. John E. Kleber, ed., *The Kentucky Encyclopedia* (Lexington, 1992), 827; Lowell H. Harrison, *The Civil War in Kentucky* (Lexington, 1975), 1.
4. *Kentucky Encyclopedia*, 827; Harrison, *Antislavery Movement*, 2.
5. Harrison, *Antislavery Movement*, 19-21.
6. *Ibid.*, 20.
7. Coleman, *Slavery Times*, 291.
8. Harrison, *Antislavery Movement*, 3; *Kentucky Encyclopedia*, 827.
9. Coleman, *Slavery Times*, 53, quoting *Disclosures and Confessions of Franklin A. Wilmot, the Slave Thief and Negro Runner* (Philadelphia, 1860).
10. Coleman, *Slavery Times*, 318.
11. See John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South* (revised ed., New York, 1979) and Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York, 1974).
12. *Kentucky Encyclopedia*, 827; Lucas, *Blacks in Kentucky*, I, 3, 48-49, 109; Coleman, *Slavery Times*, 261-264.
13. Coleman, *Slavery Times*, 66.
14. Harrison, *Antislavery Movement*, 109.
15. *Kentucky Encyclopedia*, 827-828. The standard study on abolition in Kentucky is Lowell H. Harrison's *The Antislavery Movement in Kentucky*. See also W. Frank Steely, "Antislavery in Kentucky, 1850- 1860," doctoral dissertation, 1956, University of Rochester.
16. Harrison, *Antislavery Movement*, 109. For a study of African-Americans in Kentucky during Reconstruction see George C. Wright, *A History of Blacks in Kentucky: In Pursuit of Equality, 1890-1980, Volume II* (Frankfort, 1992).

# **An International Incident: The British Sacking of Ruddle's Station, Kentucky, in the American Revolution**

**by  
Martha Pelfrey**

In the Iranian hostage crisis, fifty-two people from the United States embassy in Tehran were held in captivity for one year and two and one-half months. In researching my family history I discovered that some of my Kentucky ancestors were among a group of over 250 people held in captivity by the British army for over three years. They were captured in June, 1780 by a British-Native American raiding party and taken to Detroit and not released until the close of the American Revolution.

Seven generations ago, my family members were among the settlers of Ruddle's Station on the South Fork of the Licking River in today's Harrison County. Located ten miles north of present-day Paris, Kentucky, Ruddle's Station was on the cutting edge of the frontier. The Indian threat was so great that the first attempt at settlement in 1775 by John Hinkston was abandoned. In 1779 Captain Isaac Ruddle led a group of settlers who rebuilt and enlarged the fort, and here and in Martin's Station a few miles to the southwest in today's Bourbon County about 300 to 350 persons were living.

Growing corn and raising livestock, the settlers worked cooperatively in the fields and lived in the fort. When hostile Indians appeared they would rush into the fort for defense. If Ruddle's Station was typical, and it probably was, it was a parallelogram about 250 feet long and about 125 feet wide. At each of the four corners was a log house two stories high. Part of the walls of the blockhouses that extended beyond the fort were without windows but were pierced with loop holes for firing. The sides of the fort were made up of the outer walls of cabins and by lines of stockade made by placing squared timbers vertically in the ground and binding the logs together near the top. Each cabin was separately defensible so that a cabin could burn without causing others to ignite. There was a plentiful supply of water for drinking and attempting to extinguish fires started by flaming arrows. It was almost impossible to conquer such a fort by escalade or scaling, and the settlers could hold out indefinitely against arrows and rifles. On the other hand, they had no artillery and felt vulnerable when two British cannon appeared in the clearing in front of the entrance gate.<sup>1</sup>

Kentucky was a county of the state of Virginia and the first permanent settlements were in similar stations in 1775 in Harrodsburg and Boonesborough.

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Martha Pelfrey, a member of Alpha Beta Phi Chapter, graduated from Northern Kentucky University with a Bachelor of Arts in Elementary Education in 1979 and a Master of Arts in Education in 1984. She teaches in the Campbell County Schools.

The frontier was violent given the fact that the Europeans were moving in with families to possess the lands of the Native Americans; but with the coming of the Revolutionary War and the British alliance with some of the tribes, it became even more hazardous. In the second year of the war, the British officer in charge in Detroit, Lt. Governor Henry Hamilton began sending raids of 15 to 20 warriors and a few European advisers against settlements in Kentucky and Pennsylvania. George Rogers Clark, the young Virginia pioneer and soldier, is credited with conquering the West for the United States. However, his raid into the Northwest in the winter of 1778-1779 caused the attack on Ruddle's and Martin's Stations the next year. Clark, marching under the authority of Virginia Governor Patrick Henry, led 175 frontiersmen from his small post near the Falls of the Ohio—Louisville today—down the Ohio River in flat boats to the mouth of the Tennessee River. There they disembarked and advanced northward, capturing Kaskaskia and defeating a British force under Hamilton at Vincennes.<sup>2</sup>

Retaliation came when Captain Henry Bird of His Majesty's 8th Regiment of Foot accepted the assignment of defeating Clark and clearing Kentucky of settlers. On May 25, 1780, Bird left Detroit with 150 soldiers and 100 local natives. They traveled by water down the Detroit River, across Lake Erie to the mouth of the Maumee, up that river to the portage, and then transported to the Great Miami and came down that stream to the Ohio River. During the advance, a large body of additional Indians joined the party. Warriors from the Ottawa, Huron, Shawnee, Chipewa, Delaware and Mingo nations seized this opportunity to clear native hunting grounds and acquire spoils. This was an unusual expedition in that it included two field pieces, a three pounder and a six pounder.<sup>3</sup>

The force camped for several days on the northern bank of the Ohio River opposite the mouth of the Licking River on the present site of Cincinnati. Bird planned to proceed down the Ohio to attack and capture Clark and the settlers with him at the Falls of the Ohio, but the Indians feared the great "Indian fighter," and argued that instead they ascend the Licking River and attack the interior settlements of Kentucky which would require less fighting and provide more booty than Clark's small camp. They wanted to take "the forts on Licking Creek." After many council fires and pow-wows, Bird reluctantly consented. On June 12 they began paddling up the swollen Licking, or the Nepernine, as the Indians called it. On June 20, they reached the forks of the Licking, now the site of Falmouth. Here the water became shallow so they stored their boats and supplies and marched overland about 45 miles.<sup>4</sup>

The invaders arrived at Ruddle's Station on June 24 and found the stockade closed and the settlers apparently prepared to fight. Bird ordered the three-pounder into position and it opened fire. Then, he brought the six-pounder into position, but before the men could fire it, a white flag appeared. Inside the station the settlers were surprised to see such a large force and the two cannon made fighting seem hopeless. Captain Isaac Ruddle said that it would be best to surrender. Captain John Hinkston



wanted to fight. The men voted and a majority favored surrender. They selected John Trabue to act as clerk when Ruddle met with Bird to draft the terms.<sup>5</sup>

Bird and some of the soldiers came into the fort and the meeting began. Bird insisted that all of the people were to be taken as prisoners to Detroit, protected from the Indians by his men. One of the greatest fears of frontier stations besieged by combined Native American-soldier or militia forces was that the Indians would attack the noncombatants. This was one reason to surrender, for when the fighting blood was up, the Indians would sometimes kill and capture European women and children. Bird pointed out that the Indians desired to adopt some of the children of the whites, but he promised protection from this threat. He explained that he had to reward the Indians, however, by allowing them to enter the stockade the next day to plunder and take any property they wanted. The cattle were to be kept alive for food en route to Detroit.<sup>6</sup>

Suddenly, the meeting was interrupted when the Indians rushed the front gate and with slashing tomahawks forced their way into the fort. They killed about twenty settlers, divided husbands and wives, took children from their parents, took items of clothing from the persons of the people, slaughtered all the cattle, and plundered the cabins. Later, on the return march, an Indian who acquired a horse and saddle said: "Good Kentuck for me."<sup>7</sup>

John and Elizabeth Conway, my ancestors, and seven of their children were among the people in the fort that day. Two weeks before, their seventeen-year-old son Joseph and two other men had crossed the Licking River to round up some cows. There had been signs of Indian raiders for several weeks, and now a small party of warriors attacked. They shot Joseph in the side, scalped him and apparently left him for dead. He was still alive, however, and his companions gathered him up and brought him to the fort, where his parents stopped the bleeding by packing his headwound with cobwebs. Now Joseph was taken with the group to Detroit, where the British placed him in a hospital until he recovered; then he went to work. The youngest Conway child, a daughter, was separated from the family and adopted by a childless Indian couple and did not return for eight years—the other Conways returned to Kentucky in 1784, after over three years.<sup>8</sup>

Bird's raiders also captured Martin's Station and the people there were taken captive as well. On June 27 the column started for Detroit and arrived there on August 4, 1780. The Conways remained in Detroit, but some of the Ruddle's Station families were taken to Montreal, including Captain John Duncan who kept a memo book and Mrs. Wilson, who was interviewed by John D. Shane in Woodford County in 1841. Duncan recorded that the British authorities permitted him to live with his family and allowed him to walk around in Montreal and its suburbs. Mrs. Wilson stated that she had a good house and ate well. She and the other captive women made fine ruffled shirts with open edges rather than the common lace edges and the men of Montreal liked the garments so well that the price increased from \$1.50 to \$3.00. In Detroit John Conway worked and made purchases in a general store—the last entry made upon his release was for the tools he returned.<sup>9</sup>

The two forts absorbed the aggression of Bird's raid and therefore spared Bryan's or Bryant's Station in the vicinity of Georgetown today. A century ago, the Lexington Chapter of the Daughters of the American Revolution dedicated a memorial to Bryan's Station. In recording the dedicatory ceremony the then president of the Filson Club, Reuben T. Durrett, declared:

It is strange that such a tragedy as that enacted at Ruddle's Station in 1780 should have figured so little in Western annals and should be so familiar even now. Certainly the settlers at Bryan's never forgot it to their dying day. Some of the women and children were killed and scalped as soon as the fort was taken, and their quivering bodies thrown together in a pile. All the rest of the inmates were seized and scattered indiscriminately, and, bewildered and agonized, and loaded down with plunder looted from their own cabins were driven off into a captivity which for some endured for fourteen years, and from which others never did return. As fast as the women or children became exhausted from the weight of their burdens and the miseries of the march they were tomahawked, scalped, and left unburied.<sup>10</sup>

My family line traces back to John and Elizabeth Conway through their son Samuel who was away from the fort at the time of the raid and was not captured. It was the knowledge that my ancestors were involved that inspired me to conduct this research. The Conways returned to Kentucky and remained, but the early genealogical records of states to the west such as Kansas, Missouri and Illinois document that many of the people taken captive moved on with the frontier. Their violent experiences in early Kentucky did not deter their pioneering spirit.

## Endnotes

1. Nathaniel S. Shaler, *Kentucky: A Pioneer Commonwealth* (Boston, 1884), 75-76.
2. John E. Kleber, ed., *The Kentucky Encyclopedia* (Lexington, 1992), 195, 613, 786.
3. J. Winston Coleman, Jr., *The British Invasion of Kentucky* (Lexington, 1951), 1-11; Maude W. Lafferty, *The Destruction of Ruddle's and Martin's Forts in the Revolutionary War* (Frankfort, Kentucky, 1957), 14, reprinted from *The Register of the Kentucky Historical Society* (October, 1956), 54, No. 189, 297-337.
4. Coleman, *Invasion*, 5-11; Lafferty, *Destruction*, 15.
5. Coleman, *Invasion*, 14; Lyman C. Draper Collection, Wisconsin State Library, photocopies of manuscripts in the Kenton County Public Library, No. 57 J51-63.
6. Draper Collection, No. 57 J51-63.
7. Draper Collection, No. 57 J51-63, 26 JA 12, 29 J23, 17 S 200, 29 J18 and 11CC 276-279.
8. Draper Collection, 24S 169-176; *Pendleton County Historical Society Newsletter* (December, 1994), 7-8.
9. Draper Collection, 29 J18, 11CC 276-279; *Pendleton County Historical Society Newsletter*, 7-8. One survivor stated in an interview later that before the group began the trip to Detroit, Indians took aside and tomahawked and scalped the children who appeared weak and unable to travel. See Draper Collection, 17 S 200.
10. Reuben T. Durrett, *Bryant's Station and the Memorial Proceedings* (Louisville, 1897, 114. This is a print of the proceedings of the Lexington Chapter, D.A.R., August 18, 1896.



# **Georgia**

by

## **Nino Gigineishvili**

There are many countries on earth, some small, some large, both developed and less developed. Sometimes people think it is impossible to remember all the names and locations of all the various countries. The diversity of languages confuses them, and they wish there was a universal language. Sometimes, they do not understand that it is this diversity that makes our earth so colorful, interesting, and enjoyable. Moreover, all these countries have different lessons to offer from which mankind can learn a great deal. Sadly, most people in America are not aware of the existence of many countries including the Republic of Georgia, a part of the former Soviet Union. Georgia, as other countries, possesses an unique history and culture which is worth knowing.

In order to appreciate the importance of this beautiful country, a brief historical overview is necessary. Georgia began in the third century B.C. as a monarchical state. King Parnaoz united and successfully ruled the country in the third and fourth centuries B.C. Unfortunately, the peace did not last for a long time: The neighboring tribes and countries constantly attacked Georgia because it had fertile land and was located on the trading crossroads of Europe and Asia, between the Black Sea and the Caspian Sea. In sixty-three B.C. the invasions of Iveria (Georgia) began, and the Roman Empire, Persia, the Arabs, Byzantine, the Mongols and the Turks, all managed to conquer and rule Georgia. At last, after years of slavery, the country became united once again as the Kingdom of Georgia under King Bagrat Bagrationi in 975 A.D. That was the beginning of the prosperity which reached its peak during the reign of David Agmashenebeli, David the Builder, in the eleventh and twelfth centuries. The Bagrationi dynasty ruled the country until the annexation of Georgia by the Russian Empire in the beginning of the nineteenth century. By that time the country was turned into many Gubernias, ruling districts established by the Russian Tsars, and in the twentieth century, under the rule of the Soviet Union, it became the Soviet Socialist Republic of Georgia. Finally, in 1989 the country achieved its independence once again and is now known as the Republic of Georgia.

Throughout history this beautiful country has been torn down and divided many different times. The warfare practically never stopped, but the Georgian people survived and kept sacred their culture, faith, folklore, and language. The orthodox Christian faith has been especially important to Georgians. In the fourth century, Saint Nino from Kabadokia (Palestine) spread Christianity into Georgia. Consequently, King Miriam accepted Christianity as the state religion in 337 A.D. Though

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Nino Gigineishvili, a native of Georgia, is a Junior majoring in International Studies, with minors in Spanish and Business Administration, at Northern Kentucky University.

the conversion of the pagan Georgians was not easy, once converted they became devoted Christians. From then on, churches and monasteries started to rise everywhere and served many different purposes. They were major educational centers where scholars studied, researched and created Christian literature. They also provided shelters for the people during enemy attacks. Finally, churches were not mere buildings but the representatives of the exclusive art of that time: They were decorated with many icons and frescos—wall paintings—created with extreme care and talent. Nowadays, one can see an old church in every city and mountain top in the country.

Along with religion, Georgians have kept their traditions and folklore sacred. Especially folk dances and songs receive the most attention. Georgian folklore has played an important role in every aspect of the people's lives. Georgians have sung in weddings, feasts, and even before or after going to war to defend their country. There are many different kinds of dances and songs, each representing a specific region of the country. Moreover, the songs are unique in their harmony and multiplicity of voices. Most of the folk songs are sung without any kind of instrument. Georgian folklore is still very significant to the people because through it they express their culture, traditions, way of life, and even love for one another.

The most precious thing for Georgians is their language. According to the legend, Georgian language was first created in the third century B.C. in the time of Parnaoz. However, the first fully developed script of Georgian writing outside of the country was found in the seventh century A. D. in the Christ Church in Jerusalem, which signifies not only the existence of well-developed language at that early stage in history, but also the importance of religion in Georgia and its missionary power in the world. Since then, the language has greatly changed but the roots still remain the same. Nowadays, the Georgian alphabet consists of thirty-three letters and its construction is totally different from Russian as well as other well known alphabets.

It would not be enough just to discuss Georgian culture without considering the people who have created this culture. The Georgian people are courageous, loyal, and extremely hospitable. It truly was because of these characteristics that Georgia survived and kept alive its traditions. Today, Georgians still astonish others with their attitude of love and care. Through the centuries, Georgia, The Land of George—as foreigners have called it, was forced many times to blend into the cultures of their conquerors, but because of the heroism and patriotism of its own people, Georgia has survived the brutality of history and still lives today. Certainly, this small but beautiful country has much to offer the world.

**Palladium of Liberty:**  
**The Meaning and Significance of the**  
**U.S. Constitution's Well Regulated Militia**  
**by**  
**John Prescott Kappas**

I ask Sir, Who are the Militia? — They consist  
of the whole people, except a few public officers.

*George Mason*

An advertisement recently appeared in *The New York Times* in which several prominent legal academics attempted to argue without much success that the Second Amendment to the United States Constitution only guaranteed the right of the states to maintain National Guard units and did not protect the individual citizen's right to keep and bear arms.<sup>1</sup> Their sweeping trivialization of perhaps the most important right guaranteed by the Constitution rested on their interpretation of the phrase "well regulated militia." The authors of the advertisement postulated that this phrase referred to the states' right to maintain professional bodies of men under arms and did not apply to the general citizenry. Any alternative views were quickly dismissed as lacking serious merit.

However, as John Adams once stated, "Facts are indeed stubborn things." And the factual support for this advertisement's viewpoint was nowhere to be found. The reader was expected to accept the perspective offered by the advertisement based upon the legal and academic credentials of its proponents. Yet, not one co-signer to the article had ever written, much less researched, an article on the subject. Their offering of a viewpoint was another attempt to dismiss an important issue by applying heavy-handed propaganda rather than rationally-based discussion. The "well regulated militia" of the Second Amendment definitely deserves better.

The constitutional clause that has become a lynchpin upon which many anti-gun groups have rested their arguments held a very specific meaning to the framers of the Constitution which is quite different from what many supporters of gun control would claim today. When examined in consideration of this historical context, the term "well regulated militia" takes on a meaning quite different from what the phrase standing by itself in modern parlance would seem to suggest. The following text will examine the historical development of this meaning and provide insight as to its relevance in today's society.

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John Prescott Kappas served as Treasurer of Alpha Beta Phi Chapter and Assistant Editor of *Perspective in History*, 1987-1988, and as President, Editor, and Student Government President, 1988-1989. He graduated from Northern Kentucky University and Chase College of Law and now practices law in Covington.

To the modern individual, the term "militia" produces a vivid, and somewhat romantic, mental image of a fife and drum corp leading a procession of colonial farmers into battle against British regulars. While this impression is indeed accurate, it is permanently frozen in time and tends to lead people to view the militia as a historical anomaly of the colonial era. The Constitutional framers held a much more practical view of militia that transcended almost a millenium of development. The starting point of reference for the framers was Anglo-Saxon England of the ninth century and its popular ruler King Alfred. Under Alfred's reign, the first true "militia" was organized. It was composed of all freemen capable of bearing arms and was designed to serve as the primary defensive bulwark for the tiny island kingdom.<sup>2</sup> Alfred's purpose in organizing such a force was derived from the basic need for a dependable, yet non-professional, body of men that could be summoned at will to defend his kingdom from foreign attack.

The uniqueness of this idea to England, however, was the result of political consideration as well as practical necessity. Most other European nations of the period relied solely on knights or mercenaries for their military needs. These professional warriors were normally provided to the weak central governments by much more powerful feudal lords in return for tangible compensation. The resulting relationship between government and lord led to a power play in which a few very wealthy men controlled the military potential of an entire nation. King Alfred hoped to avoid this situation by making the defense apparatus of England inclusive of all citizens through a universal militia which would be ultimately accountable to him and not to the lords. This political aspect was perhaps secondary to the more important practical aspects of the militia. Yet its importance was appreciated by William the Conqueror after his successful invasion of England in 1066.

The Norman lord did not disband or attempt to destroy the existing militia. Instead, he strengthened it to serve his own ends. William viewed the militia as the perfect means to consolidate his control over the nation.<sup>3</sup> He allowed the lords to exercise some discretionary authority over the local militia units, yet distribution of the state's military power in the hands of the people rather than the lords helped to weaken the overall strength of the lords. By 1181, Henry II, a later successor to William, issued the Assize of Arms which revitalized the militia further and even prevented the feudal lords from disarming the lower classes.<sup>4</sup> All freemen were guaranteed the right to possess arms for militia service and lords were ordered to turn over any additional arms they might possess to freemen who did not possess arms.<sup>5</sup> Such edicts ran contrary to feudal practice on the continent and helped to establish a unique form of feudalism in England which exhibited certain egalitarian aspects.

These early developments with the militia were obviously directed toward weakening the power of the feudal lords and strengthening the power of the central government. Once the threat from these powerful lords lapsed, the militia's overall importance lapsed as well. Local militia units ceased conducting regular training sessions and most citizens failed to maintain any requisite proficiency in arms. By the early eighteenth century, the old Anglo-Saxon militia was all but defunct.<sup>6</sup>



Certain political factions, however, began to advocate the reestablishment of the militia along ideological lines. The Whig party was among the most vociferous supporters of this idea. Unlike the Anglo-Saxon militia, the purpose of the Whig militia would be to check the power of an ever expansive central government by ensuring that the people controlled a monopoly on the instruments of violence.<sup>7</sup> Whigs were particularly mistrustful of the professional army often employed by the government to enforce unlawful edicts of the executive. Recent history was rife with incidents of standing armies turning their weapons on the very populations they were supposed to protect. Most infamously was Oliver Cromwell's "New Model Army" which had conducted a campaign of terror against all opponents, both real and imagined.<sup>8</sup> Whigs believed an alternative to a standing army could best exist with a militia composed of all the people.

The apparent advantage of such a militia was two fold. First, a militia composed of the entire citizenry was in a perfect position to thwart any attempt by a specific segment of society, most notably those in government, to usurp the rights and liberties of the people at large. In such an arrangement, the means of violence and military power were distributed throughout the citizenry. Individuals who possessed a stake, propertied or otherwise, in society had direct control over the sinews of state coercion. The need for a standing army was nullified by the militia's assumption of duties formerly delegated to the standing army.

The second advantage of a militia was closely tied to its cost effectiveness. Standing armies were severe drains on the national treasury. Their constant upkeep required funds that the overtaxed population could ill afford. When coupled with the fact that most professional soldiers were viewed with contempt by the taxpaying citizens, subsidy of standing armies by society was unpopular to say the least. The cost of a militia, however, created almost no expense problems. A militia's actions were limited to those objectives absolutely necessary for the maintenance of societal order. When not needed, a militia would lie dormant within the citizenry. Salary, housing and other costs so often associated with the continuance of a standing army did not exist in a militia system.

It would be fair to note at this point that a militia's success was dependent upon the existence of a virtuous citizenry.<sup>9</sup> Whig theory, mostly a reflection of standard republican ideals, based much of its strength on the assumption that the citizenry was virtuous. Individuals worked for the common good while also pursuing certain private interests that, when taken together, benefited the whole of society. Membership in the universal militia formed a significant aspect of the voluntary community service spoken of so often by Whig theorists. The virtuous citizens could only restrain the tyranny of a central government, and thus protect society, by working together in the universal militia. This group mentality fostered the notion that the virtuous citizenry and the government were two estates at opposites with one another.<sup>10</sup> The government, grasping and expansive, could only be controlled by an alert and virtuous citizenry prepared to repel a government assault on society through the implementation of raw force.

Commentators often question to what extent this ideology was put into practice in England. The answer is very little. The Whig party was never able to implement many of its programs, including the universal militia, because it was often the opposition party and thus was effectively excluded from power. Yet the importance of Whig ideology to early American history is well documented. A majority of colonial Americans identified strongly with the Whig party and its accompanying ideology.<sup>11</sup> Whig thought was the ideal after which early American statesmen sought to pattern American society. Thus, most colonial spokesmen spent much of their time extolling the virtues of the citizen-soldier and further refining the Whig theories of the militia.

It was during this period that the term "well regulated" was first used to modify the general term "militia." Andrew Fletcher, a prominent Scottish Whig, described a militia comprised of all citizens free from central government control as "well regulated."<sup>12</sup> Fletcher's use of the term "well regulated" was reflective of the concerted effort by most Whigs of the period to differentiate their definition of militia from alternate views which seemed to suggest a closer connection with the government. To Fletcher, "well regulated" meant the citizenry would maintain proficiency in arms and organization without the interference of government. Only in such a way could the militia regulate arbitrary government expansion. A militia hindered by government infringement could not effectively serve as an opposing force to that government and thus was not "well regulated."

The logic of Fletcher's argument can be better understood when examined in light of the eighteenth century semantic distinction between "Whig militias" and "Royal militias." As mentioned above, Whig militias were an integral aspect of free republican societies. Whigs (or republicans, the terms were often interchangeable) were fearful of a central government with the means to arbitrarily revoke citizen rights. Therefore, Whigs believed the militia's primary purpose was to utilize the combined force of the citizenry to repel any government encroachments on the community. This regulative status presupposed that the militia would remain insulated from government control.

The royal militia, however, was an idea advocated by those with a more statist approach to societal governance. The militia within this model was comprised of a select corp of men trained by the central government and commanded by a legislative body or chief executive.<sup>13</sup> The men of the militia were drawn from the community and ostensibly served only part time, yet the militia commanders were appointed, and ultimately controlled, by the government. This militia was essentially a compromise between a standing army and a Whig militia. It possessed the part time status of the Whig militia and the government control of the standing army. Yet its designation as a militia was an affront to Whigs who viewed such a force as simply an extension of the government and not a bulwark against it.

This apparent confusion in what actually constituted a militia led Whigs to purposely use the term "well regulated" when referring to their version of the militia. Well regulated suggested a militia more in line with the Whig model—

privately armed citizens organized into independent companies wholly apart from government control. The designation could be seen as a valve judgment rooted in Whig disdain for government control. If something were regulated in a positive manner, the implication was that it was not regulated by the government, which was viewed as separate and apart from the people, but was regulated by the people themselves. Well regulated was a modifying phrase which implied direct citizen control over their own weapons, organization and actions. "Well regulated" had the same meaning in the eighteenth century vernacular as the words "well equipped" have today.<sup>14</sup>

Colonial spokesmen corroborated much of this view in numerous statements about the well regulated militia. Following the lead of Andrew Fletcher, Patrick Henry defined the well regulated militia as "composed of gentlemen and yeomen" from the whole population.<sup>15</sup> George Mason, a contributor to the Constitution, described the well regulated militia as consisting of privately armed citizens organized into local units prepared to resist the standing army of a despot.<sup>16</sup> Richard Henry Lee attacked the notion of the royal or select militia by noting that such an organization had little in common with the people and often has as its proponents those possessed of truly "anti-republican principle." A well regulated militia, however, was one in which the whole body of the people possessed arms and were taught from a young age how to use them.<sup>17</sup> Such comments from influential colonials indicate the term "well regulated" was consistently used to refer to the Whig concept of militia.

The inclusion of the term in the text of the Second Amendment mirrored the thoughts of these early statesmen and the actions of most colonial state legislatures. A well regulated militia was recognized as an essential component of free republican society. Accordingly, many state legislatures passed statutory and constitutional declarations guaranteeing the continuance of the well regulated militia in a manner consistent with Whig ideology.<sup>18</sup> Select militias resembling our current system of National Guard units were frowned upon as vestiges of the tyranny most colonials had worked so hard to defeat. The Whig ideal of private citizens bearing arms apart from the dictates of government was the definitive model for most state constitutional framers.

In espousing the importance of the militia, however, early political spokesmen were advocating an ideal to strive for rather than an existing force. The desire in America following the Revolution was to construct a republican society based upon those principles so often put forth by prewar Whigs.<sup>19</sup> In order to do so, the Constitution and accompanying laws of the new nation had to encourage the growth of republican institutions by reflecting a uniquely republican bent. The Second Amendment's reference to a well regulated militia was simply the constitutional recognition of one such republican institution. Whether such a system existed in fact was not as important to the framers as whether such a system's growth could be fostered by the imposition of positive constitutional law. Guaranteeing the existence of a well regulated militia was one way the framers hoped to encourage the development of republican society.

Recently, critics of the Second Amendment have used this aspect to attack the modern relevancy of the well regulated militia.<sup>20</sup> The argument often put forth emphasizes the theoretical nature of the well regulated militia and its practical "non-existence." According to this view's proponents, the Second Amendment creates a universal obligation of every citizen to bear arms, and thus its modern relevancy is dependent upon every citizen bearing arms. If arms bearing is limited to those who voluntarily possess weapons (ie. traditional gun owners), the militia is not representative of the whole population and therefore any protection guaranteed by the Second Amendment exists solely in the framework of history.

This argument contains two very obvious flaws. First, it addresses the militia concept as if it were exclusively a duty. As mentioned above, the framers acknowledged that the well regulated militia was an ideal to work toward and not an organization that existed in perfect form.<sup>21</sup> It was assumed that not every citizen of the new republic would feel an obligation to bear arms. Therefore, during the drafting of the Second Amendment, constitutional framers were adamant about guaranteeing a RIGHT that would impute a sense of DUTY to the citizens to be armed.<sup>22</sup> Defining the concept primarily in terms of a "right" ensured a certain measure of voluntariness on the part of the citizens. If an individual wished to be armed in the true republican sense, he was guaranteed the right to do so. Yet, if one were religiously opposed to bearing arms, he would not be obligated to perform in such a way. In short, the Second Amendment's republican base which emphasized community needs over those of the individual was tempered by the individualism so endemic within society. Although striving for a perfect republican society in which all individuals would feel a civic obligation to be armed, the framers realized that ideology had to give way to practical considerations. Thus, the absence of universal arms bearing among the populace does not render the Second Amendment irrelevant. Such a condition was expected and provided for by the framers.

The second flaw evident within the relevancy argument involves its failure to take into account other constitutional articles that may not exist in their purest form but nevertheless are still afforded great respect. For example, the First Amendment guarantees the right of the people to assemble and speak freely.<sup>23</sup> Among the reasons the framers drafted this clause was in hopes of encouraging the continuance of open town meetings in which all members of the community took part in civic decisions.<sup>24</sup> Yet today most communities have nothing like the town meetings envisioned by the framers. This fact of historical development, however, does not preclude the continued importance of the right of free assembly. Society still views it and the individual right to bear arms as inalienable rights guaranteed by the Constitution. The principles behind the rights remain unchanged, the means of exercising the rights are what have evolved.

The evolutionary aspect of the application of certain rights helps to frame the issue of what arms the well regulated militia may possess. Much debate has occurred over exactly what class of weapons are guaranteed for militia use. Are militia weapons limited to those in existence in 1792 or are all small arms included within

the amendment's scope? The common definition for arms in 1792 was very broad. An arm was generally considered any personal weapon capable of being carried by one person and used for both offensive and defensive purposes.<sup>25</sup> This seems to indicate that the framers were leaving the militia's weapons' class open to future developments in small arms technology. If, as some modern critics suggest, the Second Amendment applies only to eighteenth century smoothbore muskets, the framers would have said so by stating, "the right of the people to keep and bear MUSKETS shall not be infringed." Instead, the general designation "arms" allowed the amendment's purview to include all current weapons and any future weapons that might develop from subsequent advances in firearms technology.

The basis for this view is derived from the purpose behind the well regulated militia. If the militia's objective is to deter government oppression, an equality of firepower must exist between militia and government. This equality of firepower was the practical expression of balance between estates so often spoken of by republican ideologues. Restricting possession of current military small arms to official state forces would destroy any hope of balance between citizenry and government. The citizens would be forced to rely on obsolete weapons for their defense while the government could monopolize the fruits of current technology and willfully employ this advantage against the population. As men of the Enlightenment, the framers were well aware that technology was not stagnant. Progression would occur and when it did the framers hoped to ensure the people had access to the same weapons as the government.

An interesting side note to this issue is the way in which technological effect is often taken for granted when other rights are examined. The First Amendment specifically guarantees freedom of the press.<sup>26</sup> The term "press" may refer to the news media generally or it could be taken to refer to a specific technological contrivance. If one views the press as indicative of the latter, then those same individuals who assert that the militia's weapons are limited to those of a 1792 vintage would also have to limit press freedom to those newspapers which still employ the Gutenberg printing press of 1792. Clearly, such a selective view would not be taken seriously. The consistency necessary when considering the Constitution exists with the principles set forth in the document. Those principles may be applied to today's technology as easily as they were once applied to the technology of the eighteenth century.

The intent of the 1792 framers is not the only guide available in determining what arms are guaranteed to the well regulated militia. Two important judicial decisions reinforce the views held by the framers. The 1840 Tennessee Supreme Court case of *Aymette v. State* affirmed the right of citizens (i.e. the well regulated militia) to bear military arms in defense of liberty.<sup>27</sup> The case involved a challenge to a statute that prohibited the open or concealed carry of certain types of knives. The defendant charged with violating the statute argued that it violated his right to bear arms under the Tennessee Constitution.

The Court held that the legislature may prohibit the carry of weapons not generally employed in a military context. The "Arkansas toothpick" carried by the

defendant was found to be one such weapon. However, the Court maintained that the right to keep and bear arms applied specifically to weapons of war. Most firearms and even bladed instruments such as bayonets would be shielded from state restrictions on ownership by this interpretation. As the Court stated, those who possess the requisite implements of modern warfare, "are prepared in the best possible manner to repel any encroachments upon their rights."<sup>28</sup>

*Aymette* was decided in light of the State Constitution's "right to bear arms" clause. The opinion's analysis, however, was based almost entirely on principles articulated a half century earlier by the U.S. Constitution's framers. The equality of firepower between government and citizenry could only be preserved if the citizenry had access to the weapons of "civilized warfare."<sup>29</sup> "Access" meant that the citizens had a right to keep weapons that were in current use by military forces in their homes and to bear those arms if the need to provide a common defense of individual liberty arose. *Aymette* clearly reflected the prevailing nineteenth century view regarding the militia and its arms. Noted law professor Glen Harlan Reynolds, in an analysis of *Aymette* and several other Tennessee cases, found that their precedents supported the argument that military weapons are the most protected class of arms under U.S. jurisprudence. Reynolds stated that "constitutionally, guns that are 'only good for killing people' are the ones that ought to be most protected, because maintaining among the citizenry at large just that ability to 'kill people' is precisely the reason for the (right to bear arms). Revolutions, after all, tend to involve killing, as does resistance to government oppression."<sup>30</sup> The so-called "sporting purposes test" that is so often employed by faceless Washington bureaucrats to determine the suitability of a firearm for commercial distribution would have no basis under this analysis.

The most important federal case to address the issue of militia weaponry was the 1939 U.S. Supreme Court decision of *U.S. v. Miller*.<sup>31</sup> The case involved a constitutional challenge to the first federal law regulating the purchase and possession of firearms. Popularly known as the National Firearms Act of 1934 (NFA), the law established a mandatory licensing and taxing policy on the transfer and sale of automatic weapons and sawed-off shotguns.<sup>32</sup> Defendant Jack Miller and an accomplice were arrested for allegedly transporting a sawed-off shotgun through interstate commerce without the appropriate NFA registration and tax stamp. Miller maintained that the NFA's enforcement provisions were in direct conflict with the Second Amendment. The district court agreed and dismissed the case, declaring the NFA to be unconstitutional. The government, however, appealed the case directly to the Supreme Court. When the case reached the oral argument stage, Miller had died and no attorney was retained to argue his side of the case. The final argument before the Court witnessed only one attorney, the government's counsel, urging the validation of the 1934 law.

The resulting opinion of the Court unanimously upheld the National Firearms Act. The lack of any adverse material to the government's position, however, is what forced the Court to decide in the way it did. If evidence of a sawed-off

shotgun's military value had been presented to the Court, the justices would have probably declared the NFA unconstitutional since the Second Amendment guarantees citizens the right to possess arms suitable for military purposes. In the opinion, Associate Justice McReynolds stated: "Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment (of the militia) or that its use could contribute to the common defense."<sup>33</sup> McReynolds was alluding to the fact that the Court lacked the requisite evidence to determine the military nature of a sawed-off shotgun. If such information had been provided, it is very likely the Court would have declared the shotgun to be a weapon exempt from government regulation under the Second Amendment. The military application of a shotgun, however, was never brought to the Court's attention. The justices were forced to rely entirely on the government's brief which conveniently ignored the military value of the weapon.

When addressing the topic of gun control, most commentators are quick to criticize the procedural deficiencies of *Miller*. The adversarial nature of an appellate review is severely limited when only one side of the case is presented before the Court. This aspect, coupled with the Court's lack of basic technical information about the case, makes the final holding even more difficult to accept. Yet within the opinion's text the Court suggests a very traditional view as to the type and manner of weaponry guaranteed protection under the Second Amendment. Noted law professor Sanford Levinson, an advocate of gun control, even admits that *Miller* could be read in such a way as to invalidate federal laws aimed at banning military style weapons: "*Miller* can be read to support some of the most extreme anti-gun control arguments, e.g., that the individual citizen has a right to keep and bear bazookas, rocket launchers, and other armaments that are clearly relevant to modern warfare, including . . . assault weapons. Arguments about the constitutional legitimacy of a prohibition by Congress of the private ownership of . . . assault rifles, might turn on the usefulness of such guns in military settings."<sup>34</sup> As Levinson's writing indicates, most legal scholars are beginning to recognize the clear enunciation in *Miller* of the citizens's (and thus the well regulated militia's) right to bear arms relevant to modern warfare. The Supreme Court's subsequent silence on the issue since 1939 implies that *Miller*'s final ruling is tenuous precedent which could be overturned if a similar case were brought before the Court.

The issue of the well regulated militia's arms eventually leads to questions concerning the composition of the well regulated militia. During the constitutional debates, George Mason posed the rhetorical question, "Who are the militia? - They consist of the whole people, except a few public officers."<sup>35</sup> Mason was voicing the commonly held assumption that the militia was the entire population exclusive of those in government. This definition fit the contours of Whig ideology very well. The militia's purpose, to oppose the potential tyranny of a central government, could best be served by including all those individuals outside of government (i.e. the general population) within the militia. From a theoretical perspective, such a view is indeed accurate and somewhat reflective of the republican ideology

espoused by the eighteenth century Whigs. Yet pure republican thought also carried with it a certain measure of exclusivity. As mentioned earlier, the citizenry within a republican society would have to be virtuous in order to be successful. This virtuousness requirement led Whigs to exclude certain members of society from the citizenry who might lack the requisite foundations for good citizenship. Non-property owners and vagrants were often cited as prime examples of individuals not worthy of citizenship. Individuals who held property and subsequently exercised the franchise or "right to vote" were viewed by Whigs as comprising the bulk of the citizenry.<sup>36</sup> Although relatively egalitarian when compared with other societal models of the day, republican society did exhibit certain exclusionary traits.

These traits were most evident in the way early American society viewed African-Americans. Before 1868, blacks were considered by most states not to be part of the collective citizenry and hence were generally excluded from the militia.<sup>37</sup> Supreme Court Chief Justice Roger Taney, in referring to blacks and their status in the population, noted in *Dred Scott v. Sanford* (1857): "More especially, it cannot be believed that the large slaveholding states regarded them as included in the word "citizens" or would have consented to a constitution which might compel them to receive them in that character from another state. For if they were so received, and entitled to the privileges and immunities of citizens . . . (they would possess the rights) of full speech in public and in private . . . and to keep and carry arms wherever they went."<sup>38</sup> Despite the defunct status of this opinion, the Court's reasoning illustrates the prevailing historical view that held the citizenry to be an exclusive group within the general population. Those individuals who were members of the citizenry possessed the rights guaranteed under the Constitution, such as the right of membership in the well regulated militia, while individuals outside the citizen class did not.

The question then remains, how has this apparent exclusivity evolved to include those classes of individuals who may not have been citizens in 1792 yet are obviously citizens today? The answer could best be framed in terms of societal growth. American society has come to recognize that certain segments of the population once excluded from full citizenship status now possess the rights of citizenship. As society's view of who constitutes a "citizen" expands, so does the view of who is eligible for membership in the well regulated militia. In theory, all those individuals possessing the full rights of citizenship are members of the militia. This would still exclude felons, aliens, children and others who do not possess the full set of citizen rights. Yet the vast majority of people would be considered members of the well regulated militia and thus vested with all accompanying rights and responsibilities.

At first glance, this broad view of militia membership may appear somewhat remote from eighteenth century republican thought. After all, eighteenth century republicans would not have included certain groups within the citizenry that are included today. This superficial difference, though, should not preclude one from approaching the militia issue from a principle, rather than a pragmatic, perspective.



The republican ideal of limited government rested on the ability of a well regulated militia to resist the tyranny of government. The best way to ensure the effectiveness of the militia was to make it inclusive of as many people as possible. In 1792, the "whole body of the people" referred to the citizenry at large. Certain groups, such as blacks, were not considered a part of this group and thus were not viewed as members of the militia. Their exclusion from militia membership, however, was a manifestation of the eighteenth century application of the militia ideal and not a reflection of the militia principle itself. The principle of private citizens bearing arms within a well regulated militia has remained consistent. The modern application of that principle is what has changed.

The Supreme Court has touched on who actually constitutes the militia on several occasions, but most effectively dealt with the issue in the 1886 case of *Presser v. Illinois*.<sup>39</sup> Defendant Herman Presser was a German immigrant and leader of a paramilitary organization known as the Lehr und Wehr Verein. The group openly drilled with military weapons and had as one of its objectives the promotion of firearms proficiency. In 1879, Presser and members of his organization were arrested for conducting an armed march down the streets of Chicago and charged with violating an Illinois statute which prohibited such an action without a license from the governor. Presser took the case to the Supreme Court and challenged the constitutionality of the Illinois statute. Claiming it violated the First, Second and Fourteenth Amendments, he urged the Court to invalidate the law.

In addressing the issue involving the Second Amendment, the Court examined the effect the Illinois parade statute had on the right of the people to keep and bear arms. The language of the statute simply stated, "It shall be unlawful for any body of men whatever . . . to drill or parade with arms in any city, or town, of this State without a license of the Governor."<sup>40</sup> The statute did not restrict the right of the people to keep and bear arms nor did it infringe upon the continued effectiveness of the well regulated militia. It simply restricted armed military parades to a formal licensing procedure. As a result of this fact, the Court upheld the parade statute but warned that any state regulation which adversely affected the right of the people to keep and bear arms, thereby hampering the ability of America's well regulated militia to possess arms, would be invalidated by the Court as unconstitutional. Associate Justice Woods, speaking for the Court, stated: "It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the U.S. as well as of the States, in view of this prerogative of the general government, as well as of its general powers, the states cannot, even laying the constitutional provision in question out of view, prohibit the people from keeping and bearing arms, so as to deprive the U.S. of its rightful resource for maintaining the public security."<sup>41</sup> Clearly, the Court was reaffirming that the well regulated militia of the Second Amendment was comprised of the whole population and not a select military corp. This judicial excerpt formed the most substantial aspect of the Court's full opinion and is still upheld by the Court today. Despite its nineteenth century vintage, *Presser* has yet to be overturned.

Such a definitive statement on the nature and composition of the well regulated militia helps to distinguish the organization from the National Guard. Critics of the militia have often pointed to the National Guard as being the "true" focus of the Second Amendment. Aside from *Presser* and other judicial opinions which outwardly contradict such a position, the legislation that created the National Guard described an organization at opposites with the well regulated militia of the Second Amendment.

Popularly known as the "Dick Bill" of 1903, the Congressional act authorizing the establishment of Guard units in all fifty states stipulated a professional organization comprised of federally trained soldiers employing federally owned weapons under the ultimate authority of the President.<sup>42</sup> Such an arrangement was more akin to the royal militias of the eighteenth century than the well regulated militia advocated by the framers. This is perhaps why the legislation distinguished the National Guard from the militia by defining all those individuals who are not members of the Guard as members of the general militia.<sup>43</sup> Congressional drafters were attempting to set the parameters of the National Guard in the strictest possible terms.

Interestingly enough, modern commentators have suggested that the motivation behind the 1903 "National Guard Act" was to create a military organization that could better deal with public disturbances and thus serve a more effective role as the government's police force.<sup>44</sup> Militia units were often known to exercise more restraint than government officials thought appropriate when dealing with situations such as strikes. In some cases, the restraint allowed the disturbances to get out of hand. Congress hoped the creation of a select militia such as the Guard would allow the government to exercise greater control over a more "professional" body of men and also make the units more responsive to federal military mandates. Of course, this is exactly what the framers did not want the militia to become. Select militias were the "bane of liberty" and basically served the same narrow purposes as a fully equipped standing army. Fortunately, Congressional drafters felt legally compelled to recognize the well regulated militia of the Second Amendment as a completely separate entity and thereby avoid any confusion in differentiating the two. The same legislation that created the National Guard prominently referred to the general or "well regulated" militia as being the body from which members of the Guard would be recruited.<sup>45</sup> Congress recognized the militia as being the whole population and the National Guard as being a select subset of it. Far from replacing the militia with the Guard, Congress statutorily acknowledged the existence of both. The well regulated militia was the armed citizenry whose protection emanated from the Second Amendment while the National Guard was a select military unit whose Constitutional basis rested with Article I, section 8, which provided Congress with the power to organize a select militia (i.e. the National Guard).<sup>46</sup>

A recent Supreme Court decision seems to confirm the National Guard's position as a strictly governmental body. In *Perpich v. Department of Defense* (1990), the Court held that Congressional power over the National Guard is plenary and not

restricted by any Constitutional clause.<sup>47</sup> The Court cited Article I, section 8, as the only Constitutional clause that is even relevant to the issue of the Guard.<sup>48</sup> The Second Amendment was not mentioned, perhaps because it does not serve as an authoritative source of power for the Guard. According to *Perpich*, the National Guard, like the Prussian militias of the nineteenth century, is a select corp under the complete control of the national government.<sup>49</sup> Guard units could be more accurately viewed as detachments of the federal army whose control emanates from Washington; much like the royal militias of colonial times were units whose ultimate authority for operation originated with the Crown.

The issue of the National Guard and its non-relation to the Second Amendment's well regulated militia is a fitting point of conclusion for this discussion. For years, many establishment academics have ignored the true meaning of the well regulated militia and have casually cast off its importance by equating the militia with the National Guard. This cavalier attitude can be attributed to the failure of modern scholars to consider the importance of Whig ideology in the drafting of the Constitution. The framers were intent upon molding a republican society through the imposition of positive Constitutional law. Much of the ideological underpinning for their ideas came directly from eighteenth century Whig ideology. Although modern Americans may not be "Whigs" themselves, they live under a Constitution which incorporates many Whig ideas. An appreciation of these ideas is not only warranted but necessary for a complete understanding of a document whose basis was born from the practical experiences of the Republic's founders.

Unlike countries such as Canada and Australia, America was forged in revolution. The men who fought for freedom were essentially citizen-soldiers whose physical and psychological attachment to arms fostered a self-confidence that allowed the colonial farmer to defeat the professionally-trained British redcoat where similar attempts at rebellion by foreign peoples had failed. The militia principle, where all citizens bore their own arms in defense of themselves and their community, was a radical concept. The feudal monarchies of Europe were afraid to trust their people with arms for fear those arms may eventually be turned against the very systems supporting the monarchies.

Perhaps this is what makes the framer's concept of a militia such an important aspect of modern life. Those in government bent on the consolidation of power fear an armed citizenry because it is essentially the one practical obstacle to a police state. Citizens can only use the court system to challenge government abuse of power so long as the government permits the systems to function. Once system breakdown occurs, it falls upon the citizenry of the well regulated militia to effect a suitable defense of liberty. As George Washington stated over two centuries ago, "(Firearms) are the American people's liberty teeth and keystone under independence. . . . When firearms go, all goes—we need them every hour."<sup>50</sup> President Washington clearly understood the importance of a universal militia encompassing an armed citizenry. His prophetic analysis serves as a sober warning to those inclined to discount the relevancy of the militia in our modern era.

## End Notes

1. *New York Times*, National edition, May 2, 1994. The title "Palladium of Liberty" is derived from Supreme Court Associate Justice Joseph Story's description of the well regulated militia and the right to bear arms generally. See Joseph Story, *Commentaries on the Constitution* (Washington, D.C., 1833), 746.
2. Winston Churchill, *A History of the English Speaking Peoples: The Birth of Britain* (New York, 1958), 118.
3. David Harris and Stuart Prall, *A History of England* (New York, 1984), 48.
4. Great Britain. Laws of Henry II. Assize of Arms of 1181. *English Historical Documents II* (London, 1969), 422. The act states in relevant part: "let every free layman, who holds chattels of rent to the value of 16 marks, have a hauberk, a helmet, a shield and a lance. Also, let every free layman who holds chattels or rent worth 10 marks have an 'aubergel' and a headpiece of Iron, and a lance . . . and let every burgess who has more arms than he ought to have according to this assize, sell them or give them away or otherwise bestow them on such a man as will retain them for the service of the lord king of England."
5. Stephen Halbrook, *That Every Man Be Armed, The Evolution of a Constitutional Right* (Albuquerque, New Mexico, 1984), 38.
6. Joyce Lee Malcom, *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, Massachusetts, 1994), 133.
7. David Williams, "Civic Republicanism and the Citizen Militia: The Terrifying Second Amendment," *The Yale Law Journal* 101 (1991) : 551, 559.
8. James Kirby Martin and Mark Edward Lender, *A Respectable Army: The Military Origins Of The Republic 1763-1789* (Arlington Heights, Illinois, 1982), 6.
9. Williams, "Civic Republicanism and the Citizen Militia," 564.
10. *Ibid.*, 567.
11. Martin, *A Respectable Army*, 10.
12. Halbrook, *That Every Man Be Armed*, 47.
13. *Ibid.*, 72.

14. Harry Thomas, Guest Column: "Gun Laws Violate the Constitution," *Cincinnati Enquirer*, January 18, 1992. See also David T. Hardy, "Armed Citizens, Citizen Armies," *Harvard Journal on Law and Public Policy* 9 (1986), 559, 626.
15. Robert D. Meade, *Patrick Henry* (Marietta, Georgia, 1969), 62.
16. Halbrook, *That Every Man Be Armed*, 61.
17. Ibid., 72.
18. David Hardy, *Origins And Development of the Second Amendment* (Chino Valley, Arizona, 1986), 60.
19. Martin, *A Respectable Army*, 31.
20. See generally Williams, "Civic Republicanism and the Citizen Militia."
21. Martin, *A Respectable Army*, 31.
22. Halbrook, *That Every Man Be Armed*, 79.
23. U.S. Constitution, Amendment I.
24. James Wilson, *American Government* (Los Angeles, 1986), 37.
25. William Duane, *A Military Dictionary* (Philadelphia, 1810), 14. This publication provides a clue as to the 18th century definition of "arms" and its relevant use by the Constitution's framers.
26. Halbrook, *That Every Man Be Armed*, 79.
27. 2 Humphreys 21 Tenn. 154 (1840).
28. Ibid.
29. Ibid.
30. Glen Harlan Reynolds, "The Right to Keep and Bear Arms under the Tennessee Constitution: A Case Study in Civic Republican Thought," *Tennessee Law Review* 61 (1994), 647, 665.
31. 307 U.S. 174 (1939).

32. 26 U.S.C. section 1132c, as amended, 26 U.S.C. section 5801 (1976).
33. 307 U.S. 174, 178 (1939).
34. Sanford Levinson, "The Embarrassing Second Amendment," *Yale Law Journal* 99 (1989), 637, 654-655.
35. Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution, III* (Washington, D.C., 1836), 425.
36. Martin, *A Respectable Army*, 6-7.
37. Halbrook, *That Every Man Be Armed*, 99.
38. 60 U.S. 393, 420 (1856)
39. 116 U.S. 252 (1886).
40. Ibid., 253.
41. Ibid., 265.
42. 10 U.S. C. Section 101 (9)-(13). See also, Maurice Matloff, *American Military History* (Washington, D.C., 1968), 351.
43. 10 U.S.C. Section 311 (b).
44. Nell I. Painter, *Standing at Armageddon* (New York, 1987), 21-22.
45. 10 U.S.C. section 311.
46. U.S. Constitution, Article I, section 8.
47. 496 U.S. 334 (1990).
48. Ibid.
49. Ibid.
50. George Washington, Address to the Second Session of the First United States Congress, 1792, as cited by Alan Gottlieb, *The Rights of Gun Owners* (Aurora, Illinois, 1981), 5.

# Thurgood Marshall: From Brown to Bakke

by  
Scott W. DeWitt

The Civil Rights movement in the United States in the twentieth century has had many leaders and has employed a variety of tactics to achieve its goals. Thurgood Marshall was one of the most prominent of these leaders. As an attorney for the National Association for the Advancement of Colored People (NAACP), Federal Judge, Solicitor General of the United States, and Associate Justice of the United States Supreme Court, Marshall advocated the use of the law to bring about change in American society. In his most famous and important case, *Brown v. Board of Education of Topeka, KS*, he argued as attorney for the plaintiff. This case, decided in 1954, declared segregation in America's schools unconstitutional. While *Brown* was not the beginning of Marshall's efforts in this area, it clearly set America on a path of ending legitimized racism.

Marshall's views on racism and the use of the law to combat it evolved over the years from a relatively conservative view emphasizing lack of legal equality to a more radical view advocating using the law to force society to deal with all peoples equally. Therefore, in 1978, as a member of the Supreme Court, he strongly opposed the benchmark decision in *Regents of the University of California v. Bakke*. In disallowing an affirmative action plan for the selection of medical students at the University of California at Davis, the Court changed course in what is viewed as a decision that signaled the end of active efforts of the Court to use the Constitution to promote social change. In the years between *Brown* and *Bakke*, Marshall had championed individual rights.

Marshall was born in Baltimore in 1908. His mother was a school teacher and his father was a railroad porter and steward at a private (white-only) club. A brilliant student, Marshall received his undergraduate degree with honors from Lincoln University in 1930. He then enrolled at Howard University Law School and was named valedictorian of the class of 1933. After graduation, he opened a private practice in Baltimore. Although his practice floundered at first, he began to take on work for the local NAACP. His involvement with the organization increased dramatically when his former law professor and mentor, Charles Hamilton Houston, became chief counsel to the national NAACP. Marshall went to New York City to serve as Houston's Assistant Special Counsel. In 1950, Marshall was appointed Director-Counsel for the NAACP Legal Defense and Education Fund. In this position, he argued the *Brown* case.

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Scott W. DeWitt, a member of Gamma Omicron Chapter of Phi Alpha Theta, graduated from Hope College with a major in History in 1981. He earned a Master of Arts in Secondary Education at Northern Kentucky University in 1996 and teaches Social Studies at Anderson High School in Cincinnati.

Marshall used sociological data to show the inherent inequality of segregated schools, thus undercutting the *Plessy v. Ferguson* proposition that separate but equal public services could exist. With this evidence, the plaintiffs hoped to obtain a Supreme Court decision overturning the 1896 *Plessy* decision. In the NAACP brief, Marshall argued that the goal was a color-blind Constitution as described by Justice John Marshall Harlan from Kentucky in his dissenting opinion in *Plessy*:

In the view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.<sup>1</sup>

Marshall based the case against the Topeka school system on this argument. He declared: "The Fourteenth Amendment was intended to destroy all caste and color legislation in the U.S., including racial segregation."<sup>2</sup>

Marshall's strategy succeeded; in *Brown v. Board of Education* in 1954 (*Brown I*), the Court unanimously accepted the NAACP argument in its entirety. Chief Justice Earl Warren's opinion declared separate but equal schools to be inherently unequal and unconstitutional under the Fourteenth Amendment. However, the Court postponed a decision on the perplexing issue of enforcement. Some scholars suggest that this deferral explains the unanimous decision; the difficult question of forcing southern society to change was not yet addressed.<sup>3</sup> The Court asked for additional argument on the issue of implementation of the decision. During the argument in *Brown I*, Marshall stated: "The only thing we ask for is that the state-imposed racial segregation be taken off, and to leave the county school board, the county people, the district people, to work out their own solution."<sup>4</sup> In the re-argument, however, the NAACP and allies sought an order from the Court making immediate integration the requirement. Their hope was that with a sympathetic Court, delay would be minimized. Referring to the implementation of the Court's unanimous decision that segregation in the Washington, D.C. public schools was unconstitutional, in *Bolling v. Sharpe* (1954), Marshall recommended: "This Court . . . should decree that [D.C. schools], lacking the constitutional power to assign pupils to public schools on the basis of race, immediately cease and desist using race as a factor in making such assignments."<sup>5</sup>

In May, 1955, the Court handed down the implementation order, known as *Brown II*. The Court invoked the principles of equity law, remanding the cases to the lower courts and ordering them to overcome obstacles "with all deliberate speed."<sup>6</sup> Instead of taking the enforcement role that Marshall urged, the Court adopted the argument of the school districts and states that would be affected. The order made it possible for segregationists to devise strategies to delay implementation. According to *Southern School News*, by 1958, only 764 of 2,889 southern school districts which practiced *de jure* segregation had taken steps to comply with the Court decision.<sup>7</sup>



While it is clear from Marshall's argument that the plaintiffs anticipated delays if the Court did not take a primary role in enforcement, it is equally clear that Marshall and the others believed that the greater part of the battle was the legal victory over *Plessy*. Marshall later described his view of the situation in the early 1950s:

I didn't know then, and most Americans don't know now, how irrational and destructive the forces of racial bigotry were then and are today. . . . We had to fine-tune our legal strategy if we hoped to use the Constitution peacefully to wipe out Jim Crow.<sup>8</sup>

Thus, even in the face of intransigent opposition to change, Marshall hoped and believed that social equality would necessarily follow legitimization of equality just as segregation had followed the legitimization of that policy.

This belief carried over into opposition to other forms of civil rights activism. In 1956, at the forty-seventh NAACP convention in San Francisco, Marshall and Roy Wilkins, Executive Director of the NAACP, strongly opposed efforts to pass resolutions in favor of non-violent civil disobedience as a central tactic in the movement. Marshall was quoted by reporters as calling Martin Luther King, Jr. "a boy on a man's errand."<sup>9</sup> Marshall did not believe that disobeying the law was a profitable tactic and wanted to work within the system to eliminate segregation. In his role as Director-Counsel for the NAACP, he worked to separate the organization from King. However, once it became clear that the King strategy was useful and popular, he provided support.

By 1960, Marshall regularly directed the NAACP Legal Defense Fund to support civil disobedience challenging segregation. This support led to another Supreme Court case, *Garner v. Louisiana*.<sup>10</sup> Several students were arrested and convicted of disturbing the peace for a "sit-in" at a segregated lunch counter in Baton Rouge. Although the statute against "disturbing the peace" did not mention race or color, local authorities, with approval of the state courts, used it to enforce segregation. Marshall argued that despite the lack of *de jure* segregation, the convictions violated the plaintiffs' Constitutional rights. He asserted:

The segregation here is perhaps more insidious than that accomplished by other means for it is not only based upon a vague statute which is enforced by the police according to their personal notions of what constitutes a violation and then sanctioned by state courts, but it suppresses freedom of expression, as well.<sup>11</sup>

The Supreme Court agreed and overturned the convictions. The case reveals that Marshall was beginning to see the need to go beyond simply creating a color-blind law. In this case, he argued that not just the language of the law must treat people equally, but the state as enforcer of the law must also be held accountable in efforts to ensure the end of segregation.

From his 1962 appointment as Circuit Court Judge to his 1967 appointment to the Supreme Court, Marshall was primarily occupied in areas of the law not directly related to civil rights. As Solicitor General of the United States from 1965 to 1967, he advocated the interests of the federal government. This was a time of considerable legislative and executive activism in civil rights, but except for arguing that states should be bound by the 24th Amendment's prohibition on poll taxes in *Harper v. Virginia Board of Elections*, he was not involved in civil rights activity.<sup>12</sup>

After Marshall joined the Supreme Court in 1967, it continued to support an active role for the government in desegregation. In *North Carolina State Board of Education v. Swann* (1970) and *Swann v. Charlotte Mecklenburg Board of Education* (1973), the Court upheld busing plans designed to achieve racial balance. These decisions specifically allowed the use of race as a factor in busing.<sup>13</sup> The unanimous decision in the 1973 *Swann* case demonstrated that Marshall was not the only legal scholar whose views had progressed beyond the color-blind view of the Constitution.

In 1977 a case came before the Supreme Court which was destined to change the parameters of the civil rights debate. Alan Bakke, who had been denied admission to the University of California-Davis Medical School, sued the school on the grounds that the program which set aside sixteen seats for minority students discriminated against him since it reduced his chances of obtaining admission. This "reverse discrimination" argument was a compelling one for much of white America and provided a difficult question for the Court: is race-conscious action with the aim of correcting past discriminations acceptable under the Constitution?

The arguments in *Regents of the University of California v. Bakke* centered on a basic question of Constitutional rights. Attorneys for the Regents argued that the school's program was not intended to discriminate against any individual, but was designed to help a particular historically disadvantaged group. Bakke argued that the Constitution protects individual rights and that he should not be denied admission as a means of correcting social ills which were not his fault.<sup>14</sup> The decision is complex. In separate 5-4 majorities, the Court found that Bakke had been unconstitutionally denied admission, but also asserted that "some uses of race in university admissions are permissible."<sup>15</sup> Justice William Powell provided the swing vote forming both majorities.

Justice Marshall showed throughout the consideration of *Bakke* that he was strongly in favor of allowing the UC-Davis program to continue. During the oral argument, he asked Bakke's attorney, Reynold Colvin, whether the university could reserve even *one* place for minorities. Colvin answered negatively.

Marshall: So numbers are just unimportant?

Colvin: The numbers are unimportant. It is the principle of keeping a man out because of his race that is important.

Marshall: You're arguing about keeping somebody out, and the other side is arguing about getting somebody in.

Colvin: That's right.

Marshall: So it depends on which way you look at it, doesn't it?  
 Colvin: It depends on which way you look at it. The problem. . .  
 Marshall: It does?  
 Colvin: The problem. . .  
 Marshall: It does?  
 Colvin: If I may finish. . .  
 Marshall: It does?  
 Colvin: The problem, the problem is. . .  
 Marshall: You talking about your client's rights; don't these under privileged people have some rights?  
 Colvin: They certainly have the rights to compete. . .  
 Marshall: To eat cake.<sup>16</sup>

Dismayed by the split decision of the Court, Marshall framed a dissent separate from the opinion which approved "race-conscious" policies. Within his dissent is a passionate recitation of the history of blacks in America and a reasoned legal argument that this history has a continuing impact on African-Americans today:

While I applaud the judgment of the Court that a university may consider race in its admissions process, it is more than a little ironic that, after several hundred years of class-based discrimination against Negroes, the Court is unwilling to hold that a class-based remedy for that discrimination is permissible. . . . Today's judgment ignores the fact that for several hundred years Negroes have been discriminated against, not as individuals, but rather solely because of the color of their skins. . . . Had the Court been willing in 1896, in *Plessy v. Ferguson*, to hold that the Equal Protection Clause forbids differences in treatment based on race, we would not be faced with this dilemma in 1978. . . . The majority of the Court rejected the principle of color blindness, and for the next 60 years . . . ours was a nation where, *by law*, an individual could be given "special" treatment based on the color of his skin. . . . I do not believe that anyone can truly look into American's past and still find that a remedy for the effects of that past is impermissible.<sup>17</sup>

Thus, Marshall rejected the color-blind language in Justice Harlan's *Plessy* dissent and asserted that the Court's refusal to adopt that posture in 1896 made such a posture improper in 1978.

Consistent with his lifetime dedication to the legal profession, Thurgood Marshall advocated the use of the Constitution and the law to combat segregation and racism throughout his career. Within this framework, however, there was considerable evolution of his view as to the extent to which the law must be used within society to effect change. In the early 1950s, as the *Brown* case was being developed, he believed that changing the language of the law was the step necessary

to change American society. As American society developed new methods of continuing segregation despite the *Brown* decision, he realized that more assertive action was necessary. This position is clearly demonstrated in the *Bakke* decision as he abandoned the color-blind view of the Constitution and forcefully argued for the continuation of affirmative action programs. While the change in his outlook should not be surprising to observers of American society, Marshall's thoughts are worthy of analysis as the debate on affirmative action continues.

## Endnotes

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4. Quoted in Carl Rowan, *Dream Makers, Dream Breakers: The World of Justice Thurgood Marshall* (Boston, 1993), 198.
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6. Mason and Beaney, *Constitutional Law*, 490; Kelly and Harbison, *Constitution*, 934-935.
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9. Taylor Branch, *Parting the Waters: America in the King Years, 1954-63* (New York, 1988), 190.
10. Roger Goldman with David Gallen, *Thurgood Marshall: Justice for All* (New York, 1992), 137.
11. *Ibid.*, 138.
12. Bland, *Marshall*, 185-189; Mason and Beaney, *Constitutional Law*, 449-450.
13. Mason and Beaney, *Constitutional Law*, 446.
14. See Brief for Petitioner and Brief for Respondent in Philip B. Kurland and Gerhard Casper, eds., "Regents of the University of California v. Bakke," Part One, *Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law; 1977 Term Supplement* (Washington, D.C., 1978), 99: 97, 197.

15. United States Commission on Civil Rights, *Toward an Understanding of Bakke* (Washington, D.C., 1979), 66.
16. Peter Irons and Stephanie Guitton, eds., *May It Please the Court: The Most Significant Oral Arguments Made before the Supreme Court since 1955* (New York, 1993), 312-313.
17. Commission on Civil Rights, *Bakke*, 140-142.

**Ronald Takaki**  
***A Different Mirror: A History of Multicultural America***  
**(Boston, 1993).**

by  
**Tatti Bellucci and Michael Washington**

In a time when ethnic and racial diversity appears to be stretching the seams of American's tolerance as well as her borders, Professor Ronald Takaki has written a timely book that provides us with a historically fact-based account of what being an American really means. Our history, told in this ethnically rich way, speaks to us of a country united in differences, as opposed to the traditional Eurocentric manner which Takaki contends is responsible for the "disuniting of America" (p. 427).

With a quick backward glance at our American history courses, we all have some vague recollection that immigrants helped build this country. We also know that groups from the world over fled here to escape religious persecution, poverty, war, and political repression. What Takaki strives to reveal is that, whether voluntarily or involuntarily, the contributions of these groups and their ensuring struggles to build a democracy are incalculable.

The story of United States history is far from a gentle one. In fact, in reading about the various groups that were here or came to these shores, one cannot deny that our history is one of assumed racial superiority. From the displacement of the Native Americans and all the broken treaties to the subjugation of African slaves, racism, buoyed by a pernicious and persistent ethnocentric view, underlies the nation's economic accomplishments. Though Takaki never intentionally points a finger, the reader cannot help but feel a deep indignation at the Anglo-American moral code. He condemns the stereotyping of every immigrant group as "savages, a people living outside of civilization, naturally given to idleness, dominated by innate sloth, loose, barbarous, wicked, and living like beasts" (p. 27). All were placed in a racial cast system and the country was built more by the broken backs of the economically exploited and racially marginalized than the poor and huddled masses. Nevertheless, the starkness of this reality connects us all as each ethnic group fought for their piece of equality.

With extensive footnotes, Takaki documents each group's arrival and the reasons for coming. The imperialism of Britain over Ireland along with the potato famine led one million Irish to emigrate. Irish laborers built the roads and canals that sustained the Market Revolution. The Mexicans, having lost "an area which

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Tatti Bellucci graduated from Northern Kentucky University in August, 1995 with a major in Middle Grades Education. Michael Washington, Professor of History, a member of Alpha Beta Phi Chapter, and Outstanding Professor of the year for 1996 is Director of the Afro-American Studies Program at Northern Kentucky University.

accounted for one-half of Mexico" (p. 176) to Anglo invaders built railroads connecting the cities of the Southwest on wages that no white man would accept. The Chinese came because of western imperialism and poverty. They contributed significantly to the construction of the Central Pacific Railroad and to agriculture and manufacturing. The Japanese came to escape the heavy burden of taxation that accompanied the creation of a strong centralized government that could resist foreign domination. Settling in Hawaii, they built for America a sugar export economy that brought great wealth. The Jews of Russia and eastern Europe, fleeing from ethnic persecution in the 1880s, settled mostly in New York City and formed a cohesive group that supplied the garment district with cheap labor while maintaining a strong legacy as entrepreneurial merchants.

This is a book to be read in every institution of higher learning. It shows how the country was built from the strength of diversity, not from the homogeneous white dream and perpetuating myth of our forefathers. "The telling of stories liberate," (p. 15) Takaki writes, and in a time when misunderstandings abound, this book haunts with its truth and resonates with compassion, leaving the reader feeling surprisingly connected and patriotic.

Takaki writes with the smooth progression of an unfolding story. The book is clearly organized in four thematic sections: "Boundlessness," "Borders," "Distances" and "Crossings." Each section is well documented with secondary sources that include ethnic and racial documentary studies, journal articles, historical and sociological books. The author's use of primary sources provides a rich anecdotal flavor to the study. The oral interviews, ethnic newspapers and court documents elicit many unheard voices from the past. Moreover, these sources serve to vividly embellish the passion and pain many felt in encountering a culture that raved of equality and freedom but punished those who came knocking at its door. *A Different Mirror* is an exceptionally well written and documented study that indeed makes us see our reflection in a hauntingly different way.



**Alvin C. Poweleit and James C. Claypool,  
*Kentucky's Patriot Doctor:  
The Life and Times of Alvin C. Poweleit*  
(Fort Mitchell, Kentucky, 1996).**

**by  
Steven M. Watkins**

While walking the streets of Northern Kentucky's Fort Mitchell, one may pass "Kentucky's Patriot Doctor," sporting a bow tie and modestly carrying himself in a manner indicative of the polite World War II generation. Although his mild mannerisms may not give him away, anyone familiar with his life story would quickly realize that they were in the presence of a living legend. The life of Alvin C. Poweleit is a multi-faceted adventure of a man who knows no limits as a soldier, physician, husband, and patriot.

Poweleit's story begins humbly in Newport, Kentucky, where he was born in 1908. His childhood was less than stable as he moved from home to home in the Newport area, and at one point he lived in the Campbell County Orphan's Home. He was so driven to succeed that extreme circumstances, such as feasting on chicken feed for lack of food, did not slow him down. His motivation to be a giver and not a taker places him as one of the most prominent citizens and most well-respected physicians in northern Kentucky.

After graduating from Newport High School, Poweleit enrolled in the University of Kentucky and eventually transferred to and earned a degree from the University of Cincinnati. He worked for AT&T briefly, and in 1932 registered for medical school at the University of Louisville. A number of different jobs and unflinching hard work pulled him through medical school. With the support of his wife, Loretta Thesing Poweleit, he established himself as a doctor serving his internship at Saint Elizabeth Hospital.

Nearly as fast as he had established himself and his new career, his life turned infinitely complex. Poweleit was also a medical officer in the Army Reserve's 192nd Light G. H. Q. Tank Battalion. In December, 1940, the 192nd was mustered for deployment to the Philippines to strengthen the defense of the islands. This event would be the beginning of the most severe and trying chapter in his life.

Poweleit's discernment is seen in his journey to the Philippines as he studied the Japanese language in preparation for future encounters with what would soon be the nation's enemy. Upon arrival in the Philippines, he began reading books and

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Steven M. Watkins, 1995-1996 President of Alpha Beta Chapter and Assistant Editor of *Perspectives in History*, graduated from Northern Kentucky University in December, 1996. He is presently studying at The Master's Seminary in Los Angeles, California.

studying the flora and fauna representative of South East Asian jungles. These two preparations saved countless lives in future days as his unit was captured by the Japanese and he was imprisoned on Philippine soil. Soon after capture, he was forced on the infamous Bataan "Death March." In the midst of this inconceivable trial which claimed the lives of nearly 10,000 soldiers, he not only survived, but employed his medical knowledge, ability to speak Japanese, and familiarity with indigenous plant life to save the lives of fellow soldiers, earning him the Bronze Star and other medals and citations for combat heroism.

Poweleit's return to the United States enabled him to serve his fellow citizens in a medical capacity as he had served his fellow soldiers. Specialized training at Harvard Medical School provided for a successful private practice in the Eye, Ear, Nose and Throat field. His successful marriage and extensive travels add a positive theme to Dr. Poweleit's adventuresome life. The story of "Kentucky's Patriot Doctor" exemplifies the American dream. It is a story of rags to riches, underdog to champion, and humble street boy to decorated American patriot.

Poweleit's autobiography is not only full of exciting substance, but it is also well written, well organized and articulate. Relying upon such diverse sources as Poweleit's personal journal, letters from fellow soldiers, and ten hours of interviews of Poweleit by Professor Claypool, the authors achieve a fine synthesis that merges accurate documentation and interesting narrative. Two of Poweleit's previous books, *USAFFE: The Loyal Americans and Faithful Filipinos* and *Kentucky's Fighting 192nd G. H. Q. Tank Battalion*, contributed documented accounts of his myriad adventures to the current autobiography. This story deserves to be read, not only for its adventure and intrigue, but also for the living example of an individual who puts others first— Poweleit's story is nothing short of inspiring.

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