

ONLINE APPENDIX

Arming the Enslaved: Different Paths Taken by the US and Confederate Congresses during the American Civil War

Sections of the Militia Act of 1862 Pertaining to the Use of Black Troops

SEC. 12. *And be it further enacted*, That the President be, and he is president may hereby, authorized to receive into the service of the United States, for employ persons the purpose of constructing entrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent, and such persons shall be enrolled and organized under such regulations, not inconsistent with the Constitution and laws, as the President may prescribe.

SEC. 13. *And be it further enacted*, That when any man or boy of Slaves render. African descent who by the laws of any State shall owe service or labor in each service, to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in this act, he, his mother and his wife and children, shall forever thereafter be free, any law, usage, or custom whatsoever to the contrary notwithstanding: *Provided*, That the mother, wife and children of such man or boy of African descent shall not be made free by the operation of this act except where such mother, wife or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States or adhered to their enemies by giving them aid and comfort.

SEC. 15. *And be it further enacted*, That all persons who have been or shall be hereafter enrolled in the service of the United States under this act shall receive the pay and rations now allowed by law to soldiers, according to their respective grades: *Provided*, That persons of African descent, who under this law shall be employed, shall receive ten dollars per month and one ration, three dollars of which monthly pay may be in clothing.

An Act to Provide for the Employment of Free Negroes and Slaves to Work Upon Fortifications

SECTION 1. *Whereas*, The efficiency of the army is at times greatly diminished by the withdrawal from the ranks of soldiers to perform labor and duties which can as well be done by free negroes and slaves—

The Congress of the Confederate States of America do enact, That all free male negroes, between the ages of eighteen and fifty years, shall be held liable to perform any labor or discharge any duties with the army, or in connection with the military defences of the country, such as working upon fortifications, producing and preparing materials of war, building and repairing roads and bridges, and doing other work usually done by engineer troops and pontoniers, acting as cooks, teamsters, stewards and waiters in military hospitals, or other like labor, or similar duties which may be required or prescribed by the Secretary of War or the general commanding the Trans-Mississippi department, from time to time. And said free negroes, whilst thus engaged, shall receive rations and clothing, under such regulations as the Secretary of War may prescribe, and shall receive pay at the rate of eighteen dollars per month.

SEC. 2. That the Secretary of War and the general commanding the Trans-Mississippi department are each authorized to employ, for duties like those named in the first section of this act, as many male negro slaves, between the ages of eighteen and forty-five years, not to exceed thirty thousand in the States east of the Mississippi river, and ten thousand in the States west of the Mississippi river, as the wants of the service may require. And the said slaves, whilst so employed, shall be furnished rations and clothing as provided in the preceding section, and the owners paid such hire for their services as may be agreed upon; and in the event of the loss of any slaves whilst so employed, by the act of the enemy, or by escape to the enemy, or by wounds whilst in any service required of said slaves, and by reason of said service, then the owners thereof, respectively, shall be entitled to receive the full value of such slaves, to be ascertained and fixed by agreement at the time said slaves are so hired, under rules to be prescribed by the Secretary of War.

SEC. 3. That whenever the Secretary of War or the general commanding the Trans-Mississippi department shall be unable to procure the services of slaves by hiring them, as above provided, in sufficient numbers, then it shall be lawful for the said Secretary or General to order the impressment, and to impress as many male slaves, within the ages named in the second section of this act, and for the purposes and uses above stated, not at any time to exceed thirty thousand in the States east of the Mississippi river, and ten thousand in the States west of the Mississippi river, as may be necessary: *Provided*, That slaves so impressed shall, whilst in the government employment, receive the same clothing and rations allowed to slaves hired from their owners, and in the event of their loss or death in the manner or from the causes above stated, their value shall be estimated and fixed as provided by the law regulating impressments, and paid as in the case of slaves hired from their owners, and the value of the hire of said slaves shall be fixed in like manner.

SEC. 4. That the Secretary of War and the general commanding the trans-Mississippi department shall, in ordering the impressment of slaves, regulate the same, as far as practicable, so that slaves shall be taken from each State in proportion to the number liable to impressment therein under this act, but not more than one in every five male slaves, within the said ages of eighteen and forty-five years, shall be taken from any one owner if said slaves are employed by said owner or his lessee uniformly in agriculture or in mechanical pursuits, nor, where an owner has but one male slave within said ages, shall said slave be impressed, and all impressments under this act shall, as far as practicable, be taken in equal ratio from all owners in the same locality, city, county, or district; but when the slaves in any locality or of any person or persons have been or shall be exempted by the laws or regulations of any State from impressment to labor on the fortifications or other public works of the Confederate States, then the said slaves shall not be impressed for any purpose whatever by the authorities of the Confederate States: *Provided*, however, That nothing herein contained shall be so construed as to exempt any State from furnishing its fair quota of slaves for the purposes herein specified and according to the provisions of this act: *Provided*, further, That in each case care, be taken to allow each owner a credit for all male slaves between the ages aforesaid heretofore impressed, or impressed under this act, or hired to the government, who are still in service, or who may have died or been lost while in service: *Provided*, further, That, if the Governor of any State shall certify to the Secretary of War or the Commanding General of the trans-Mississippi department, that slaves cannot be impressed in any locality, county, district, parish, or city, in such State without great

detriment to such locality, county, district, parish or city, then the quota of said locality, county, district, parish or city shall be impressed from other portions of such State.

SEC. 5. Duplicate rolls shall be prepared of all the slaves hired or impressed under this act, which shall contain a description of the slaves, the names and residences of the owners; and a statement of the value and rate of hire of the slaves at the date they are hired or impressed, one of which rolls shall, in the States east of the Mississippi river, be forwarded to the Secretary of War, and in those west of the Mississippi river, to the head-quarters of the general commanding that department, and the other roll shall be sent to the general commanding the army where said slaves may be employed; and the officer having charge of said slaves, or of the work upon which they may be engaged, shall have a copy of said roll, and shall regularly enter thereon the nature of the labor or duties in which said slaves are engaged, and any changes which may be made therein, and of the absence, sickness, or death of any of said slaves, and make monthly returns thereof to the general commanding the army where said slaves are employed, who shall transmit the same to the Secretary of War or to the Commanding General in the trans-Mississippi department, as the case may be.

SEC 6. That all laws or parts of laws providing for the hiring or impressment of slaves be, and the same are hereby repealed, except so far as they may provide for regulating and fixing, in case of impressment, the value of said slaves, or the value of their services.

An Act to Increase the Military Force of the Confederate States, 1865

I. The following act of Congress and regulations are published for the information and direction of all concerned:

AN ACT to increase the military force of the Confederate States.

The Congress of the Confederate States of America do enact, That, in order to provide additional forces to repel invasion, maintain the rightful possession of the Confederate States, secure their independence, and preserve their institutions, the President be, and he is hereby, authorized to ask for and accept from the owners of slaves, the services of such number of able-bodied negro men as he may deem expedient, for and during the war, to perform military service in whatever capacity he may direct.

SEC 2. That the General-in-Chief be authorized to organize the said slaves into companies, battalions, regiments, and brigades, under such rules and regulations as the Secretary of War may prescribe, and to be commanded by such officers as the President may appoint.

SEC 3. That while employed in the service the said troops shall receive the same rations, clothing, and compensation as are allowed to other troops in the same branch of the service.

SEC 4. That if, under the previous sections of this act, the President shall not be able to raise a sufficient number of troops to prosecute the war successfully and maintain the sovereignty of the States and the independence of the Confederate States, then he is hereby authorized to call on

each State, whenever he thinks it expedient, for her quota of 300,000 troops, in addition to those subject to military service under existing laws, or so many thereof as the President may deem necessary to be raised from such classes of the population, irrespective of color, in each State, as the proper authorities thereof may determine: *Provided*, That not more than twenty-five per cent. of the male slaves between the ages of eighteen and forty-five, in any State, shall be called for under the provisions of this act.

SEC 5. That nothing in this act shall be construed to authorize a change in the relation which the said slaves shall bear toward their owners, except by consent of the owners and of the States in which they may reside, and in pursuance of the laws thereof.

II. The recruiting service under this act will be conducted under the supervision of the Adjutant and Inspector General, according to the regulations for the recruiting service of the Regular Army, in so far as they are applicable, and except when special directions may be given by the War Department.

III. There will be assigned or appointed for each State an officer who will be charged with the collection, enrollment, and disposition of all the recruits that may be obtained under the first section of this act. One or more general depots will be established in each State and announced in orders, and a suitable number of officers will be detailed for duty in the staff departments at the depots. There will be assigned at each general depot a quartermaster, commissary, and surgeon, and the headquarters of the superintendent will be at the principal depot in the State. The proper officers to aid the superintendent in enlisting, mustering, and organizing the recruits will be assigned by orders from this office or by the General-in-Chief.

IV. The enlistment of colored persons under this act will be made upon printed forms, to be furnished for the purpose, similar to those established for the regular service. They will be executed in duplicate, one copy to be returned to this office for file. No slave will be accepted as a recruit unless with his own consent and with the approbation of his master by a written instrument conferring, as far as he may, the rights of a freedman, and which will be filed with the superintendent. The enlistments will be made for the war, and the effect of the enlistment will be to place the slave in the military service conformably to this act. The recruits will be organized at the camps in squads and companies, and will be subject to the order of the General-in-Chief under the second section of this act.

V. The superintendent in each State will cause a report to be made on the first Monday of every month showing the expenses of the previous month, the number of recruits at the various depots in the State, the number that has been sent away, and the destination of each. His report will show the names of all the slaves recruited, with their age, description, and the names of their masters. One copy will be sent to the General-in-Chief and one to the adjutant and Inspector General.

VI. The appointment of officers to the companies to be formed of the recruits aforesaid will be made by the President.

VII. To facilitate the raising of volunteer companies, officers recruiting therefor are authorized to muster their men into service as soon as enrolled. As soon as enrolled and mustered, the men will be sent, with descriptive lists, to the depots of rendezvous, at which they will be instructed until assigned for service in the field. When the organization of any company remains incomplete at the expiration of the time specified for its organization, the companies or detachments already mustered into service will be assigned to other organizations at the discretion of the General-in-Chief.

VIII. It is not the intention of the President to grant any authority for raising regiments or brigades. The only organizations to be perfected at the depots or camps of instructions are those of companies and (in exceptional cases where the slaves are of one estate) of battalions consisting of four companies, and the only authority to be issued will be for the raising of companies or the aforesaid special battalions of four companies. All larger organizations will be left for future action as experience may determine.

IX. All officers who may be employed in the recruiting service, under the provisions of this act, or who may be appointed to the command of troops raised under it, or who may hold any staff appointment in connection with them, are enjoined to a provident, considerate, and humane attention to whatever concerns the health, comfort, instruction, and discipline of those troops, and to the uniform observance of kindness, forbearance, and indulgence to their treatment of them, and especially that they will protect them from injustice and oppression.