James Govan Taliaferro (1798-1876): Louisiana Unionist and Scalawag

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James Govan Taliaferro (1793-1876): Louisiana Unionist and Scalawag

A Thesis

Submitted to the Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College in partial fulfillment of the requirements for the degree of Master of Arts

in

The Department of History

by

Mynona Gillmore Mills
B.A., Southwestern at Memphis, 1964
January, 1965
MANUSCRIPT THESSES

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ACKNOWLEDGMENTS

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ABSTRACT

A discussion of the Civil War and Reconstruction in Louisiana would not be complete without including the name of James C. Taliaferro. Taliaferro, a prominent citizen from Harrisonburg, Louisiana, was a lawyer by profession, but was also involved in the politics of his area. After the death of his wife in 1850, he devoted more time to politics and became active in state politics. In addition to being a lawyer and judge, he owned and edited the \textit{Harrisonburg Independent}, the only newspaper in Catahoula Parish at this time.

Taliaferro held various elective parish offices and in 1852 he entered state politics by being the Catahoula delegate to the Constitutional Convention. He actively participated in the convention and frequently voiced his opinion on the different issues. Taliaferro is best known for his opposition to Louisiana's secession in 1861. As the Catahoula delegate to the convention, he stood firm in his beliefs and convictions and gave the only verbal protest to the Ordinance. In addition to denouncing the Secession Ordinance, he refused to sign the document. During the Civil War he remained at home in Harrisonburg but after the war he supported the reconstruction of Louisiana by participating in politics again. In 1865 he unsuccessfully ran for Lieutenant Governor.

In 1866 Taliaferro received an appointment as Associate Justice of the Louisiana Supreme Court. As president of the Constitutional
Convention of 1868, he played a major role in helping formulate the new constitution which re-admitted Louisiana to the Union. In 1868 he also ran against Henry Clay Warmoth in the gubernatorial election. Although he was unsuccessful in the election, Warmoth reappointed him to the state Supreme Court in 1868 and he served in this capacity until his death in 1876.
A discussion of the Civil War and Reconstruction in Louisiana would not be complete without including the name of James G. Taliaferro (pronounced Tolliver) from Catahoula Parish. Because of Taliaferro's fervent opposition to secession, he would not allow his state to withdraw from the Union without making an untiring effort to impress upon the people the dangers of disrupting the Union. At the Secession Convention in 1861, Taliaferro voiced his strong Unionist views by delivering the only verbal protest to the Secession Ordinance and by being one of the nine delegates who refused to sign the document. After the Civil War he actively participated in politics in an effort to obtain Louisiana's re-admission to the Union. From his early political years until his death Taliaferro defended the Union. Although the political scene changed many times during his life, he always stood adamant in his support of the federal government.

Much detail can be given about some phases of Taliaferro's life, but other aspects are rather sketchy. A freak accident caused the loss of many of his personal papers which undoubtedly would have added considerable information to this study.¹

¹ Before the Taliaferro Papers reached the Department of Archives at Louisiana State University, they were stored in a trunk in the attic of the old Taliaferro home in Harrisonburg. When Virgil L. Bedsole,
To understand Taliaferro's later political activities it is necessary to know of his early life and political involvements in Catahoula Parish. The story begins with Zacharias Taliaferro, a member of the fifth generation of Taliaferros to come to the United States from Italy. Zacharias and his wife, Sally Warwick, had only two children, James Govan and Elvira. James Govan Taliaferro was born on September 28, 1793, in Amherst, Virginia. When he was only eight years old the family moved to Claiborne County, Mississippi, and when he was seventeen they moved on to Louisiana where his father and one Charles Patterson established a small sawmill in Catahoula Parish. Zacharias thus became one of the first settlers in this area. Having spent the last twenty years of his life there as a lumberman, mill owner, and small planter, Zacharias died on September 12, 1823.

When it came time for James to go to college, he ventured off to Kentucky to attend Transylvania College in Lexington, Kentucky. After graduating from Transylvania, he remained in Lexington for advanced study and in 1820 he was admitted to the bar. Taliaferro, however, found time for other activities because on May 1, 1819, he married

1 LSU archivist, went to get the valuable papers, he found that a goat had climbed into the attic and destroyed an undetermined number of the papers. Thus, certain manuscripts which might have thrown considerable light on Taliaferro's life, work and thought were lost forever.

2 Interview with H. A. Taliaferro, September 8, 1966, Harrisonburg, Louisiana; The National Cyclopaedia of American Biography, XI (New York, 1901), 518; Inventory file to Zacharias and James G. Taliaferro Papers (Department of Archives, Louisiana State University, Baton Rouge, Louisiana); Frederick William Williamson and George T. Gooden (eds.) Eastern Louisiana: A History of the Watershed of the Ouachita River and Florida Parishes, I (Monroe, Louisiana, n.d.), 22; Dr. Kilpatrick, "Historical and Statistical Collections of Louisiana: The Parish of Catahoula," DeBow's Southern and Western Review, XII (March 1852), 238, hereinafter cited as DeBow's Review.
Elizabeth M. B. Williamson of Lexington. After qualifying to be a lawyer, Taliaferro and his wife returned to Harrisonburg where he set up his law practice. Twelve children were born to Elizabeth and James but only seven reached maturity.

It did not take James long to establish his law practice and also to become involved in the political activities of the Harrisonburg area. As early as 1824 he contested the election of John J. Bowie to the Louisiana House of Representatives. Bowie, Representative from Catahoula Parish, had won the election of July 5, 6, and 7 by a slim majority of three votes. Taliaferro was convinced that the election had not been properly managed and that Bowie, therefore, should not be seated in the Legislature. On July 30, 1824, Taliaferro notified Bowie of the contestation and gave the following reasons for his actions:

"1st that the election was not held at all the Districts within the Parish at the times and places as directed by law, 2nd that the ballot box for the lower District of the Parish was not secured by proper locks and keys [sic] as the law contemplates and requires, and 3rd that votes were taken and counted which were illegal." 6

Throughout the fall of 1824 Taliaferro took depositions from voters in Catahoula Parish stating that the election had been unfair.

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5 Petition of 11 electors to the House of Representatives of Louisiana, October 23, 1824, James G. Taliaferro Papers (Department of Archives, Louisiana State University, Baton Rouge, Louisiana.)

6 James G. Taliaferro to John J. Bowie, July 30, 1824, Taliaferro Papers.
and that the votes recorded were incorrect. One man testified that in his district no ballot box was provided and that no election occurred on the intended days. Another witness attested that the one lock on his ballot box was unlocked. In fact, only one of the available statements indicated satisfaction with the election, but even that witness admitted that one of the three legally required locks on the ballot box was missing. 7

Many other voters supported Taliaferro's opposition to Bowie's election. On October 23, 1824, eleven electors presented a petition to the House of Representatives of Louisiana protesting Bowie's election. Although the electors' investigation was entirely independent of Taliaferro's, their findings were much the same. One ballot box was not locked, illegal votes were taken and counted, and in some districts there was no election at all. 3 The efforts of Taliaferro and the other electors proved futile because in November 1824 John J. Bowie of Catahoula Parish presented his credentials to the Louisiana House of Representatives, was sworn into office, and took his seat. 9

That Taliaferro's political interests were not just local is evidenced by his active admiration of national political figures. In the presidential elections of 1824 and 1828 Taliaferro supported John Quincy Adams. 10 Indeed his respect for Adams was so profound

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7 Testimony of James Dash to James G. Taliaferro, October 2, 1824; Testimony of Stacey H. Hodkins to Taliaferro, October, 1824; Testimony of John Galvin to Taliaferro, October 24, 1824, Taliaferro Papers.
8 Petition of 11 electors to the House of Representatives of Louisiana, October 23, 1824, Taliaferro Papers.
9 Journal de la Chambre Des Representants de l'Etat de la Louisiane, 7 Leg., 1 sess., 2.
10 Oliver Stout to James G. Taliaferro, May 4, 1823; William Leigh Brent to Taliaferro, May 9, 1825, Taliaferro Papers.
that one of his sons carried the name John Quincy Adams Taliaferro. Another son was named Daniel Webster Taliaferro.

Taliaferro's involvement in politics deepened and in April 1827 his friend Oliver Stout encouraged him to become a candidate for the state legislature. He reassured Taliaferro in his political ambitions by saying:

My advise is founded upon the fact that you appear to be gaining on the affection of the people, when this is the state of fact in any candidate, he is most certain eventually to succeed.\(^\text{11}\)

Available records indicate that Taliaferro did not run for this office. Nevertheless in 1834 he was appointed Parish Judge. When this office became elective in 1840, the people of Catahoula reelected him for the next seven years. Taliaferro's experience here was valuable for years later, in 1866, he would receive an appointment to the Louisiana Supreme Court.\(^\text{12}\)

Taliaferro's affiliation with the Whig Party produced a great deal of correspondence dealing with the activities of the party within Catahoula Parish and on the national level. He received invitations to such Whig functions as barbecues and mass meetings. Whigs also wrote him asking him to make nominations for the party within Catahoula Parish and to give his help in getting Whig nominees elected to Congress from his district.\(^\text{13}\)

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\(^{11}\) Oliver Stout to James G. Taliaferro, April 17, 1827, Taliaferro Papers.

\(^{12}\) Interview with Judge Jesse C. McGee, September 3, 1966.

\(^{13}\) Charles Jones to James G. Taliaferro, December 6, 1843, J. J. Sanford to Taliaferro, May 7, 1844, Taliaferro Papers. Invitation from Clay Club and Whigs of Natchez, Mississippi, August 9, 1844, Taliaferro Papers.
Judge Taliaferro backed his Whig convictions with his money as well as his heart. In the 1840 presidential election his support for the Whig candidate, William Henry Harrison, was so enthusiastic that on June 27, 1840, he placed a wager with Ditto L. Nuttall concerning the coming election between Harrison and Martin Van Buren, Democratic candidate for President.

$1000
On the first day of January A. D. 1841 I promise to pay Ditto L. Nuttall on order One thousand dollars value received with interest at the rate of ten per cent per annum from maturity until paid.

James G. Taliaferro

To make the act official they presented the wagers to a witness who recorded the following statement.

In the event of my death previous to the 1st of December 1840 the following statement I wish recognised [sic] with regard to the two notes Enclosed [sic] in this envelope. Should W. H. Harrison be elected President of the United States Judge Taliaferro is entitled to both these notes. Should Martin Van Buren be elected Dr. Ditto L. Nuttall is entitled to them. They are only deposited with me for safe keeping and I, no more have any interest in them.

William M. Tem

On the bottom of this statement was a note written by Taliaferro saying that he received both the notes and that Dr. Nuttall paid him in full. Undoubtedly Taliaferro realized that the nation was tired of Van Buren and would not re-elect him President. Although the popular vote was very close, the electoral college vote proved Taliaferro to be correct in his prediction that Harrison would win. The amount of the wager gives some indication of the financial status of Judge

14 Wager between Ditto L. Nuttall and James G. Taliaferro, June 27, 1840, Taliaferro Papers.
Taliaferro. One thousand dollars is a considerable sum of money to place on the outcome of an election even today. Taliaferro probably would not have wagered this amount of money unless he could pay if he lost.

A man of Judge Taliaferro's education and professional training was a rare occurrence in those days, especially in a small town like Harrisonburg. By 1859 he had been a respected civil servant for many years. It was natural, therefore, that he should be elected president of the Harrisonburg Police Jury in 1859 and again in 1860. This position marked the end of the first and most peaceful phase of his political life, because discussions were becoming more and more frequent concerning the matter of secession with which Taliaferro would become involved and which would allow him no tranquility for the rest of his life.

In addition to being a lawyer, judge, and small planter, Taliaferro also owned and edited the Harrisonburg Independent, a weekly newspaper which was "a sound and ably conducted journal of large circulation." His bachelor son John Quincy Adams published the paper for his father. The exact date Taliaferro purchased the paper is unknown but it was at least as early as 1856. He continued to own and edit the paper until he sold it on May 8, 1861.

17 Harrisonburg Independent. May 8, 1861.
Taliaferro's good management of public affairs extended also into his personal business matters for he owned a sizable amount of land in and near Harrisonburg. In 1850 his real estate was valued at only $10,000 but in 1860 the value increased to $87,000. At the time of his death he owned 2,036 acres and an undivided half of 624 acres, plus several tracts of land of undetermined size. Also included in his estate was a home and home site valued at $1000 and the site of his law office. In 1820 his father, Zacharias, had owned only four slaves. By 1840 Taliaferro himself owned four slaves. By 1850 he had thirteen, and by 1860 he owned a total of twenty-seven slaves. As a farmer or small planter, Taliaferro also raised sheep and cattle, and at the time of his death he owned approximately thirty sheep and thirty-six head of cattle. He also had an unusual pet deer that was entirely white and had white eyes.

Through the years Taliaferro continued to be a scholar of classical studies, science, and history. He was also an authority on the geological characteristics of his home parish of Catahoula. Since Catahoula Parish was noted for its Indian lore and legends, his


19 Succession of James G. Taliaferro, Succession Record "F," (Harrisonburg, Louisiana: Catahoula Parish Court House), 526 ff.


21 Succession of James G. Taliaferro, Succession Record "F," 526 ff.

geological collection quite naturally contained many Indian relics. Taliaferro's personal library contained a large number of books, although the exact number of volumes is unknown. At the time of his death he had 340 volumes in his library which were appraised at $150, in addition to a library of law books of an undetermined number appraised at $500. Taliaferro's favorite motto (from Cicero), which appeared in each issue of the Harrisonburg Independent, was "Defendi republicam [sic] juvenis; non desiram senex." Translated this means "I defended the republic in my youth; I shall not stop as an old man."

On April 27, 1850, Mrs. Taliaferro died, leaving her husband, six children, and one grandchild. As the natural tutor of the children, Judge Taliaferro was given the duty of accounting for all the money and personal estate of his wife and caring for the inheritance of the children. Mrs. Taliaferro's estate consisted of a sizable inheritance from Woodford County, Kentucky, namely that of her mother, Susannah Williamson, and her brothers, William B. Williamson and Robert G. Williamson. After the death of his wife, Taliaferro, then 52 years old, began to play a more active role in politics. Since he never remarried, his political activities probably occupied a large part of his time and helped to fill the void left by his wife's death.

23 A Statistical Profile of Catahoula Parish (Baton Rouge, 1965); Prichard, "Tourist's Description of Louisiana in 1860," LH, XXI, 1204.

24 Succession of James G. Taliaferro, Succession Record "F," 526 ff.

25 The Daily Picayune, April 3, 1891.

26 Succession of Elizabeth M. B. Taliaferro, Succession Record "C," (Harrisonburg, Louisiana: Catahoula Parish Court House), 177 ff. See Appendix II for listing of heirs.
By 1852 the Whigs and Democrats alike in Louisiana wanted a new constitution. The 1845 constitution had displeased the Whig leaders because it greatly limited the business and commercial activities by prohibiting monopolies, by limiting corporation life to twenty-five years, and by prohibiting special charters. The Whig leaders wanted the new constitution to include such measures as limitation of state debt, public subscriptions for internal improvements, and the repeal of the 1845 articles restraining business, banks, and railroads. The Whigs were unwilling to leave the development of these internal improvements in the hands of the legislature for fear that the Democratic leaders might control the legislature one day and not favor "free private enterprise." Instead of leaving such matters to the legislature, the Whigs wanted a new constitution which would be beneficial to business and private enterprise.

Since the Whigs needed the support of the majority of the voters to get their delegates elected to the Constitutional Convention, they had to give some reason other than commercial interests for wanting a new constitution. With the increased emphasis on Jacksonian democracy, many Louisianians wanted to expand the democratic principles of the 1845 constitution and increase voter participation. By emphasizing the need for a more democratic method of representation in the
legislature and a more democratic suffrage requirement, the Whigs were successful in getting their delegates elected to the convention. After the convention assembled the Whigs first granted the commercial interests everything they wanted and then provided for a more democratic constitution. At the election for delegates held on June 14, 1852, eighty-five Whig and forty-five Democratic delegates were elected to represent their respective parishes.¹

Several newspapers commented on the delegates of the convention which met in Baton Rouge from July 1 until July 31.² The Baton Rouge Gazette described the convention as constituting a "dignified and important body."³ The Daily Crescent of New Orleans describing the delegates in greater detail commented:

They [the people of Louisiana] have full confidence in the men who compose it [the convention] and know them to be gentlemen embracing an unusually large amount of intelligence, experience, hard common sense and untalkativeness. In looking over the Convention, on the opening day, we are struck with the air of easy, natural propriety, quietness, business-like attention, and general intelligence.⁴


³ The Baton Rouge Gazette, July 10, 1852.

⁴ New Orleans Daily Crescent, July 7, 1852.
Judge Taliaferro and William Beard represented Catahoula Parish at the convention. The short thirty-one day session was paced with heated debate on issues concerning representation in the House, state liabilities, amending process, suffrage, qualifications for the Governor, subsidies to internal improvements, education, and the judiciary department. Taliaferro was involved in most of the questions, and from his several speeches one finds the first clear insight into his political philosophy.

The question arousing the most controversy and involving Judge Taliaferro more than any other was that of the basis of representation in the Louisiana House of Representatives. Although representation in the Senate, which had been based on total population since 1845, was a settled matter, the delegates questioned whether the number of qualified voters or the total population should be the basis for representation in the House. Hidden within the representation problem was the question of the control of the legislature. The planters of the black belt wanted representation based on total population in order to count their slaves and increase the number of representatives from their parishes. Conversely, the white parish delegates wanted representation based on the number of qualified voters so that all parishes would be fairly represented.

As a member of the Legislative Committee, Judge Taliaferro was immediately in the center of the controversy, since he helped draw up the original article presented to the convention. Twice during the

5 1852 Journal, 3.
6 Shugg, Origins of Class Struggle, 158-60.
convention Taliaferro spoke in vigorous support of representation based on the number of qualified voters. On July 21, 1852, he and George M. Sandidge, Senatorial delegate from Claiborne, Bossier, and Bienville parishes, presented the minority report stating their reasons for opposing representation based on total population. Taliaferro pointed out that since slaves were property they had no political existence, and that they should not be counted for representation in the legislature. If the slaves were counted, Taliaferro argued, representation would be on an "unequal basis" and would be

...contrary to the genius of republican institutions, because it infringed that perfect equality in political rights that should exist among the people who constitute the governing power—because it is founded upon a fallacious mode of reasoning, and because, if adopted, it will be a source of dissatisfaction and complaint among the people. It is of the essence of republicanism that every free citizen should stand, as regards political rights, on terms of perfect equality with every other free citizen of the same community...But that equality cannot be obtained by the basis of the total population.7

Taliaferro then gave an analysis of the number of slaves and whites in four parishes and the number of representatives each would have if apportionment were based on total population to prove why total population apportionment would be unequal. According to the 1850 census, Tensas parish had 900 whites and 8,138 slaves, while Concordia parish showed a count of 823 whites and 6,034 slaves. If the legislature seated only 100 representatives based on the number of whites, the two parishes together would not have a large enough population to entitle them even to one representative. Indeed, each would be allotted one representative only because each parish would qualify

7 1852 Journal, 57.
for one representative regardless of population. If representation were
based on total population, however, Tensas would be entitled to two
representatives and Concordia to one representative, perhaps two.

<table>
<thead>
<tr>
<th>Slave Parishes</th>
<th>whites</th>
<th>slaves</th>
<th>total $^3$</th>
<th>voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tensas</td>
<td>900</td>
<td>8,138</td>
<td>9,040</td>
<td>330</td>
</tr>
<tr>
<td>Concordia</td>
<td>823</td>
<td>6,934</td>
<td>7,758</td>
<td>280</td>
</tr>
<tr>
<td>Total</td>
<td>1,723</td>
<td>9,072</td>
<td>10,488</td>
<td>610</td>
</tr>
</tbody>
</table>

Furthermore Claiborne and Bienville parishes, which had fewer slaves
than whites, would be entitled to only one representative each al-
though together they had 6,000 more whites than the other two parishes.

By comparing the number of qualified voters in each parish,
Taliaferro pointed out another reason why total population representa-
tion would be unequal. Tensas and Concordia, with only 610 qualified
voters, would qualify for three representatives, while Claiborne and
Bienville, with three times as many qualified voters (1,845), would
have only two representatives.

Taliaferro reasoned that if slaves were counted for representa-
tion, other types of property should also be counted.

But, if property is to be represented, why limit the principle to slave property alone? Why not include lands and houses and lots and every other
species of property? It is clearly an unequal basis, in this view of the subject. Why should not the owner of land, worth ten thousand dollars,
or houses and lots worth that sum, have his prop-
erty represented as well as slaves represented?$^9$

Taliaferro's final recommendation to the delegates was

In revising the organic law, the Convention should
avoid the adoption of any principle calculated to
produce local or sectional prejudices in relation

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$^8$ The figure given for total population includes free Negroes.

$^9$ 1852 Journal, 54.
to State legislation, and we are of opinion that
the introduction of the proposed basis of repre-
sentation would have that effect...the minority of
the committee recommend that the basis of repre-
sentation now existing be re-adopted.10

Both The New Orleans Daily Crescent and The Daily Delta gave a
concise resume of the content of the speech.11 The convention ordered
200 copies of the Judge's report printed.12

Both the population advocates and the qualified voter advocates
realized that New Orleans would control the legislature no matter what
the basis of representation. Each faction decided to try to restrict
the number of New Orleans representatives by limiting each parish to
no more than one-fourth of the seats in the House. Since the city
delegates abhorred this restriction, they broke with the white belt
and voted for total population, for they figured that eventually with
increasing immigration the population of New Orleans would exceed that
of the black belt parishes.13

On July 24, 1852, the representation article from the 1845
constitution was presented to the convention. When the issue came up
for discussion, the newspapers reported much excitement among the
delegates. The Daily Crescent described the delegates as "hot as
peppers."14 On July 26 an amendment providing for representation based
on total population passed the convention by a narrow margin of 53 to

10 Ibid.
11 The Daily Delta, July 23, 1852; New Orleans Daily Crescent, July
  23, 1852.
12 1852 Journal, 56.
13 Shugg, Origins of Class Struggle, 140-41.
Some of the delegates opposing the adoption of the amendment gave their reasons for dissenting. The dissenters submitting the report included Wade H. Hough, Caldwell delegate; James G. Taliaferro, Catahoula delegate; William H. Dosson, Catahoula, Franklin, and Caldwell senatorial delegate; John M. Shelton, Franklin delegate; and John R. Smart, Sabine delegate. The report recapitulated Taliaferro's long speech of a few days earlier:

The undersigned hereby beg leave to enter their solemn protest against the adoption of the total population as the basis of representation in the State, for the following reasons, viz: They believe the adoption of the total population to be the destruction of the principles of Republican Government, and all political equality; and that the adoption of that basis would be to take the power out of the hands of qualified electors—the source of all genuine Republicanism—and to transfer the same into the hands of the large slaveholders, thereby stamping upon this Government the odious principles and character of an aristocratic Government; and for the further reason that the electoral basis, for the lower house, has existed since eighteen hundred and twelve, and no interest of the State has been injured by it, and no complaint ever made against it by the people, and we do not see any good reason to apprehend any injury from re-adopting the electoral basis.  

Although Taliaferro was a Whig and slaveholder himself, he could not support his party colleagues on total representation. To him the issue was clear cut—Negroes were nothing more than property and should not be considered in determining representation in the legislature. Thus, on this particular issue, Taliaferro broke with the Whigs and voted according to principle.

15 1852 Journal, 64-65.
16 Ibid., 66.
Taliaferro also voiced his opinion on the issue of whether the legislature could incur debt in the name of the state without a public vote by opposing any change in the original proposal which read

No liability shall be contracted by the State unless the same be authorized by some law, for some single object or work to be distinctly specified therein, which shall not take effect until it shall, at a general election, have been submitted to the people and have received a majority of all votes cast for or against it at such election and the aggregate amount of debts or liabilities here after incurred under this and the preceding article, shall never at any time exceed the sum of eight million dollars.\^\^\(^{17}\)

The substitute proposal which Taliaferro opposed read

No liabilities shall be contracted by the State unless the same be authorized by some law for some single object or work to be distinctly specified therein, which shall be passed by a majority of the members elected to both houses of the General Assembly, and the aggregate amount of debts or liabilities incurred under this and the preceding article, shall never at any time exceed the sum of eight million dollars.\^\(^{18}\)

Taliaferro, along with several other delegates, reported why they voted against the motion to adopt the substitute.

I [Taliaferro] vote nay, because I believe that a majority of the people of Louisiana are decidedly opposed to granting to the Legislature, under any circumstances, the power to pledge or lend the faith or credit of the State in favor of any individual association or corporation. Because I believe that the people of Louisiana would approve by a distinct vote the giving of the credit of the State in aid of any practicable and useful public work. Knowing the will of my constituents, I believe it my duty to obey it.\^\(^{19}\)

\^\(^{17}\) Ibid., 73. (Italics added for emphasis.)

\^\(^{18}\) Ibid., 77. (Italics added for emphasis.)

\^\(^{19}\) Ibid., 78.
Taliaferro's distrust of the legislature was based upon more than whim. In the 1830's the legislature had created a large number of banks which began to speculate with their capital. In 1837 an economic crisis had forced the legislature to aid the discredited banks with state funds. By 1839 the state was experiencing a serious depression from which it did not recover for a number of years. Therefore, Taliaferro, reflecting the views of many Louisianians, did not want to trust the legislature again with their money. He feared that the legislature might use the state's money unwisely and plunge the state into another terrible depression. Taliaferro considered the best way to limit the power of the legislature was to submit requests for money to the voters and let them decide the issue. Taliaferro undoubtedly thought of the electorate as being more thrifty than the legislature and less likely to favor such interest groups as the railroad and bank businessmen. However, the substitute amendment prevailed and the legislature held the power to contract liabilities without the consent of the people.

When the subject of the amending of the constitution came up, Taliaferro spoke again. The old method of amending the constitution was so complicated that it could take as long as five years. The original proposal for the new constitution provided for the approval of two-thirds of the members of both houses plus the approval of the Governor. Although Taliaferro offered an amendment to the article

20 Herl Reed, "Boom or Bust--Louisiana Economy During The 1830's," Louisiana History, IV (Winter 1963), 37-52.

21 James K. Crear, "Louisiana Politics, 1845-1861," LHQ, XII (October 1929), 600.
omitting the words "approved by the Governor," the delegates adopted the proposal without Taliaferro's proposal.\textsuperscript{22} However, at the end of the convention another delegate amended the article by omitting the words "approved by the Governor" and the convention accepted the amendment this time.\textsuperscript{23} Thus, Taliaferro's suggestion finally passed, the result being that an amendment to the constitution did not need the approval of the Governor.

Involved in the topic of public education was the question of whether the Superintendent of Education should be appointed or elected. Taliaferro, supporting the Whig position, voted that the Superintendent should be appointed rather than elected. He also supported a proposal providing for the Secretary of State to be appointed ex-officio Superintendent.\textsuperscript{24} The final draft of the constitution, however, provided for an elected Superintendent.\textsuperscript{25} The constitution also provided for free public schools supported by a general taxation on property, distributed according to the number of free white children between ages set by the legislature.\textsuperscript{26}

The 1852 constitution completely changed the judicial department of the government by making all judges and justices elected rather than appointed. Whereas there had been four Supreme Court Justices, the new constitution provided for one chief justice, elected from the state at large, and four associate justices elected from the

\textsuperscript{22} \textit{1852 Journal}, 52.
\textsuperscript{23} \textit{Ibid.}, 89.
\textsuperscript{24} \textit{Ibid.}, 85-87.
\textsuperscript{25} \textit{Ibid.}, 98.
\textsuperscript{26} \textit{Ibid.}, 98.
four Supreme Court districts. All the justices served for ten years, but the term of office of the first justices elected was staggered so as to elect one justice every second year. Taliaferro opposed the proposals to reduce the number of years a justice served. He probably realized that shorter terms of office would lend themselves to much political pressure. Vacancies were to be fill by special elections. The inferior courts were returned to a statutory basis, except justice of the peace courts. The legislature received the power to re-establish the parish court system which had become extinct with the 1845 constitution.

Taliaferro made an unsuccessful attempt to amend the following article dealing with the location of the Supreme Court sessions.

The Supreme Court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The Legislature shall have the power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

Taliaferro moved to strike out all the words after "inclusive" and to insert the following words; "and at Baton Rouge during the rest of the year, until otherwise directed by law." The convention laid the amendment on the table and adopted the article without Taliaferro's amendment.

The Whigs liberalized voting requirements in the 1852

27 Ibid., 54-55.
29 1352 Journal, 58.
30 Ibid., 59.
constitution because they believed they could capture the support of
the masses and thereby overpower the Democrats. 31 Residency require-
ments were reduced from two years to one year in the state and six
months in the parish. All white males 21 years old were eligible to
vote regardless of whether they owned any property or not. No dis-
tinction was made between naturalized and natural citizens and
naturalized citizens no longer had to wait two years before being
eligible to vote. Absence from the state had no penalty such as loss
or suspension of suffrage. When a person moved from one parish to
another, he was allowed to vote in the parish he last resided for six
months. 32

The 1852 constitution lowered the qualifications for a person
to run for Governor. The fifteen year residency was reduced to four
years and the age requirement was reduced from thirty-five to twenty-
eight. 33 Judge Taliaferro favored an even more liberal qualification
for the Governor. He voted against all proposals requiring the Gover-
nor to be a resident of Louisiana for four or five years, favoring
instead a proposal in which any qualified elector would be eligible
to run for Governor. This liberalization would qualify any person who
had lived in the state for one year and in the parish for six months
to run for the office of Governor. Taliaferro even voted against the
final proposal which set up the requirements of four years residency

32 Greer, "Louisiana Politics," LHQ, XII, 598-99; Powell, Proj et,
Journal, 71; Ted Ferguson, "The Louisiana Constitution of 1845"
University, 1948), 136.
and twenty-eight years of age. Apparently Judge Taliaferro felt that any qualified voter should have the privilege of running for the governorship if he so desired.

The Daily Delta suggested that the lack of money caused the 1852 Constitutional Convention to meet only during the month of July. The delegates did have difficulty getting their money because the state treasury had no funds. Probably foreseeing this fact, the delegates voted at the first of the convention to limit debates and speeches to one-half hour.

When the work was completed, Judge Taliaferro voted in favor of the constitution but did not sign it at the time the other delegates affixed their signatures. Undoubtedly Judge Taliaferro was absent when the constitution was signed, but he never added his name to the document.

The electorate voted on the ratification of the constitution in November 1852. The election returns in the Baton Rouge Gazette on November 27, 1852, were more complete than those reported in other papers. According to the unofficial returns of the Gazette, the following parishes opposed the constitution: Claiborne, Union, Jackson, Ouachita, Franklin, Tensas, Caldwell, Winn, Catahoula, Avoyelles, Calcasieu, West Feliciana, Washington, Pointe Coupee, Iberville, Lafayette, Ascension, Livingston, Orleans, and Plaquemines. Analysis

34 1852 Journal, 29-30.
35 The Daily Delta, July 14, 1852.
36 New Orleans Daily Crescent, July 10, 1852.
37 1852 Journal, 99-100.
38 Baton Rouge Gazette, November 27, 1852.
shows that the white northern parishes voted against the constitution and that the black or slave northern parishes voted in favor of the constitution. Of the twenty parishes opposing the constitution, the first nine listed were northern parishes. Out of these nine northern parishes eight can be considered white parishes because over fifty per cent of the population consisted of white inhabitants. Tensas was the only northern parish opposing the constitution with over fifty per cent of its inhabitants being slaves. Since the returns from Bienville and Bossier had not been received by the Gazette, only nine northern parishes were left. Of the remaining nine northern parishes all voted in favor of the constitution. Out of these nine, eight had populations which consisted of over fifty per cent slaves. Sabine was the only northern parish which voted in favor of the constitution with over fifty per cent white population. It can thus be speculated that the northern parishes which had populations consisting of fifty per cent or more whites voted against the constitution because they realized that if the total population constitution passed they would be outnumbered by the slave parishes. With such opposition the constitution passed only by a small majority. The final vote according to Roger W. Shugg was 19,383 in favor of the constitution and 14,989 opposed it.

39 Oscar Arroyo, The Louisiana State Register, comprising an Historical Sketch and Statistical Account of Louisiana, from its Earliest Settlement as a Territory down to Its Present Period as a State Together with an Accurate List of all the State and Parish Officials (New Orleans, 1881), between pages 36 and 37. The analysis made is based on the figures given in this chart. Hereinafter cited as La. State Register, 1881.

40 Shugg, Origins of Class Struggle, 143. There seems to be some disagreement in the exact count of the votes. Norton quotes the election returns as being 18,235 for the constitution and 15,463 against the constitution.
The Constitutional Convention of 1852 reveals something of Judge Taliaferro's opinion about democratic government. One especially interesting conclusion to be drawn from Taliaferro's stand on representation in the House is that he believed that equality and fairness in government should be based on republican principles rather than aristocratic principles. Secondly, Taliaferro's other speeches reflect his confidence in the voice of the people. On several occasions he insisted on the principle of giving the people of the state the final vote in making decisions on certain political issues. Further trust is shown by his willingness to liberalize the qualifications for Governor and by his desire to allow any person qualified to vote run for Governor.
CHAPTER III

SECESSION AND THE CIVIL WAR

The year 1861 marked Judge Taliaferro's emergence to a unique position in political circles when he received widespread recognition for his opposition to the secession of Louisiana. Although many viewed secession as a wrong and impossible act, Taliaferro delivered the only verbal protest to the Secession Ordinance which was adopted at the Louisiana Secession Convention. As early as 1856 Taliaferro had published a scathing denunciation of secession in his paper, the Harrisonburg Independent.

Secession is the pretended right set up in behalf of a State to withdraw or secede peacefully from the Union, whenever it may think its interests require secession; being the sole judge of the sufficiency of the cause it offers for the act of withdrawal. ..............

Secession can only exist as a revolutionary right. It can never exist as a peaceful remedy. The opinion that a State may adopt secession as a peaceful remedy is a mere chimera. It is a most deceptive and dangerous doctrine. It would inevitably lead to war and bloodshed.

.............

In a common sense view of this dogma of secession, it is altogether unnecessary to open the question of the sovereignty [sic] of the States and whether our union or government, is the result of a compact entered into by sovereign [sic] States as States, acting in a sovereign [sic] capacity. On these points, admit all that the most ultra free State rights man could ask, and admit further, that each of the States has the right of nullification and the right peacefully to secede or withdraw from
the Union at will, and what would be the result? Is it not obvious that the American government, of which we boast so much, is a miserable failure? We put it to every man of common sense to say if it is not a rope of sand! If these doctrines are true and are to prevail, we should like to see the American who would not be mortified to learn that the Star Spangled Banner is emblematical of the government so rickety, so weak, so inefficient, so powerless and so evanescent. 1

By 1860 the Southern states feared the power of the North. John Brown’s raid in 1859 caused Southerners to fear that the slaves might attack their masters. With the election of Lincoln and the increasing number of northern Congressmen, the Southern states felt the time had come to secede from the Union. Louisiana called for a state convention to consider the state’s position on secession. In the election of delegates set for January 7, 1861, each parish was to be represented by the combined number of Senators and Representatives in the General Assembly.

The hastily called convention was barely three weeks away and the entire holiday season was packed with speeches, public meetings, and addresses by candidates seeking to become delegates to the convention. 3 The business had the flavor of a regular political campaign, except that it was not a decision of personality against personality, but of secessionist against non-secessionist, for the election divided the people into two groups—Secessionists and Cooperationists. Ralph A. Wooster recently pointed out that there were actually three positions with regard to secession being expressed during the campaign. One group

1 Harrisonburg Independent, October 8, 1856.
2 The Daily Advocate, January 1, 1861; Shugg, Origins of Class Struggle, 161.
3 Greer, "Louisiana Politics," LHR, XIII, 629.
consisted of "those who opposed any disruption of the Union until a last effort at compromise, preferably by constitutional amendments guaranteeing protection of Southern rights, had been attempted."

These Cooperationists, Wooster called Conditional Unionists. Secondly those whom Wooster called simply Cooperationists were those who "favored withdrawal from the Union, but in the form of united southern action."

Finally Wooster called the secessionists, Immediate Secessionists. They "favored withdrawal by separate state action without delay."

The distinctions made by Wooster are instructive with regard to the campaign, but at the convention the Conditional Unionist delegates were so few in number that they soon united with the Cooperationists. After the returns were in the Secessionists won thirteen Senatorial districts and twenty-nine parishes while the Cooperationists carried only eight Senatorial districts and nineteen parishes. The Secessionists had the Cooperationists outnumbered two to one from the start.

It is significant to note that although the Secessionists elected a majority of the delegates, the popular vote showed a slim majority of only 20,448 to 17,296, thus intimating that the people of the state did not favor secession nearly so strongly as the delegate roster would suggest. Indeed, many scholars believe that the majority


6 Caskey, Secession and Restoration, 37; The American Cyclopedia and Register of Important Events of the Year 1861 (New York, n.d.), 431; Greer, "Louisiana Politics," LG2, XIII, 639.
of the people in Louisiana either opposed or were indifferent to secession. This disparity between popular opinion and the outcome of the election of delegates is not surprising if one recalls the issue of representation in the 1852 constitutional convention. The Secessionists outnumbered the Cooperationists delegates simply because the plantation parish population included large numbers of slaves since the constitution of 1852 based representation on total population and since the Secession Convention delegates equaled the number of representatives. Another factor affecting the election results is that 12,000 citizens who had voted in the Presidential election two months earlier did not vote in the secession election. According to speculation, if these people had voted they would have opposed secession and thereby have increased the Cooperative delegates and these delegates in turn could have defeated the Secession Ordinance. 7

The delegates met at 2 p.m. on January 23, 1861, in Baton Rouge. Because of his intense unionist stand, Taliaferro, delegate from Catahoula parish, was not appointed to any of the standing committees of the convention. 8 Taliaferro well represented his parish's opposition to secession. Although other areas within the South supported the federal government during the Civil War, Catahoulians considered their parish

7. The Southern Journal, January 9, 1861; The Constitutional, January 12, 1861; Shush, Origins of Class Struggle, 152-05; Howard, Political Tendencies, 63.

the only area south of the Mason Dixon line which refused to secede. 9

With the secessionists comprising such an overwhelming majority the significant factor about the convention was not the outcome, but the vigor with which the minority sought to moderate the secessionist position. In all, three alternatives to the Secession Ordinance were presented.

Joseph A. Rozier, a Conditional Unionist, presented the first alternate resolution which provided for all Southern states to unite in a joint action rather than each state acting alone. He suggested that each of the slaveholding states send delegates to the convention in Nashville, Tennessee, on February 25, 1861, to discuss the relations of the Southern states to the federal government and the free states. The Nashville delegates would draw up amendments to the federal constitution giving the slaveholding states the right to settle all questions relating to slavery. If the Northern states refused to agree to this plan, the slaveholding states would then organize and form a separate government composed of slaveholding states and any other states desiring to join with them. Taliaferro supported the Rozier substitute. On January 25 the Secession Convention defeated the resolution by a vote of 106 to 24. 10

After the defeat of the Rozier resolution, James O. Fuqua, a

9 Catahoula Parish Vertical File (Louisiana Room: Louisiana State University Library), Jena Times.

Cooperacionist, presented his proposal that on February 4 Louisiana send delegates to the Alabama convention, to which they had been invited. After consulting with the other slaveholding states, the Alabama convention would have the power to withdraw all represented states from the Union to form a confederacy of slaveholding states. The Louisiana delegates were to urge the immediate formation of a Federal Union for slaveholding states based on a constitution similar to the federal constitution except guaranteeing the right of a master to own and control his slaves. The Fuqua resolution came closer to gaining the confidence of the convention than any of the other substitute resolutions; however, the delegates defeated it by a vote of 73 to 47, Taliaferro voting in the negative. 11

Finally Charles Bienvenu attempted a final proposal which would submit the decision of the Louisiana Secession Convention to the people of the state for ratification in an election to be held on February 25. He considered the action of the convention invalid until ratified by the voters of the state. Bienvenu's efforts failed by a vote of 84 to 45, Taliaferro voting in favor. 12

Taliaferro supported the Bienvenu resolution because he had confidence that the Louisianians, if given a chance to vote, would defeat the ordinance. Since only a small majority of the popular vote favored secession, Taliaferro felt that even if the convention voted for the secession of the state, the citizens of the state should still


have a chance to voice their opinion. He believed that the voice of the people of the state should be the final authority in such an important issue. Whatever Taliaferro's reasons might have been, he was unsuccessful in convincing the convention to oppose secession.

It is instructive to consider why Taliaferro opposed the Fuqua resolution but favored the Rozier plan. Since Taliaferro and Rozier were both Conditional Unionists, their views of secession were undoubtedly similar. Secondly and more important, the action of the Nashville convention had not been predecided as had been that of the Alabama convention. The delegates to the Alabama convention were to be instructed to urge the formation of a Federal Union of slaveholding states. Since the only possible way for this slaveholding union to be formed was by secession, the Alabama convention would not have been an effort to try to save the nation, but rather a united secession movement. The Alabama convention had no intention of compromising to settle the differences between the North and South. Taliaferro, being a Unionist himself, favored the Nashville convention because he had faith that if given a chance the Northern states would try to heal the wound of the nation rather than allowing it to split. He viewed the Nashville convention as a preventive measure against secession. If the slaveholding states would declare their reasons for dissatisfaction in the Union and if the North would listen and try to remedy the grievances, disruption of the Union would not be necessary. Therefore, Taliaferro regarded the Nashville convention as perhaps the best alternate plan because it would postpone secession until something better could be tried.

After the three substitute resolutions failed to pass the
convention, the original secession resolution received the approval of the convention by a vote of 113 to 17. The delegates voted in alphabetical order and when Taliaferro's name was called, he asked permission to give his reasons for opposing the Secession Ordinance. Other delegates opposing the Secession Ordinance also had a chance to voice their opinions but none of them would go so far as to endorse Taliaferro's protest. Taliaferro gave his speech but was denied the privilege of recording his remarks in the Official Journal of the Convention.

When denied the privilege of having his remarks recorded in the Official Journal, Taliaferro spoke in anguish.

My conscience is my guide; by judgment and patriotism approve, and though I am scorned and hissed, I am willing to abide the arbitrament of time and events as to the correctness of my course. The act I denounce as one of made folly, and of which, if my judgment errs not, every signer of that paper will come to be ashamed; and for one, it shall not herald my name to the future infamy which I predict will be its fate.

Although Taliaferro's protest to the Secession Ordinance did not appear in the convention's journal, the New Orleans Daily Crescent published his remarks which the editor of the paper prefaced with the following comment.


15 The Daily Picayune, April 5, 1891.
As an act of justice to a very worthy member of the Convention, we insert below his protest against the Ordinance of Secession, which the Convention declined to enter upon its journal. It is needless to say we dissent, although from Mr. Taliaferro's views—scarcely one of his propositions, in our opinion, being correct or tenable, though without doubt, honestly and sincerely entertained.  

Amid the display of knives and pistols, Taliaferro, oldest member of the convention, eloquently expressed his objection to the Secession Ordinance. The fact that he gave the defense at all under these trying circumstances tells a great deal about the man's fortitude, and his reasoning against secession tells a great deal about his political insight both as a practical civil servant and as a legal theoretician. He asserted the grievances of Louisiana could be settled within the United States Constitution. He probably had the Nashville convention in mind as the means of accomplishing this.

I oppose the Act of Secession, because in my deliberate judgement the wrongs alleged as the cause of the movement might be redressed under the Constitution by an energetic execution of laws of the United States, and that standing upon the guarantees of the Constitution, in the Union, Southern rights might be triumphantly maintained under the protection and safeguards which the Constitution affords.

Taliaferro then told the delegates that secession would not eliminate the South's complaint that the rights of the slaveholding states were being destroyed by the North, and that the state must seek its own protection. He felt that the North would neither force the South to acquiesce nor coerce the state into submission by the use

16 New Orleans Daily Crescent, January 31, 1861.
17 New Orleans Republican, October 19, 1876.
18 New Orleans Daily Crescent, January 31, 1861.
of arms or the supplying of fortresses that were in the state. He felt that immediate secession was premature and that the state should not take such a drastic move without further consideration.

Because, in secession I see no remedy for the actual and present evils complained of, and because the prospective evils so gloomily may never come; and if they should, the inalienable right to resist tyranny and oppression might then be exercised as well and as successfully as now.

Thirdly, Taliaferro confronted the delegates with the disastrous possibility that the seceding states might never confederate, much less get the support of the border states.

Because I see no certainty that the seceding States will ever be confederated again; nor that the border States will secede at all; and if they should I see no reliable ground for believing that they would incorporate themselves with the Gulf or Cotton States in a new government. I see no surety either that Texas would unite with them.

Even if secession were successful, which he doubted, the South would lack the power necessary to gain the respect of foreign nations. If a confederacy were formed, the government would not be capable of protecting the rights of its citizens.

Because the Gulf or Cotton States alone, were they to unite in a separate confederacy, would be without the elements of power, indispensable in the formation of a government to take a respectable rank among the nations of the earth. Because I believe that peaceable secession is a right unknown to the Constitution of the United States; that it is a most dangerous and mischievous principle in the structure of any government, and when carried to the formation of the contemplated confederacy of the Gulf States, will render it powerless for good.

20 New Orleans Daily Crescent, January 21, 1861
21 Ibid.
and complete its incapacity to afford to the people permanent security for their lives, liberties and property. Because it is my solemn and deliberate conviction that the destruction of the Southern States by separate secession will defeat the purpose it is intended to accomplish, and that its certain results will be to impair instead of strengthening the security of Southern institutions.

Taliaferro pointed out that Louisiana was more a border state than Gulf State since the Mississippi River connected it with the border states. An alliance with the Confederate States would be unnatural and would not be the best solution for Louisiana.

Because the proper status of Louisiana is with the border States, with which nature has connected her by the majestic river which flows through her limits; and because an alliance in a weak government with the Gulf States east of her, is unnatural and antagonistic to her obvious interest and destiny.

Furthermore, if Louisiana seceded from the Union, she would lose all claim to the public domain and public property of the United States. Since much of the West had not been thoroughly populated, Louisiana would be giving up a great opportunity.

Because by separate secession the State relinquishes all rights within the Government, it surrenders its equal right to the common territories, to the vast public domain of the United States and the public property of every kind belonging to the nation. And for this reason I oppose secession as being emphatically submission.

Taliaferro then warned that anarchy and war would come if the state seceded. With war would come the destruction of property and complete desecration of the state. In short, the state would cease

22 Ibid.
23 Ibid.
24 Ibid.
Because secession may bring anarchy and war, as it will assuredly bring ruinous exactions upon property in the form of direct taxation, a withering blight upon the prosperity of the State, and a fatal prostration of all its great interest.  

Taliaferro concluded his protest by stating that the Secession Convention really did not have the legal right to withdraw the state from the Union. He felt that the Secession Ordinance would not be official until the people of the state had had a chance to voice their opinion on the actions of the convention.

Because the act of dissolving the ties which connect Louisiana with the Federal Union is a revolutionary act, that this Convention is, of itself, without legitimate power to perform. Convened without authority from the people of the state, and refusing to submit its action to them for their sanction in the grave and vital act of changing their government, this Convention violates the great fundamental principle of American government, that the will of the people is supreme.

Thus Judge Taliaferro concluded his protest against secession.

It can only be speculated whether Taliaferro reflected the views of Catahoula voters, or whether Catahoulians had been convinced by Taliaferro. Catahoula cast only one-third of its votes for immediate secession. Although over fifty per cent of the population of the parish consisted of slaves, it was considered a white parish and most of the white parishes opposed secession. One-third of the heads of families in the parish owned slaves and this one-third of the electorate probably voted for immediate secession. Although the black parishes

25 Ibid.
26 Ibid.
with far more than fifty per cent slaves also contained only one-fourth to one-third slave owners, the other two-thirds non-slave owners seldom bothered to participate in elections. However, Catahoula parish proved different and the two-thirds non-slaveholders turned out at the polls and showed that the majority of the electorate disapproved of secession. The constituency of Catahoula, like most farming parishes, probably disapproved of secession because it meant they would be trying to protect something the majority of the voters did not own—slaves.

The Harrisonburg Independent on February 27, 1861, carried an article on Taliaferro and his protest to the Secession Ordinance. The unidentified writer praised Taliaferro and said that he would long be remembered for his actions at the convention.

Even so has that noble old man [Taliaferro] stood unshaken amid the storms of a terrible political crisis. Like that old pine, he has weathered many a storm; like it, too he stands aloft, almost alone, with only here and there a kindred spirit to cheer him onward in the path of duty; like it, too he shelters in his bosom the glorious eagle, [emblem of the federal government] which his compatriots, in their frenzy, have ignominiously driven from the field to make room for the insignificant pelican [emblem of Louisiana]. He stands nearly alone now in the council of the state; but the day draws near when Louisiana shall say to him, 'Well done thou good and faithful servant.' And history shall emblazon his name in letters of gold upon her brightest page, deeming it but a little thing that Taliaferro should be found enrolled among such names as

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27 Shugg, "A Suppressed Co-Operationist," LBO, XIX, 201; Arroyo, La. State Register, 1861, between pages 36 and 37; U.S. Bureau of the Census, Eighth Census of the United States, 1860 (Catahoula Parish, Louisiana), Schedule I and II: Free and Slave Inhabitants. The total population of Catahoula Parish in 1860 was 11,651. The slaves totalled 6,113 and whites numbered 5,492, thus showing the population to be over fifty percent slave. There were 328 slaveholders owning an average of 18.6 slaves. The total number of families in Catahoula Parish was
Washington, Franklin, Clay, and Webster.

On March 6, 1861, a letter from an unidentified writer appeared in the Independent commending Taliaferro's views on secession and admiring his (Taliaferro's) stand.

I may here remark that while every day's excitement may be strengthening the secession feeling of the South, there is a corresponding strengthening of attachment of the Union and government at the North. As already intimated our people regard secession, if suffered, as the prologue of ruin and destruction to our entire country, and the government is growing in strength, when only a few months since comparative indifference to its preservation prevailed. This active determination to stand by the Union is the result of no local prejudice against your people or their institutions, but it is the quickened impulse of affection assuming a tangible position for defence and evidencing.

Taliaferro not only publicly protested the ordinance but also refused to sign it. Of the original seventeen delegates opposing the Secession Ordinance, nine refused to sign the document. They were Isaiah Garrett of Ouachita; Wade Hough from the senatorial district of Caldwell, Catahoula, and Winn parishes; George Lewis of Orleans; Cicero Meredith of Caldwell; David Pierson of Winn; Christian Roselius of Jefferson; Joseph Rozier of Orleans; W. T. Stocker of Orleans; and James G. Taliaferro of Catahoula. As can be seen by the map on page 39, the delegates refusing to sign the ordinance were from two distinct areas—the New Orleans district and the north central parishes. 1013, thus showing that thirty-three per cent of the population were owners of slaves.

28 Harrisonburg Independent, February 27, 1861.
29 Ibid.; March 6, 1861.
Several of these delegates also supported each other's views in two proposals other than the Secession Ordinance. The first of these proposals was the convention's approval of Governor Moore's action of "taking possession of the forts, arsenals and munitions of war situated within the limits of the States." By a vote of 119 to 5 the convention approved the Governor's action. The five dissenting votes were from Taliaferro, Meredith, Pierson, Rozier, and Stocker. The second proposal which received the disapproval of these dissenters was the ratification of the Confederate Constitution adopted in Montgomery. This time the seven opposing votes came from Lewis, Rozier, Stocker, Garrett, Roselius, and Taliaferro plus Charles Bienvenu.

Since the State Legislature was about to convene in Baton Rouge, the Secession Convention adjourned to New Orleans and had its first session there on January 29, 1861, in Lyceum Hall. It would seem that since Taliaferro's efforts had been so futile, he would have lost interest in the convention and would have ceased to attend the sessions. Although many of the other delegates stopped coming, Taliaferro continued to attend sessions until the last two days. In a letter to his daughter Susan Taliaferro Alexander, he expressed his lack of interest and his feelings of dismay concerning the business of the convention.

Nothing of national interest going on in the convention—we are crawling along to but little

32 Wooster, The Secession Conventions, 112.
benefit—I take but little interest in the thing before it, confining myself entirely to a silent vote on questions that are taken. It is a body with which I have no sympathy being left with a very meager minority. I am tired of the scene of corrupt, time serving office seeking politicians that is before me constantly—It is thought that times will be soon better. The prospect as to business affairs look brighter.  

Even after the adjournment of the Secession Convention, Taliaferro would not allow the subject of the Confederate States lie dormant. In a lengthy article in the Harrisonburg Independent on April 3, 1861, Taliaferro affirmed that the new Confederate government did not represent the will of the Southern people. He contended that the delegates to the Confederacy convention had been elected by state conventions rather than by popular vote in the different states. Even worse, the president and vice president of the new Confederacy were elected by the Confederate convention rather than by state wide elections in the separate seceded states.

How can a government thus fastened down upon a country be called the act of the people of that country? How suddenly and how greatly has the secession movement ignored the cardinal principle in American government, that the will of the people is the source of all power.

Taliaferro continued to speak out against secession until suddenly on May 8, 1861, an announcement appeared in the Independent stating that the Taliaferros had sold the paper. It is not known what pressures had been brought to bear upon them, but pressures there had been, for the announcement read

25 James G. Taliaferro to Susan T. Alexander, March 9, 1861, Taliaferro Papers.

36 Harrisonburg Independent, April 3, 1861.
The undersigned have sold 'The Independent.' We are sorry to say that we can no longer conduct the paper in conformity with its title, and a dependent mouth piece we can have nothing to do with. There is not on God's green earth a more odious restriction any where upon the freedom of the press, than that which prevails in the Confederate States at this time. The fact is notorious and spoken of far and wide. In nothing that we have said, have we uttered anything treasonable. We have violated no law. We have never at any time in the remotest manner, touched private character or private relations. Our press has opposed with the little ability it has possessed, the secession and disunion doctrines that are now in the ascendant. We have been honest and conscientious in so doing. This we believe is conceded to us.

Perhaps our gravest offense is, that we have frequently demonstrated and have the power at any time to demonstrate, that secession must and will eventually impair the security of Southern institutions, let the fearful crisis it has precipitated, terminate how it may. We fear that by speaking the truth boldly we make enemies. We prefer under such circumstances, to withdraw from the arena of politics as public journalist, and this, the more willingly, we have in the present state of turmoil no distinctive policy to advocate. We take our leave with no other than kindly feeling to all. To the more numerous class of our subscribers which has approved our course and sustained us we tender our most grateful thanks.

James C. Taliaferro
J. Q. A. Taliaferro

Just as Taliaferro predicted, war came to the South, but he refused to have anything to do with it. Little is known of the Judge during the crisis except that he stayed in Harrisonburg and remained loyal to the Union. His youngest son Henry Bullard, a student at the Louisiana State Seminary, resigned from the school to join the Union army. Although in his sixties, Judge Taliaferro's age did not protect him from the harassment of the Confederates. Without apparent

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37 Ibid., May 9, 1861.
38 Interview with Judge Jesse C. McGee, September 3, 1966.
direct provocation, the rebels dragged him across the country in the
death of one winter night to the military prison in Alexandria. The
hardships endured during the trip were so great that for several days
Taliaferro's life hung in the balance. If it had not been for the care
of a fellow prisoner Taliaferro might have died. 39

Judge Taliaferro's sons, Henry Bullard and Robert Williamson,
recognizing the danger of their father, tried to prevail upon him to
leave the home in Harrisonburg and come into the federal lines so that
he would be safe from the Confederates. Henry Bullard and Robert wrote
to General William T. Sherman asking him to write a recommendation by
which Judge Taliaferro might obtain government employment behind
federal lines. It was only natural for Henry Bullard to call on
General Sherman since Sherman had been president of the State Seminary
while Henry was in school there and both had resigned from the school
to fight as Union soldiers. It is possible that Sherman and the
Taliaferro family knew each other well, for the recommendation from
Sherman read

It affords my unalloyed pleasure to bear testimony to the unswerving loyalty and patriotism of the
family of Mr. Taliaferro of Louisiana whom I knew in Louisiana before the war and since. Should any
of them, father or sons, seek employment under the
government of the United States, I ask that it be
granted as an act of justice as well as merit. 40

Much to the disappointment of Henry and Robert, they could not con-
vince their father to leave Harrisonburg. 41

39 New Orleans Republican, October 17, 1876.
40 Interview with H. A. Taliaferro, September 8, 1966. Mr. Taliaferro
has a printed copy of the letter from General Sherman.
41 Ibid.
Although little is known of Judge Taliaferro during the Civil War, his son Robert played an active role in politics. During the war Robert led a group of Jayhawkers in the Catahoula area. Since the Jayhawkers were not sympathetic with the Southern cause, General St. John R. Liddell, commander of the subdistrict of north Louisiana, sent a company of his cavalry into the area. Robert, leading the company of Jayhawkers, was intercepted by the cavalry and after a fight during which eleven men were lost, Taliaferro and his followers scattered into the swamp. 42

The Jayhawkers' next adventure carried him to the constitutional convention of 1864 as the Concordia parish delegate. 43 On March 11, 1865, General M. P. Banks, the Union officer in charge of occupied New Orleans, proclaimed that there was to be an election on March 28 to elect delegates to the constitutional convention for the purpose of restoring the state to the Union under the Lincoln plan by revising and amending the constitution of the state for the part of Louisiana under federal control. Any parish under federal control could elect one delegate for every 200 white inhabitants and any parish coming under federal control during the convention could send delegates. Only the federally-controlled parishes of lower Louisiana sent delegates to the convention. The nineteen parishes represented at the convention included Ascension, Assumption, Avoyelles, East Baton Rouge,


West Baton Rouge, Concordia, East Feliciana, Jefferson, Iberville, LaFourche, Madison, Orleans, Plaquemines, Rapides, St. Bernard, St. James, St. John the Baptist, St. Mary, and Terrebonne. The New Orleans delegation numbered sixty-three while the other parishes had only thirty-five delegates.

In May 1864 the Louisiana State Convention elected Robert Taliaferro as a delegate to the National Republican Convention to be held in Baltimore. Along with the majority of the representatives Robert supported Lincoln for President. In a letter to his father on June 1, 1864, Robert expressed his plans to support Lincoln in the presidential election of 1864, considering Lincoln to be a "great and good man." After the adoption of the 1864 constitution, the people of Louisiana elected Congressmen from Louisiana to represent them in Washington. Since Robert had been so active in politics, it was only natural that he was elected as the representative from the Fifth Congressional District. On December 5, 1864, the Louisiana delegates presented their credentials to the Speaker of the House of Representatives in Washington and the House read and referred the credentials to the Committee on Elections. On March 3, 1865, three months after the arrival of the Louisiana Congressmen, the Election Committee recommended that the legislature pass a bill giving each delegate $2000 to cover


45 The Era, May 17, 1864; New Orleans Times, May 24, 1864.

46 Robert Taliaferro to James G. Taliaferro, June 1, 1864, Taliaferro Papers.

47 The Daily Picayune, September 21, 1864; Jefferson Davis Bragg,
expenses and mileage during their stay in the capital city. After the passage of this bill, the committee recommended that the House seat three of the Louisiana delegates but not Taliaferro or J. Madison Wells because the latter two had not received a representative vote from their congressional districts. Wells had received only 465 votes and Taliaferro only 211. However, none of the Representatives received their seats in Congress because the matter was deferred until near the close of the session and no action was ever taken on the matter. 48

Judge Taliaferro had done everything to prevent Louisiana from leaving the Union, but failing, he accepted defeat and retired to his home to wait for the inevitable. The warnings which Taliaferro had put before the Secession Convention and which his fellow delegates had unanimously denounced as absurd had all come to pass. Secession had indeed led to anarchy and finally to war, and the Confederate States had not been strong enough to demand the respect of foreign nations or to protect the rights of their own citizens. The Judge's inactivity during the Civil War gave him a chance to rest before becoming involved in post-war politics.

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CHAPTER IV

TALIAFERRO BECOMES A SCALAWAG

As soon as the Civil War ended Judge Taliaferro re-entered politics and advanced in political circles until he was appointed to the prestigious position of Associate Justice of the Louisiana Supreme Court. The Judge played a more active role in politics after the war than before. Because of his association with the federal government and the Republican Party after the Civil War, Taliaferro can be described as a scalawag. A scalawag, according to one recent study, was a "Southerner or person of Northern birth who, in spite of their having lived in the South before 1860, cooperated with the Republican party during Reconstruction."¹ Traditionally people have considered the scalawag as an uneducated person who had exercised little power within the state but tried to use the Negro for his own aggrandizement. Recent studies however show that scalawags were educated and sometimes wealthy men who were former Whigs, former Confederates, or men of property who played an important role in the Southern governments during Reconstruction.² John Hope Franklin gives a slightly different definition by describing scalawags as


² Ibid., 6-12; David Donald, "The Scalawag in Mississippi Reconstruction," JSH, X (November 1944), 447.
Southerners who could swear that they had never voluntarily given aid, countenance, counsel, or encouragement to persons in rebellion and had exercised or attempted to exercise the functions of no office under the Confederacy. They were largely men who had opposed secession.

These combined definitions well describe Judge Taliaferro's activities before and after the Civil War. Taliaferro never encouraged the rebellion of Louisiana, fervently opposed secession, took no part in the actual war, and cooperated with the Republican party during Reconstruction. He was a well-educated person, a large property owner, an ex-Whig, and a powerful and active man in politics. Thus, according to this definition, Taliaferro can be labeled a scalawag. However he was so respected by his contemporaries that none of the newspapers ever referred to him as a scalawag.

Taliaferro's re-entry into the political arena began on July 18, 1865, when he received a letter from Governor J. Madison Wells asking him to serve on the Board of Supervisors for the Louisiana State Seminary of Learning and Military Academy. Because of the Civil War, the Seminary had been closed on April 23, 1863, but with its reopening on October 2, 1865, a new Board of Supervisors was needed. The July 18 letter notified the Judge of a meeting of the Board to be held on September 2 in Alexandria. The Board met on September 2 and eight of the new Supervisors were installed, but Taliaferro was not present. All available information shows that Judge Taliaferro never attended any of the Board meetings, and that he never accepted the appointment.

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4 W. L. Bedsole and Oscard Richard (eds.), LSU: A Pictorial Record of the First 100 Years (Baton Rouge, 1959), list of important dates; The
The main point, however, is that he was asked to serve in political circles, for he was to be asked again.

Although Taliaferro had been inactive in politics for several years, his political abilities were well known and it did not take long for the political leaders to restore him to duty. Without Taliaferro's knowing the National Conservative Union Party nominated him for Lieutenant Governor in the 1865 election. In the spring of 1865 Governor Hahn resigned as Governor of Louisiana to serve as a United States Senator from Louisiana. J. Madison Wells, Lieutenant Governor, succeeded him as Governor and, as promised, in the fall of 1865 he called for a statewide election of executive department officers, representatives to the State Legislature, and all state senators whose terms had expired. The Democrats and National Conservative Unionists both nominated tickets, but both named J. Madison Wells as the gubernatorial candidate. The Democrats nominated Albert P. Voorhies for Lieutenant Governor and the National Conservatives nominated James G. Taliaferro as Lieutenant Governor.

The Democratic party was conservative, opposed the constitution of 1864 and supported a convention to replace the 1864 constitution. They approved President Johnson's reorganization of the Southern governments. As advocates of white supremacy, they saw no possibility of equality between the two races and did not consider people of

African descent citizens of the United States. Other planks included compensation from Congress for emancipated slaves, an early proclamation of general amnesty, the return of confiscated property, a labor system to relieve the planters who were having difficulty finding workers, and an economical state administration.

The leaders of the Conservative Union party were Governor J. Madison Wells, Judge James G. Taliaferro, George S. Lacey, and Cuthbert Bullett. Supporters of the Conservative Union party were opponents of secession in 1861 and were people who differed with the Democrats' policies. The party began to organize in August 1865 and on October 9, 1865, twenty-two parishes nominated a slate of officers for the coming election. Judge Taliaferro drew some support as the gubernatorial candidate, but Governor Wells received the nomination on the first ballot by a vote of 117 to 30. The convention then nominated Judge Taliaferro and Isaiah Garrett for Lieutenant Governor, but one delegate moved that Judge Taliaferro be declared the unanimous choice and the motion carried. Thus, the candidates for the Conservative Union party were J. Madison Wells and James G. Taliaferro. Oddly enough Wells was nominated by the Democrats too. He perceived no significant differences between the Democrats and the Conservative Unionists and saw no harm in running on both tickets.


6 Lowrey, "J. Madison Wells," 87; New Orleans Times, October 4, 1865.

7 Warmoth, Stormy Days in Louisiana, 39.

Judge Taliaferro's nomination must have come as a surprise to him for as late as November 1, 1864, he wrote his daughter Susan saying he had just learned the news. Undoubtedly the thought of running for Lieutenant Governor had not entered his mind. In fact, he was a bit remorseful about his nomination. His reaction was that if the party felt he should run for office, he would comply. The letter to his daughter expressing his true feelings about the nomination read:

I learned yesterday for the first time that my name had been placed on one of the tickets as candidate for the office of Lieutenant Gov. [sic] -- This was entirely without my knowledge or procurement-- I have no desire for such a position and if my friends should fail in the effort to elect me it will be with very small regret to me. I must however acknowledge the compliment and one reason for keeping on is that it would be more respectful for me to report in the city before the election.

Both The Daily Picayune and the New Orleans Times published the platform of Taliaferro's party. Four planks concerned the relationship between the federal government and the states: (1) that the party would support the Union of states; (2) that the party recognized the defeat of the South and welcomed the restoration of Federal authority; (3) that they approved and supported President Johnson's plan of reconstruction; and (4) that they repudiated the right of any state to dissolve her constitutional relations to the Union except by revolution.

Four planks dealt with outgrowths of the recent war: (1) that the party opposed the payment of any debt occurring during the war against the United States government; (2) that they favored the payment of the debt of the federal government incurred for the restoration of peace.

9 James G. Taliaferro to Susan Alexander, November 1, 1865, Taliaferro Papers.
and national unity should be paid by a uniform tax for all parts of the nation; (3) that they favored a speedy issuance of a general amnesty and repeal of the confiscation act; and (4) that they recommended that the legislature pass a law for the relief of persons living outside the lines of federal occupation in the state who were compelled to pay taxes to officers claiming authority. In relations with the Negro they opposed political equality with the Negro and favored suffrage of whites only. Two miscellaneous planks were: (1) that the party favored just laws for the regulation of labor and fostering of agricultural interest in the state and an efficient levee system; and (2) that they opposed the ostracism of any citizen on the basis of religion or nativity. 10

All accounts show that the election of November 6, 1865, was peaceful, quiet, and perhaps a little dull. Voter participation proved to be small. 11 The Daily Picayune made the following comment about the election.

There was no drunkenness or fighting, or quarrelling and on the surface of business and social life [there existed] hardly a ripple to indicate that so important a contest was going on. 12

After the election a joint committee from the Louisiana House and Senate examined and counted the votes. Governor Wells received a total of 23,321 votes and former Governor Henry Watkins Allen received only 5,497. Allen was put up independently by some friends and was in

10 The New Orleans Times, October 17, 1865; The Daily Picayune, October 10, 1865.

11 The Daily True Delta, November 7, 1865; The New Orleans Tribune, November 7, 1865.

12 The Daily Picayune, November 8, 1865.
Mexico during the election. For the Lieutenant Governor's office Albert Voorhies, Wells' running mate on the Democratic ticket, received a total of 23,664 votes while Taliaferro received only 5,302.\textsuperscript{13}

From Taliaferro's remarks in the letter to his daughter and from the small number of votes he received in the election, it is concluded that he did not vigorously seek the office and probably ran only because his party nominated him. Out of forty-eight parishes, Taliaferro carried only his home parish of Catahoula by a vote of 213 to 139; the surrounding parish of Caldwell by 102 to 69; and St. Martin parish by 394 to 180.\textsuperscript{14} Since Taliaferro did not seek the office of Lieutenant Governor, he probably had few regrets over being defeated.

Robert, following in his father's footsteps, can also be labeled a scalawag. During the war he defended the Union cause by being a jayhawker and after the war he supported the reconstruction government. After the war, Robert was awarded the appointment of Postmaster of New Orleans and served in this capacity from 1865 until July 30, 1868.\textsuperscript{15} Apparently Judge Taliaferro needed a job after the Civil War for on January 9, 1866, Robert, in the tradition of Louisiana politics, appointed his father Deputy Postmaster of New Orleans.\textsuperscript{16} New Orleans proved to be a popular city for the Taliaferros for New Orleans City Directories show several members of the Taliaferro family living in the city after the Civil War: Robert W. Taliaferro, from 1866-68;

\textsuperscript{13} \textit{Official Journal of the Proceedings of the Senate of the State of Louisiana} (New Orleans, 1865), 26-27.

\textsuperscript{14} Ibid.

\textsuperscript{15} Clarence A. Wagner, \textit{The Great Mail: A Postal History of New Orleans} (State College, Pennsylvania, 1949), 114.

\textsuperscript{16} \textit{The Daily Picayune}, January 10, 1866.
David Williamson Taliaferro, in 1868; and James G. Taliaferro, in 1867. 17

Robert had a scandalous tenure as Postmaster of New Orleans. During his term of office, the United States government filed two civil suits against him in 1869 charging him with failure to report and render account for money involved in the sale of stamps, money orders, and box rent. The amount of money involved, $13,270.30, plus interest brought the total amount close to $22,000. On May 7, 1870, he received judgment against himself; and his bondsmen, former Governor J. Madison Wells and William Bailey, posted a bond of $60,000. The United States Grand Jury also indicted Robert on two separate criminal indictments for embezzlement, but these indictments were nolle, 18 meaning that both the plaintiff and defendant agreed to proceed no further with their suit.

Judge Taliaferro's personal papers indicate that in 1871 Robert was again involved in a case concerning himself and his securities, his father being one of them. Not until May 1875 was Judge Taliaferro finally released from the judgment on Robert's bond. Thus, Robert came to lose the respect of the members of his family; his own father spoke of him as being a drunkard, "wild and foolish." In a letter to his daughter on February 24, 1871, Taliaferro mentioned that at one time he (the judge) had as much power in Washington as did any man from Louisiana but that because of Robert's troubles he had lost

17 Gardner's New Orleans Directory for 1866 (New Orleans, 1866), 433; Ibid., 1867, 361; Ibid., 1868, 424; Graham's Crescent City Directory for 1867 (New Orleans, 1867), 418.

18 Wagner, The Great Wall, 114; Brief by J. A. Rozier and William R. Whitaker, Taliaferro Papers.
much of his prestige and power.\textsuperscript{19}

The climax of Taliaferro's post-war activities came on July 1, 1866, when Governor Wells appointed him Associate Justice of the Louisiana Supreme Court to replace Justice R. B. Jones who had resigned.\textsuperscript{20} In contrast to his Secession Protest and the gubernatorial election of 1865, which had both been failures, Taliaferro would be quite successful in the new position. As a justice he would help to set the tone of reconstruction in Louisiana. He served in this position until his death in 1876.

With the termination of the Civil War, Judge Taliaferro re-entered the political arena and supported the reconstruction government. Being invited to serve at the State Seminary showed that he was well-respected in educational circles. Although Taliaferro was unsuccessful in the race for Lieutenant Governor in 1865, the election gave him experience. His appointment to the Louisiana Supreme Court not only pointed out his professional ability but also indicated he had the approval of the political authorities, for if Taliaferro had not been entirely acceptable to the reconstruction government, he never would have received such an important position. Taliaferro's inactivity in politics during the Civil War and his contrasting involvement after the war, show that he was indeed a scalawag and as a man of principle he always had the good of the state and its people as a primary goal rather than personal gains.

\textsuperscript{19} James G. Taliaferro to Susan [Taliaferro Alexander], February 24, 1871; Taliaferro to Susan, April 19, 1872; Taliaferro to Daughter [Susan], May 19, 1875, Taliaferro Papers.

\textsuperscript{20} Reports of Cases Argued and Determined in the Supreme Court of Louisiana for the Year 1866, XVIII (New Orleans, 1867), 335, hereinafter cited as La. Supreme Court Cases.
CHAPTER V

THE CONSTITUTIONAL CONVENTION OF 1868

After the defeat of the South, Lincoln tried to be lenient to the Confederate states because he wanted the seceded states re-admitted to the Union as soon as possible. He set the tone for reconstruction in his Second Inaugural address by saying

> With malice toward none; with charity for all;... let us strive on to finish the work we are in; to bind up the nation's wounds...to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations.\(^1\)

Some Confederates received pardons in the spring of 1865 and by 1866 a large number of pardons had been granted by the federal government. By the fall of 1866 many Confederates were elected to state offices and state legislatures and they began to pass programs of public works, programs of education, veterans' benefits, and other benefits. However trouble began when the ex-Confederates passed black codes which insured the subordinant status of Negroes in the South. The Republicans began to fear that the former Confederates might try to re-establish slavery and maintain white supremacy.\(^2\)

In Louisiana the ex-Confederates constituted the Democratic party and the election of 1865 swept them back into office much to the

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dismay of the Union supporters. With the ex-rebels in control again, it appeared that the Civil War had been to no avail. The political reforms brought by the Civil War had come through the federally-sponsored 1864 constitutional convention which destroyed the political power of the planters and slaveholders. Now only a year later these very same people were back in power as if nothing had happened between 1861 and 1865.

After the Civil War the Radical Republicans, a faction in Congress opposing mild reconstruction and demanding instead stern vengeance upon the defeated planter aristocracy, realized that they could gain control of Louisiana only by Negro enfranchisement, which in turn was possible only if the United States Congress did not accept the 1864 Louisiana constitution, for that constitution had not enfranchised the Negro. The Radicals, therefore, had to depose the ex-Confederates under whose administration the Negro would never receive suffrage. The Radical Republicans saw two ways in which they could wrest control of Louisiana from the Democrats. One solution was to elect a new body to draft a new constitution which would enfranchise the Negro and disfranchise the ex-Confederates and the other solution was to amend the 1864 constitution. Since the Radicals in Louisiana were in a minority, the election of a new constitutional convention seemed out of the question.

The Radicals chose to try amending the 1864 constitution by reconvening the 1864 convention. Seeing the rising influence of the Radicals in Louisiana, Governor Wells sought Radical favor in inviting several members of the 1864 convention to meet at Mechanics' Institute on January 26, 1866, but only thirteen of the necessary seventy-six
quorum attended. When this attempt failed the Radicals invoked a clause in the 1864 constitution stipulating that the convention could be reconvened by the presiding officer. When E. H. Durell, the presiding officer of 1864, refused to call the meeting, Governor Wells appointed Judge Rufus K. Howell, justice of the Louisiana Supreme Court, president pro tempore and Howell called the delegates to reconvene on July 30, 1866, at Mechanics' Institute in New Orleans.

The Democrats made several attempts to have the meeting called off. New Orleans' mayor, John R. Monroe, stated he would not allow the meeting to take place. Nevertheless plans for the meeting continued. On the appointed day a mob of inebriated whites gathered near Mechanics' Institute. Still the convention assembled and as expected there were not enough 1864 delegates endorsing the meeting to form a quorum. Determined to meet, the convention sent the sergeant-at-arms to locate enough members to have a quorum, for most of the members lived in New Orleans. In the meantime as fate would have it, 200 or 300 Negroes, wanting to show their support, started toward Mechanics' Institute and passed by the angry white Democrats, one of whom pushed a Negro down. The Negro replied in kind by assailing the white man who drew a revolver and shot at the Negro. Amid mounting tension, the Negroes turned away and proceeded to the Institute to cheer the convention. A policeman arrested one of the Negroes for allegedly antagonizing a white newsboy. As the policeman walked away, some Negro in the crowd fired toward the white boy. The police did not arrest the troublemaker but instead they turned and fired on the entire group. The ruckus drew many white rabblerousers and a battle ensued. Some Negroes escaped and some fled to the convention hall. They tried to
surrender but the police refused to honor the white flag. When the police stopped shooting thirty-eight people had been killed, all Negro except three. Also 146 people had been wounded.

The Radicals were quick to capitalize upon the propaganda value of the New Orleans Riot along with the black codes, and Louisiana's rejection of the Fourteenth Amendment. They easily convinced Northerners that the South was determined to keep the Negroes as slaves and forever deny them their rights. The ensuing Republican victories of 1866 enabled the Radicals to gain control of the United States Congress. Immediately the radicals moved to establish military rule in the seceded states, enfranchise the Negro, and disfranchise the Southern whites. The Reconstruction Act of March 2, 1867, set up military rule in the South.

As no legal state government or adequate protection of property existed in ten of the Southern States, these States should be divided into military districts, subject to the military authority of the United States, and under command of an officer of the army appointed by the president.³

Louisiana became part of the Fifth Military District. Not until these states rewrote their constitutions providing for Negro suffrage, proscription of former Confederate leaders, and ratification of the Fourteenth Amendment of the United States Constitution could they be re-admitted into the Union.

Now that the Radicals controlled the United States Congress and Congress controlled the military districts, one of the first actions of the military commander was to call for an election of constitutional delegates to draw up a new constitution to enfranchise the Negroes. On

³ Ficklen, History of Reconstruction, 182.
August 17, 1867, a Special Order was issued setting up an election on September 27 and 28 to determine whether Louisianians wanted to elect delegates to a constitutional convention. Great numbers of Negroes participated in this election which the whites ignored. The voters elected forty-nine white delegates and forty-nine Negro delegates to the convention, all Republican except two.4

The convention met in Mechanics' Institute from November 23, 1867, until March 9, 1868. Since Taliaferro had played such an important role in Louisiana politics after the war, it is not surprising that Catahoula made him its delegate to the convention.5 As would be expected, Taliaferro did not go unnoticed at this convention. The night before the convention convened, a caucus of white and Negro delegates met to discuss electing a president for the convention.6 On November 25, 1867, the convention nominated officers of the convention. Charles Smith of Orleans Parish nominated Judge Taliaferro for the office of president. Other nominations included W. R. Crane of Orleans, Rufus Waples of Orleans, Simon Belden of Orleans, and Charles Smith of Orleans. Taliaferro received the largest number of votes on the first ballot, but since no candidate received a majority of the votes, a second ballot was necessary. Although Taliaferro received the necessary


votes on the second ballot, a third one was taken because one more vote was cast than delegates present. On the third ballot Taliaferro won a clear majority of votes and became president of the convention. 7

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The New Orleans Republican commented that Judge Taliaferro was "a venerable old gentleman, able, loyal, incorruptible, a just judge, and an honorable man." 8 As president of the assemblage Taliaferro would have the honor of presiding over the convention which would draw up the constitution which would insure Negro rights and thus re-admit Louisiana to the Union. Being the staunch Unionist he was, Taliaferro was probably delighted to serve as chairman of the convention. It would be only a matter of time until his fondest dream would be realized.

Among deafening cheers Judge Taliaferro took his seat on the platform and then addressed the convention with a few well-chosen words thanking the delegates for the honor of serving as president of the convention.

GENTLEMEN OF THE CONVENTION—In thanking you for the honor conferred upon me I must at the same time declare, in all candor, that it is with diffidence I assume the position which your partialities have assigned to me. It is true that I am not without some experience in the proceedings of deliberative bodies, yet I can make no pretension

7 1868 Official Journal, 4-5; New Orleans Republican, November 26, 1867.

8 New Orleans Republican, December 8, 1867.
to that thorough knowledge of the rules of debate which the duties of a presiding officer naturally imply. Questions of exceeding difficulty and delicacy often devolve upon that officer for decision, and it is important that he should be more conversant than I am with parliamentary rules and usages in order to arrive at a proper solution of such questions. In all cases then of difficulty I must rely, gentlemen, upon your aid and support.

After these words of gratitude and introduction, Taliaferro tried to impress upon the delegates the responsibility and seriousness of their duty of writing a new constitution. He stressed that it had been much easier to tear down the state than to restore it to good standing. The delegates must use their best skills in drawing up a constitution which would meet the needs of the state.

Gentlemen—You are called to the discharge of grave and responsible duties. The late terrible civil commotion through which we have passed has destroyed the legal state governments of these states engaged in rebellion against the national authority. That authority has pronounced existing political organizations of those states provisional only, has provided for the re-establishment of legitimate state governments. Under the provisions made you have assembled to establish a constitution for Louisiana. Ordinarily, heretofore, the establishing or remodeling the constitution of a state involved no material difficulties, and required no extraordinary efforts. But our former political aspect has undergone an essential change. New conditions have arisen. New principles and new elements enter into the work of reconstruction. With these it is your province to deal with the maturest deliberation. The work of destroying is infinitely easier than the work of restoring. One madman was able to destroy the great temple of Ephesus. The labor, the judgment, and the skill of many sane men would have been required to re-instate the noble edifice. I trust that in the end of your deliberations you will be able to present an organic law for Louisiana which will meet the wants of her people and conform to the

9 New Orleans Republican, November 26, 1867; New Orleans Daily Crescent, November 26, 1867.
advancing state of civilization. Discordant views and opinions, if unhappily any should arise, your dispassionate consideration will adjust with reference to equal justice to all, and to the lasting welfare of the country. 10

The delegates voted to pay themselves $10 per day plus 20¢ per mile for transportation to and from the convention. On December 12 the convention resolved to pay President Taliaferro double that amount. Although Taliaferro requested that the convention not pay him this amount, the resolution passed unanimously. 11 Judge Taliaferro should have received nearly $1600 in pay plus mileage compensation for serving as president of the convention, but whether he actually received this amount is unknown.

The Democratic newspapers ridiculed the 1868 constitutional convention and manufactured many nicknames for the assemblage and its delegates. Since fifty per cent of the delegates were Negroes, the papers found a big issue to play upon. The most used and familiar nickname for the convention was the "Black and Tan Convention," however, the New Orleans Times insisted on calling the convention the "Bones and Banjo Convention." Other nicknames included "the Nigger Convention," "the charcoal body," "the hybrid convention," and "the wooly headed convention." 12

As would be expected, the Republican newspapers supported the convention. The New Orleans Republican stated that the group appeared above average for constitutional conventions and described the delegates

10 Ibid.
12 The New Orleans Times, December 10, 19, 1867; February 26, 1868, March 4, 1868; The Louisiana Democrat, December 11, 1867; The South-Western, December 4, 1867; The Daily Picayune, December 1, 5, 1867.
as well-dressed, intellectual men who were equal to any who had ever assembled in Louisiana for the purpose of framing a new constitution.\textsuperscript{13} The \textit{New Orleans Tribune}, official journal of the convention and Negro Republican newspaper, stated several times that the "main object to be realized by the Constitution... is to secure the full enjoyment of their [Negro] rights to the former disfranchised and oppressed citizens."\textsuperscript{14} It further explained that if these rights were not obtained the victories of the Civil War would be lost. The editor exhorted the convention to extend equal rights and privileges to all men regardless of color or race.\textsuperscript{15} Indeed, one of the first actions of the convention was to disfranchise many former Confederates and enfranchise the Negro. Articles on suffrage, social equality, apportionment on the basis of total population, public education, and civil liberties tried to assure the Negro equal opportunities.\textsuperscript{16}

As president of the convention Judge Taliaferro had only a few opportunities to express his views on the action of the convention. It is, therefore, extremely difficult to determine his opinion about the constitution. One of the few times he took sides was on the issue of allegiance in the Bill of Rights of the constitution. He proposed an article expressing his Unionist views stating that a citizen's first and paramount allegiance was to the United States and the Federal

\textsuperscript{13} \textit{New Orleans Republican}, November 23, 1867.

\textsuperscript{14} \textit{The New Orleans Tribune}, December 7, 18, 1867.

\textsuperscript{15} \textit{Ibid.}, November 23, 1867.

Constitution and that state allegiance was secondary. In a lengthy speech he stressed that the doctrine of States Rights was subversive to the country and was one of the most dangerous tendencies that could exist. Judge Taliaferro's proposal received the unanimous acceptance of the convention and was added to Article 2 of the Bill of Rights. The completed article read:

All persons without regard to race, color or previous condition, born of naturalized in the United States and residents of this State for one year, are citizens of this State. The citizens of this State owe allegiance to the United States; and this allegiance is paramount to that which they owe to the State. They shall enjoy the same civil, political, and public rights and privileges, and be subject to the same pains and penalties.

A summary of the major issues involved in the framing of the 1868 constitution will be discussed and when possible Judge Taliaferro's opinion will be defined. Suffrage, as usual, was one of the big topics of discussion at the convention. All males twenty-one years old who had resided in the state for at least one year and in the parish for ten days received suffrage. In general, all persons who had participated in the Civil War for the South's cause lost their right to vote until they voluntarily signed a certificate acknowledging that the late war was morally and politically wrong and that he regretted having given any aid or comfort to the Southern cause. Former Confederates who had given aid and comfort to the Southern cause but not been expatriated were eligible to vote. However those rebels who had held office, civil or military, for one year or more under the

17 *New Orleans Tribune*, supplement issue, December 23, 1867; *The New Orleans Times*, December 28, 1867.

18 *1868 Official Journal*, 293.
Confederate States of America, who registered as enemies of the United States, who led guerrilla bands, who wrote or published articles or preached sermons, and those who had signed the Secession Ordinance were not qualified to vote until they signed the certificate. 19

The basis of representation in the legislature again presented a problem at the 1868 convention. Judge Taliaferro had taken a firm stand at the 1852 constitutional convention supporting legislative apportionment according to the number of qualified voters in a parish. The 1852 constitution based representation on total population; the 1864 constitution reversed policy and based representation in the legislature on the number of qualified voters in each parish; and the 1868 constitution changed the basis of representation back to total population thus including the Negroes in counting the population. 20 Although Judge Taliaferro had nothing to say about the change in apportionment, it is assumed that if he had not agreed with the majority opinion, he would have voiced his opinion. In the 1852 convention he disapproved representation based on total population because the Negro slaves were property, not citizens. Now that the Negroes were free Judge Taliaferro probably felt that they should be entitled to the right to vote.

The question of appointive and elective judiciary posed another problem at the 1868 convention. The 1864 constitution had provided for the appointment rather than election of all judges except the justices of peace. The 1864 delegates agreed that the elective system

19 Powell, Projet, Vol I, Part I, 373; Report of the Secretary of State to His Excellency W. W. Heard, Governor of the State of Louisiana, May 12th 1802 ( Baton Rouge, 1802), 153-56.
did not work well in the sparsely inhabited areas of Louisiana. However, the 1863 constitution completely reversed the policy, making all judgeships elective except for the justices of the Supreme Court. District judges were elected for a term of four years and parish judges for a term of two years. The Supreme Court had appellate jurisdiction only and the Governor appointed the justices with the consent of the Senate. The constitution required the Supreme Court justices to have practiced law for at least the past five years and to be citizens of the United States. Undoubtedly Taliaferro did not realize when the convention discussed the method of appointment and the qualifications for the Supreme Court justices that he would be re-appointed to the bench within a few months.

The only article which Judge Taliaferro voted on was on public education for the state. For some unknown reason Judge Taliaferro was not presiding at this session and voted on the section of the constitution pertaining to education. He voted in favor of the education clause as it was first presented.

The Legislature shall establish free public schools throughout the State, and shall provide for their support by taxation or otherwise. All children of this State between the ages of six (6) and eighteen (18) shall be admitted to the public schools in common, without distinction of race, color, or previous condition. There shall be no separate schools established for any exclusive race by the State of Louisiana.

22 Ibid., 375-76; 1868 Official Journal, 300.
The only difference between this article and the final one pertaining to education was that the latter article provided for education for all children between the age of six and twenty-one. The important point is that Judge Taliaferro, as did the convention, supported integrated schools.

The amending process of the constitution changed with each new constitution. According to the 1864 constitution, a constitutional amendment required the approval of a majority of the members of the House and Senate. To expedite the ratification process, the 1864 constitution provided for a special election to ratify the amendment rather than the next general election for the adoption of the amendments. The 1863 constitution, as did the 1852 constitution, required a two-thirds majority vote from each house of the legislature. The amendment was then presented at the next general election rather than a special election. By making the amending process more difficult, the convention hoped to discourage frequent changes in the constitution.

Because of Taliaferro's literary skill he served on a special committee to correct any mistakes in style or punctuation of the constitution. After the committee made its recommendations to the convention, the delegates approved the constitution article by article.

Taliaferro was not present when the convention voted on the constitution in its entirety, but upon returning he recorded his vote in the affirmative. At the closing session of the convention on March 9,

24 Ibid., 306.
26 Ibid., 330.
27 1868 Official Journal, 234.
1868, the Judge reminded the delegates that they still had the responsibility of assuring the adoption of the constitution by the citizens of the state.

We have at length brought our labors to a close, have formed a Constitution, as I believe, in conformity with the Reconstruction laws of Congress. An important labor remains to be performed— that of seeing that it is ratified by the people; and this I consider a matter of paramount interest to the elections that are soon to take place. The anomalous condition of the State at this time, without its proper position in the Union, and without representation in Congress, is working serious injury to all the great interest of our country. 28

He then thanked the delegates for allowing him to serve as chairman of the convention.

Gentlemen, [sic] if, during our debates, warmth of feeling has occasionally arisen, a thing common in all deliberative bodies, I feel well assured that it has always passed away with the occasion which gave rise to it; and that we part with no other than kindly feelings towards each other. I feel grateful for the vote of thanks you have extended to me as your presiding officer, and I accept it as the expression of your opinion that whatever errors I may have committed in relation to the rules of debate, they were errors of the judgment only. We may never all meet together in this world, but I trust we shall in another and a better, after the toils, troubles and excitements of this life are over. 29

The expected bitter campaign over the adoption of the 1868 constitution coincided with the election of state officials on April 17 and 18. The ex-Confederates tried every means possible to defeat the constitution, and the Democratic newspapers printed nothing but derogatory comments about the constitution. The Tri-Weekly Advocate of


29 Ibid.
Baton Rouge moaned that upon adoption of the constitution the state would no longer be "a fitting place for any white man to reside."\textsuperscript{30} The newspaper pleaded for the people to vote against the constitution in the approaching election. The Daily Picayune violently opposed the constitution and urged its defeat. Ironically enough though, the Democratic paper sought the Negro vote for officials because the Democrats realized that they must get the cooperation of the Negro if they planned to accomplish anything. The Democrats figured that as long as the Negro vote was available the whites would vie for the Negro support and, if possible, the Democrats would capture it from the Republicans. In an article the editor called the constitution the "most iniquitous one in its proscription and in its persecution, exactions, and its evident intent to defraud the taxpayer."\textsuperscript{31} The New Orleans Bee and The New Orleans Times also urged the voters to defeat the constitution. The Bee called the document a "mongrel constitution."\textsuperscript{32} The Louisiana Democrat of Alexandria demanded that the voters of north Louisiana defeat "the infernal Black Crock Constitution."\textsuperscript{33}

Judge Taliaferro received many letters from people all over the state commenting on the constitution. One letter suggested that the constitution would pass in his area (Minden) but that the secessionists in that area were trying their best to defeat ratification even before the constitution had been completed. Other letters, however, showed

\textsuperscript{30} Tri-Weekly Advocate, April 1, 1868.
\textsuperscript{31} The Daily Picayune, March 21, 24, 1868.
\textsuperscript{32} The New Orleans Bee, April 17, 1868; The New Orleans Times, April 4, 1868.
\textsuperscript{33} The Louisiana Democrat, April 8, 1868.
less favorable support. One writer in particular described the constitution as being "too intolerable and ignominious to require a moments [sic] reflection as to what to do. I shall with all the ability I possess oppose it." 34

The election returns on the constitution indicated that the new constitution passed by a narrow margin. Fifty-eight per cent or 66,152 voters supported the constitution and forty-two per cent or 48,739 voters voted against the constitution. Out of the forty-eight parishes, twenty-eight favored the new constitution and twenty opposed it. Although Taliaferro was one of the leading figures at the convention and supported the new constitution, he could not convince his home parish nor the surrounding area to vote for the constitution. Ten of the twenty parishes opposing the Constitution were northern Louisiana parishes.

There is no doubt that the Negro vote was responsible for the adoption of the constitution. A breakdown of the voters shows that out of the thirty-two parishes in which the majority of voters were Negroes, twenty-seven voted in favor of the constitution. Out of the fourteen parishes in which white voters dominated, thirteen voted against the constitution. Hence, the white parishes opposed the constitution and the Negro parishes carried the ratification of the constitution. Orleans and DeSoto parishes showed only total returns and did not give a breakdown of Negro and white votes. 35

34 J. W. McDonald to James G. Taliaferro, December 18, 1867; W. B. Grayson to Taliaferro, April 5, 1868, Taliaferro Papers.

35 Donald W. Davis, "Ratification of the Constitution of 1868—Record of Votes," La. Hist., VI (Summer 1935), 303-304. (See article for complete record of returns.)
With the adoption of the new constitution Louisiana took the first step toward re-admission to the Union. The convention drew up a constitution broadening the rights of Negroes which was acceptable to the Federal Government and the majority of the Louisiana voters. Since Taliaferro was such a strong Unionist, the possibility of unification of Louisiana with the other states undoubtedly pleased him. After seven long years he would be able to see the beginning of the restoration of Louisiana.
CHAPTER VI

THE GOVERNORIAL ELECTION OF 1868

The year 1868 was important for Judge Taliaferro not only because he was the leading member of the 1868 Constitutional Convention, but also because he ran for Governor in the April 1868 election. Although Louisiana had not yet been re-admitted to the Union, the voters had the privilege of voting both for state officers and for the constitution on April 17 and 18. If the constitution were adopted, Louisiana would be re-admitted to the Union and the state officials would already be elected. In the spring of 1868 Joshua Baker was serving as Governor of the state because both Governor Wells, and his appointed successor, Benjamin P. Flanders, had been removed from office by the military commanders of the Fifth Military District.2

The Radical Republicans met on January 14, 1868, to nominate candidates for the forthcoming election. The Pure Radical faction, led by Louis C. Roundanez, owner of the New Orleans Tribune, was determined to have a Negro nominated for Governor. On the first ballot Francis E. Dumas, a Negro nominated by the Pure Radicals received more votes than any of the white candidates. Dumas received 41 votes;

1 Ficklen, History of Reconstruction, 201; The Daily Picayune, March 13, 1868.

Henry Clay Warmoth received 37; W. M. Wickliffe received 4; James G. Taliaferro received 3; and W. J. Blackburn received 3. After the last three names were dropped and the second ballot was held, Warmoth defeated Negro candidate Dumas by only two votes, 45 to 43. Dumas then received the unanimous nomination for Lieutenant Governor but refused to accept it. Oscar J. Dunn, another Negro, was nominated instead. Warmoth, soon to become the youngest Governor of Louisiana, was only twenty-six years old when nominated. The New Orleans Bee described Warmoth's running mate as a "coal-black Negro," a member of the mixed City Council of New Orleans. He was a large, fine looking Negro and was well-educated.

According to The New Orleans Times, the Radical Republicans of Louisiana objected to Taliaferro because he had owned slaves before the Civil War. After all, Governor Wells had also owned slaves before the war and had not fully supported the Radical reconstruction program. The Republicans feared Taliaferro would disappoint them in the same way. Secondly they feared him to be too sympathetic toward the Southern traitors. Finally Taliaferro had not been a staunch supporter of the Radical party. Warmoth, who had been a strong Radical party member and who had not been a slaveowner, met with the approval of the Radicals. They felt that Warmoth could be trusted not to be too lenient on the local people. Since The New Orleans Times was a conservative anti-Warmoth, anti-radical paper, its analysis of the Radicals objections

3 Ibid., 32; Warmoth, Stormy Days in Louisiana, 51-59.
5 The New Orleans Times, March 6, 1868.
to Taliaferro may not be entirely accurate.

Henry Clay Warmoth, who was born in Illinois, was a new resident to Louisiana from Lebanon, Missouri, where he was admitted to the bar at the age of eighteen. During the Civil War he served in the Union Army as a Lieutenant Colonel in the 32nd Missouri Volunteers. When he received a dishonorable discharge from the Union army for circulating exaggerations of Union losses, a personal appeal to President Lincoln restored him to his rank. In June 1864 he was assigned to be a judge of the provost court for the Department of the Gulf. Early in 1865 he opened a law office in New Orleans and soon won a lucrative practice. Warmoth made his first appearance in Louisiana politics in the election of 1865 when he ran for Congress on the Republican ticket. On September 27, 1865, the Radical Republicans held a meeting declaring that Louisiana had reverted to a territory and that she was entitled to a representative in Congress. The Radical Republicans, a large part being Negro, nominated Warmoth for this office and on election day Warmoth arranged for the Negroes to vote for him at an extra ballot box placed near the regular ones. Each voter was to deposit 50¢ or $1 to pay Warmoth's expenses for "securing the rights of black men and of himself in Washington." 6

The Pure Radicals were determined to submit candidates on their own. The group was led primarily by Louis C. Roundanez, owner of the Negro newspaper The New Orleans Tribune, the first daily Negro newspaper in the United States. It was first published on July 21, 1864, as a tri-weekly paper but after October 4, 1864, it was published

daily except on Monday. Financial difficulties halted publication in April of 1868 but by 1869 publication was resumed. As the official organ of the Radicals, The New Orleans Tribune was the only important Republican organ in Louisiana during reconstruction. Since the Pure Radicals were unsuccessful in getting Dumas elected as their candidate at the Radical Republican convention, they nominated their own ticket, James G. Taliaferro for Governor and Francis E. Dumas as Lieutenant Governor. Dumas was a respectable Negro worthy of representing his class. When the Radical Republicans failed to nominate Dumas for Governor, he probably did not want to be associated with the Warmoth ticket in any way, but later agreed to run on the Taliaferro ticket because he realized that if the Pure Radicals were to compete with the Warmoth ticket, they must nominate a white candidate for Governor and a Negro for Lieutenant Governor.

Beginning with the election of 1865 Warmoth had a talent for gaining the confidence and support of the newly freed Negroes and in the election of 1868 he received the solid vote of the newly enfranchised Negroes. The St. Landry Progress of Opelousas strongly supported Warmoth and violently opposed Judge Taliaferro. The Negro paper stated that Taliaferro received his nomination from the "bolter ticket" and not from the Radical Republicans because he received only a few votes when nominated by the Radicals' convention in January. It implied that

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8 Warmoth, Stormy Days in Louisiana 31-59.

9 Chambers, A History of Louisiana, I, 666.

10 Ibid., 665.
he was nominated only by Louis Roundanez and predicted that Taliaferro would receive the rebel vote of the state. The editors claimed Taliaferro was not the man that he used to be, that he was being used as a tool by the group which nominated him, and that his intelligence had weakened. The paper said he had been an owner of men, women, and children, and the lessons and habits of youth and early manhood are likely to form the character and govern the conduct of old age.

Judge Taliaferro's support came from many political sources besides the Pure Radicals. In the first place he received the support of the Democrats who submitted no candidate of their own. At first the Democrats tried to persuade Governor Joshua Baker, present Governor of the state, to run on the Democratic ticket but he refused to become their candidate. The State Central Committee then decided not to nominate a Democratic ticket for if they did, the candidates would not have a chance of winning against two Republican tickets. The Democrats decided the best solution would be to support one of the Republican candidates. Since Judge Taliaferro seemed the lesser of two evils, the Democrats supported him. The Daily Picayune published articles telling the party members why they should vote for Taliaferro rather than for Warmoth.

...there are left two candidates for Governor; from one or the other of whom we must make our choice. One [Warmoth] is an adventurer, who held

11 The St. Landry Progress, April 11, 1868.
12 Ibid.
13 Tri-Weekly Advocate, April 8, 13, 1868; The Daily Picayune, March 7, 1868.
a quasi military title during the war, but was best known here as a provost judge, who filled his carpet bag with fines wrung from the poor people whom his spies and informers brought before his inquisitorial tribunal, and who has his ticket now engaged to leave should he be defeated for Governor; and the either [sic] is an old citizen, who embraced the Union side when secession was triumphant in our State, and stood his ground throughout the war, and who never took a dollar which did not belong to him. There is against the white people a majority of 38,000 black votes. If we can elect the honest one of the two Republican candidates, it will be as much as we can do. And to that end securing the Legislature and minor officers we should lend our efforts.14

The Daily Picayune described Warmoth as a "War-moth which will eat us up, black and white, if he be not crushed at once." The Democrats should support Judge Taliaferro for Governor because

he is an old citizen, born South, and a resident of the State for thirty years--altogether identified with it; was an honest and consistent Union man from the beginning to the end of the war, and therefore, not a mere changeling, hunting office; is a man of character and intelligence--a gentleman in his associations and habits, and is one who will put only such men in responsible situations, if he be elected.15

It is ironical that the Democrats violently opposed the 1858 constitution but supported Taliaferro, president of the convention which drew up the constitution. As The Daily Picayune put it

the first and great step is to defeat the constitution if we can; next, for fear we may fail in this, is to elect Taliaferro Governor that we may have an honest administration of it, and its unpleasant features be tempered with a just regard for our remaining rights.16

14 The Daily Picayune, afternoon edition, April 2, 1868.
15 Ibid., April 10, 1868.
16 Ibid.
The chairman of the Democratic Executive Committee wrote letters all over the state trying to persuade the Democrats to back Taliaferro. Even disfranchised Democrats tried to convince Democrats who could vote to endorse Taliaferro as Governor. The only Democratic paper not supporting Taliaferro was *The New Orleans Bee*. In a way, *The Bee* did not support anyone because it urged the Democrats to vote for Governor Joshua Baker and Lieutenant Governor Albert Voorhies and to oppose both Republican tickets because both Taliaferro and Warmoth supported the new constitution. It described Warmoth as the "carpet-bag Radical from the North" and Taliaferro as the "Louisiana Radical and candidate of free colored men and a few (white) Radicals." 

Taliaferro received the united support of New Orleans Germans as expressed by the *Die Deutsche Presse* and *Die Deutsche Zeitung*. The *Presse* called Warmoth a "carpetbagger par excellence" who had no personal or business interest in the state and referred to Taliaferro as being a "Republican, but an honest Republican." 

Finally, for one reason or another, many newspapers over the state took Taliaferro's position. *The New Orleans Times* denounced Warmoth because he was an extreme Radical and a carpetbagger, and claimed he really was not an inhabitant of the state and had no real ties with the state except through certain secret political leagues. The article implied that Warmoth had only recently entered Louisiana politics and was now trying to gain control of the state. On the

17 Robert B. Stille to James G. Taliaferro, April 1, 1868; N. D. Coleman to Taliaferro, April 9, 1868, Taliaferro Papers.

18 *The New Orleans Bee*, April 7, 15, 1868.

other hand it saw Taliaferro as

an honest citizen, a gentleman, and a capable and
faithful public officer. Judge Taliaferro is tho-
roughly acquainted with the people of the State
and would bring to the officers of governor a
large experience, great intelligence, sterling
honesty and firmness of purpose. 

The Daily Picayune of New Orleans confirmed that the Baton Rouge Advo-
cate also supported Taliaferro and the conservative ticket. The Daily
Picayune predicted that if all the conservatives of the state supported
Taliaferro he would defeat Warmoth. The Opelousas Journal claimed
that the majority of the St. Landry Negro population opposed the War-
moth ticket and that the attendance at the meetings favoring Warmoth
was small. It predicted that when the Taliaferro candidates arrived
for speeches, the masses would turn out showing strong support for the
Taliaferro ticket. The Opelousas Courier advised all the conserva-
tives of St. Landry Parish to support Judge Taliaferro. Finally
the Shreveport paper, The South-Western, also urged the conservatives
to vote for Taliaferro. Thus many newspapers all over the state
supported Taliaferro and indicated that he was the conservative
candidate and Warmoth was the radical candidate in the campaign.

Although there had been a registration of voters in 1867, the
Fifth Military District office ordered a new registration of voters
be held fourteen days before the election. The registration offices

20 The New Orleans Times, April 12, 1868.
21 The Daily Picayune, April 11, 14, 15, 1868.
22 The Opelousas Journal, April 4, 1868.
23 The Opelousas Courier, April 11, 1868.
24 The South-Western, April 15, 1868.
were to open for five days. Voters on the old list who were now ineligible were to be struck from the original list and all new people eligible were to be added to the registration list. After the registration was complete, the Board of Registrars was to submit a tabular statement giving the number of persons registered, white and colored. On the election days three commissioners who had been sworn into office were to preside over each precinct. The total number of newly registered voters was 146,308 as compared to 127,735 in 1867. The 1868 registration made no distinction between Negro and white voters as it was supposed to do. The 1867 registration showed 44,670 whites and 83,065 colored registered voters. It is presumed that the 1868 registration was not employed at all, for when the election returns arrived in the Senate, they were based on the 1867 registration.

Although excitement ran high a few days before the election, all newspapers reported that the election of April 17 and 18 passed without disturbance and in a quiet and orderly manner. The newly enfranchised Negroes were eager to discuss the election. Although Negro participation in New Orleans was very large at most of the precincts, no incidents occurred. The Daily Picayune reported that a large number of voters came to the polls on both days, but that many whites were kept away the first day because so many Negroes voted

25 The New Orleans Bee, April 5, 1868.
26 U. S. Congress, Senate, Reports of Committees of the Senate, 44th Cong., 2nd Sess., 1876-77, IV, Part 3 between pages 2634 and 2635.
27 Ibid.
28 The Daily Picayune, April 16, 17, 18, 1868.
that day. The Negroes were unmolested and very orderly. 29

The election returns showed that Warmoth defeated Taliaferro by a vote of 65,270 to 38,118. Of the forty-eight parishes Taliaferro carried only fifteen. According to the 1867 registration totals, which distinguished Negro and white voters, Judge Taliaferro carried nine parishes in which the registered Negro voters outnumbered the white voters, and carried six parishes where the whites outnumbered the Negro voters. Warmoth carried only three white parishes and thirty Negro parishes. The white parishes which Taliaferro carried were Winn, Union, Sabine, Calcasieu, Livingston, and Washington; and the Negro parishes were Claiborne, Franklin, Caldwell, Catahoula, DeSoto, East Baton Rouge, St. Helena, St. Tammany, and Lafourche. 30

The parishes voting for secession in 1861 determined the election results. On the ten Cooperationist parishes exactly half voted for Taliaferro and exactly half voted for Warmoth, but Warmoth carried about five times as many secessionist parishes as did Taliaferro. These parishes were the plantation parishes with large Negro populations in which Warmoth's ruthless, rhetorical finesse made its weight felt. 31

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With the defeat of the Taliaferro ticket, The New Orleans Tribune, the Negro newspaper which nominated Taliaferro, ceased

29 The New Orleans Bee, April 18, 1868.
31 For complete election returns see Appendix III.
Carroll
DeSoto

Parishes in which majority of registered voters in 1867 were Negroes.

Parishes Taliaferro carried in 1868 election.
publication. Even before April 1868 the paper showed signs of financial instability, but with Taliaferro's failure the paper temporarily collapsed. 32

The Pure Radicals protested that fraud occurred during the election. They could show more than one account of fraudulent methods used by the Radicals to win the election. The New Orleans Times described the election as "unfair, unjust and illegal." 33 The main complaint concerned the handling of the Negro vote. The newspapers claimed that many of the plantation Negroes were brought into the towns and made to swear affidavits stating they had been residents of the town for ten days, thus illegally gaining the right to vote. 34 Other Negroes who had never registered were coerced into saying they had lost their registration papers in order to receive a voting certificate. According to the conservatives, the registration certificates were issued too freely and recklessly. 35 Sometimes the Negro had a registration certificate in one pocket and an affidavit in the other saying that he had lost the certificate. Actions such as these enabled the Negro to vote in the city and also in the country, thus doubling the number of votes cast. In Ward Seven of New Orleans about 1300 more votes were polled than were registered voters. 36 Still another complaint was that the Negroes from the plantations were marched to the polls in

32 The New Orleans Bee, April 28, 1868.
33 The New Orleans Times, April 19, 1868.
34 Tri-Weekly Advocate, April 20, 1868.
35 The New Orleans Bee, April 19, 1868.
36 The New Orleans Times, April 19, 21, 1868; The New Orleans Bee, April 24, May 2, 1868.
military style by a leader who gave the command that they vote for the constitution and for the Warmoth ticket. The basis for another complaint at a New Orleans poll was that the names of some of the candidates were omitted from the ballot. Some people claimed that Negroes who were only sixteen or eighteen years old voted in the election. Finally it was asserted that Negroes were allowed to vote outside their parish.

As the newspapers indicated a certain amount of fraud occurred during the election. The large number of Negro voters and the relative small white participation point out that the election was not entirely representative. If the election had been completely fair, it is possible that Taliaferro would have given Warmoth a little more competition. Although Taliaferro was unsuccessful, the year 1868 might be considered the climax of his political career. During this year he participated in two major political activities—the Constitutional Convention and the gubernatorial election. Although he did not have the honor of being the Governor to re-admit Louisiana to the Union, he did have the distinction of being the chairman of the convention which finally received national acceptance and made possible Louisiana's restoration to the Union. Judge Taliaferro did not hold any elective offices from 1868 to 1876 but filled the important and influential position of Associate Justice of the Louisiana Supreme Court. He thereby made his contributions to the reconstruction of Louisiana.

37 The Daily Picayune, April 24, 1868.
38 The New Orleans Times, April 10, 24, 1868.
39 The Daily Picayune, April 23, 1868.
CHAPTER VII

TAIIAFERRO AND THE LOUISIANA SUPREME COURT

Although Taliaferro was never elected to a state office, the officials in high places recognized his abilities and realized he was a valuable person. On July 1, 1866, Governor Wells appointed Taliaferro as an Associate Justice of the Louisiana Supreme Court to replace Justice R. B. Jones, who had resigned. Justice Taliaferro served almost continuously in this office until his death in 1876. Justices serving from 1866 to 1868 included Chief Justice William B. Hyman, and Associate Justices Zenon Labauve, J. H. Illsley, R. K. Howell, and James G. Taliaferro.¹

The Supreme Court of Louisiana, set up according to the Constitution of 1864, consisted of four Associate Justices, who served for eight years with an annual salary of $7000 and a Chief Justice, who also served for eight years with an annual salary of $7500. The Governor appointed an Associate Justice for each of the four appellate districts and the Chief Justice from the state at large. The high court carried its services to all parts of the state by holding sessions in New Orleans from November until June, in Monroe during July, in Natchitoches during August, and in Opelousas during September.

¹ Henry Blanche Dart, "The Celebration of the Centenary of the Supreme Court of Louisiana," LbQ, IV (January 1921), 120; 18 La. Supreme Court Cases for 1866, 335; Ibid., 70:passim (1868).
According to Henry Planche Dart the Louisiana Supreme Court did nothing of any real significance during the years 1865-68 because the military authorities in control settled all political and public judicial questions. Contrary to Dart's interpretation, it appears that many important cases came before the Louisiana Supreme Court immediately following the Civil War. These cases helped to establish what rights the ex-Confederates could expect the reconstruction government to uphold.

One type of case evolving from the Civil War had to do with contracts made during and before the war dealing with the purchase and sale of slaves. The Wainwright v. Bridges case in 1867, for which Taliaferro wrote the decision of the court, summarizes the decisions of the Supreme Court of Louisiana made in connection with contracts concerning the selling and purchasing of slaves. Before the Civil War one Mrs. Bridges purchased slaves from the succession of Isaac Dykes of which Thomas Wainwright was the administrator. Mrs. Bridges was to pay $895.50 in three separate notes at twelve, twenty-four, and thirty-six months. Wainwright, as administrator of the Dykes succession, took a mortgage on the purchased slaves so that if Mrs. Bridges did not pay the debt, Wainwright would get the slaves back. Mrs. Bridges failed to pay the promissory notes during the Civil War, and after the war she argued that she did not owe Wainwright because the emancipation of slaves voided her debt. Wainwright argued, however, that since the slaves had been freed, he no longer had the mortgage and therefore Mrs. Bridges was personally responsible for the unpaid amount of the debt.

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2 Dart, "Supreme Court of Louisiana," LHQ, IV, 50-53.
Taliaferro, expressing the opinion of the majority of the court, wrote:

The Emancipation Act of the sovereign power necessarily annulled the laws under which contracts relating to the ownership of slaves were previously enforced...The declaration of emancipation was, in substance, a declaration annulling the laws that sanctioned the dealing in slaves, the enforcement of slave contracts, and which in fact created the status of slavery...The buyer, the seller, and the bought and sold, are all absolved.\(^3\)

In other words, the court held that not only did the emancipation act free the slaves and destroy the mortgage which Wainwright had, but also voided the debt owed him. According to the court the emancipation act absolved all contracts dealing with the purchase or sale of slaves. Persons who purchased slaves before the Civil War and had not finished paying for them by the end of the war, were no longer obligated to pay the debt.

All succeeding cases involving slave contracts made reference to the *Wainwright v. Bridges* case and then gave only a short opinion upholding the Wainwright decision. Thus, the court used this particular case as a basis for handing down numerous decisions involving similar cases.

One particularly interesting case for which Taliaferro wrote the court's opinion shows the attitude of the bench toward the Confederate army. In the *Stewart v. Bosley* case, 1867, a Confederate soldier had hired another man to replace him as a soldier in the Confederate army. The replacement, who received a $3500 payment in two installment notes, sold the notes to a third man who brought suit

\(^3\) *Wainwright v. Bridges*, 19 La. Supreme Court Cases, 183-87 (1867).
against the first man to force him to pay the installment notes. The Louisiana Supreme Court held that the man did not have to pay the notes because

A written obligation for the payment of money for serviced rendered or to be rendered in the so-called Confederate army as a substitute, is illegal on its face, absolutely null and void, and cannot be judicially enforced."

The Reconstruction Act of March 2, 1867, dissolved all courts and forced all judges in the seceded states to resign. The ex-Confederate states were divided into military districts with a District Commander in charge of each district. Although Judge Taliaferro had unsuccessfully opposed Henry Clay Warmoth in the 1868 gubernatorial election, Governor Warmoth recognized Taliaferro's ability and re-appointed him to the Supreme Court after only a few months absence in 1868. Of the five newly named justices, Judge Taliaferro of Catahoula Parish and Judge R. K. Howell of New Orleans were the only members who had served prior to 1868. The new members, Chief Justice John T. Ludeling of Ouachita Parish, G. W. Wyly of Carroll Parish, W. W. Howe of New Orleans, and the two old members took office in November 1868. All the justices were well-known and all had been antebellum residents of Louisiana except Howe, who had been a federal soldier and lived in New Orleans in 1862. The court remained without change until December 3, 1872, when Justice Howe resigned and Governor Warmoth appointed John H. Kennard to succeed him. Justice Kennard served on the bench until February 1873 when he was succeeded by Philip H. Morgan.  

5 The New Orleans Bee, April 12, 1868.  
6 Dart, "Supreme Court of Louisiana," LHO, IV, 47.
The court, established according to the new constitution of 1868, consisted of four Associate Justices and one Chief Justice, all appointed by the Governor for a term of eight years. The Chief Justice received a yearly salary of $7500 and the Associates, $7000 each. The court still travelled over the state from New Orleans to Monroe to Natchitoches to Opelousas. 7

The new Supreme Court played an important role in the restoration of the state to the Union for never before had the court been called on to make so many decisions of a public and quasi public nature. The court proved to be a battle ground where offices were lost and won. Many Louisianians felt that the justices were partisan and that there was little hope for someone who was not a member of the Republican party or who opposed the action of the government. In this time of stress the justices proved to be strong, forceful thinkers. 8

As late as 1868 many cases from the Civil War came to the Louisiana Supreme Court for adjudication. The new high court continued to declare any transaction connected with slaves was illegal. People were unable to collect debts on contracts for the payment of slaves because slavery no longer existed and contracts involving slaves were declared void. 9 From all evidence Justice Taliaferro agreed with the decisions of the court concerning these matters.

One type of case growing out of the Civil War dealt with

7 The Daily Picayune, April 5, 1891.
8 Dart, "Supreme Court of Louisiana," LHR, IV, 54-56.
Confederate money. The court failed to recognize any contracts involving Confederate currency because the money of the Confederacy was illegal currency and contracts involving them were considered null and void. In other words any transaction drawn up during the Civil War which involved Confederate currency as the basis for exchange was no longer valid and did not have to be paid. The court also refused to recognize any wartime contracts made between a person living in the Confederate Zone and one living in the Federal Zone because certain statutes prohibited trade between the opposing sections. If a person had credit in a Southern bank which had used Confederate currency only, he lost it after the war. The court held that if an individual chose to deal with people trading in illegal currency, the loss was their own fault.

In the 1869 case of Smith v. Stewart et al., the court recognized the Confederate states as a belligerent power rather than a government de facto. The failure of foreign nations to send ministers or ambassadors to Richmond proved that these nations did not consider the Confederate states a de facto government either. In writing the decision of the court, Justice Taliaferro stated

We conclude finally that by the principle of international law, and the general usage of nations, the late government of the Confederate States did not attain the status of a government de facto. The authority then set up under the government of the late insurgent States was illegal and void.

13 Smith v. Stewart et al., Ibid., 21:51-60 (1869).
By 1870 the character of the cases changed from Civil War matters to that of appointment of different officers within the state and city governments. It fell the duty of the Supreme Court of Louisiana to decide which persons involved in contests were the rightful appointees. In some cases the court upheld the power of the Governor to appoint certain officers and upheld his power to remove them; however, in other instances, the court gave decisions which did not uphold the appointment of the Governor.

In two cases involving the power of Governor Warmoth the court held that the Supreme Court did not have the right to issue a writ of mandamus requiring the Governor to do some specific function or duty. Justice Taliaferro felt that the different branches of the government must be independent to insure a stronger government. In writing the majority opinion he said

A supervisory control by one of the co-ordinate branches of the government over the functions and duties of another branch would necessarily diminish the responsibility of the branch whose functions were encroached upon. The more distinct and independent the action of public functionaries, the stronger and more direct their responsibility.

There were cases involving election returning boards and the election of different officers. When two disputedly elected Governors claimed to have the authority to appoint state officials, the court


had to decide which commission was valid. The court reviewed cases involving state officials, judges, as well as, city officials.

One of the most important cases reviewed by the court occurred in 1873 and involved the Election Returning Board for 1872. The duty of the Returning Board was "to determine the legality or illegality of votes cast in any part of the state for state officers." The Returning Board proved to be a powerful committee because it had the power to say which candidates were elected. The problem in 1872 was that there were two Returning Boards. The Warmoth board supported John McEnery for Governor and the Lynch board favored William Pitt Kellogg. McEnery was elected by the people of the state but because of fraud the returns were sent to the Returning Board for consideration. On November 20, 1872, Warmoth abolished all boards except the DeFollet board (his board), thus assuring that McEnery would be Governor. Each group filed a suit against the other and in 1873 in the case *State ex. rel. P. H. Morgan v. J. H. Kennard* the Louisiana Supreme Court held that the Lynch board composed of John Lynch, George E. Bovee, James Longstreet, and Jacob Hawkins was the legal board. Recognition of this board meant that William Pitt Kellogg rather than John McEnery was Governor of the state.18

Another question involved in these cases was whether a commission issued by impeached Governor R. C. Warmoth or one issued by Acting Governor P. B. S. Pinchback was to be honored. In each case


the officials receiving their commission from Governor Pinchback were the ones legally entitled to the offices. Thus, the court upheld the impeachment of Governor Warmoth and the elevation of Lieutenant Pinchback to the position of Governor. In another case the court upheld the commission of Governor Kellogg as opposed to a commission previously issued by Warmoth.

The general state election of 1874 aroused more controversy over the Returning Board. The Louisiana Supreme Court handed down a decision declaring that J. Madison Wells, Thomas C. Anderson, Louis M. Kenner, and Gaden Casanave was the qualified board. The selection of this board declared that fifty-four radicals and only fifty-two conservatives had been elected to the state assembly. The court also declared that Negro candidate Antoine Dubuclet was the State Treasurer rather than J. C. Moncure.

Since decisions of the court voice the opinion of the majority of its members, it is difficult to determine Justice Taliaferro's exact stand on all the above issues. However, clearer pictures of Taliaferro's views on the bench may be found in his dissenting opinions. Many times he was the only dissenting voice, but Taliaferro was not one to agree with the others merely for the sake of unanimity. Throughout his dissenting comments one is struck with Taliaferro's imaginative application of fairness to all parties. His most frequent dissent was

against decisions in succession cases in which the majority of the court ruled against minor children. Two cases, though not involving succession proceedings, particularly illustrate concern for people.

The first case involved a distillery located in a quiet and peaceful neighborhood. The plaintiffs in the case complained that the distillery was a nuisance and wanted to collect damages from the owners. The majority decision, favoring the distillery owner, reasoned that the distillery violated no regulations or laws of the city so that even if the smoke and noise disturbed the neighborhood the plaintiffs could not complain. Taliaferro, along with another justice, dissented arguing that the neighbors should collect damages because the distillery had greatly devalued their property by the constant noise and smoke which filled their houses and ruined furniture and walls inside the houses. The two dissenting justices contended that the city was wrong in having issued a license to the distillery. Taliaferro saw that technically the business violated no rules but it was a nuisance to the people in the area and violated their personal rights. He felt that more than mere rules and regulations were involved in this case.

In the second case a man was injured so badly by a passenger car pulled by a mule on the railroad track that he had to have his leg amputated. He sued for damages, but the court ruled against him saying that his own negligence caused the accident and the railroad company was not responsible for the disaster. Taliaferro dissented from the opinion of the majority of the justices because he felt that the accident was not totally the man's fault. If the driver had been

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paying the proper attention, he could have stopped and avoided the accident. In addition to his failure to stop, the driver of the car was traveling at a high speed and was neglecting his duties by talking to one of the passengers. Taliaferro felt that the railroad company should bear responsibility for the accident because of the negligence of the driver. Once again Justice Taliaferro sided with the individual rather than with the company. His decisions show him to be more concerned with the spirit of the law rather than the letter of the law.

The justices had their own financial problems while serving on the Supreme Court. Since Judge Taliaferro had little money, his debts continued to accumulate and numerous people began requesting him to pay his debts. Many of the debts were for less than $100 but several were for sizeable amounts from $400 to $12,650. One of Taliaferro's creditors needed his $425.25 so desperately that he offered to accept 25¢ for each dollar, thus reducing the principal to only $125.

By 1868 the value of money had depreciated so much that there is little wonder why Taliaferro had so much difficulty paying his debts. The Daily Picayune published an article comparing the value of money before and after the Civil War stating that in 1860 sugar was 7¢ or 8¢ per pound and in 1868 it sold for 25¢ per pound. Coffee in 1860 cost 15¢ per pound and in 1868 it sold for 35¢ per pound.

24 Followers and Company to James G. Taliaferro, July 10, 1865; Hynes and Cordan to Taliaferro, February 26, 1858; J. D. Rouse to Taliaferro, March 13, 1868, Taliaferro Papers.
25 Isaac Shenker to James G. Taliaferro, March 2, 1861, Taliaferro Papers.
26 The Daily Picayune, March 14, 1868.
One reason Justice Taliaferro had a hard time paying his debts was that he had difficulty collecting his salary from the state. Theoretically he earned $7000 per year from the state, but he actually realized only a small portion of this amount. Even when the judges received warrants, they were usually worthless because the Louisiana Treasury did not have enough funds to back the warrants. Many times the justices had to redeem their warrants at a loss or keep them until they returned to par value. In 1870 Taliaferro borrowed money from a bank and had to sacrifice his warrants at a reduced value only a few times. However, in 1873 he wrote his daughter about his destitute situation, admitting that he was suffering from lack of money and would not be able to help his family. He described the situation as "gloomy and unpromising." Again in January of 1874 he wrote his daughter that the judges had not received any pay since the early part of the summer of 1873. In another letter written on January 19, 1874, he described his situation as being the tightest since he had been in New Orleans.

Being without funds was undoubtedly an unpleasant and unfamiliar experience for Judge Taliaferro. From all evidence Taliaferro had been financially stable before the Civil War but after the war he did not have access to much money. It is clear that Taliaferro did not serve on the bench for monetary reasons. Although times were hard for him, he endured and continued to serve the state.

Undoubtedly Taliaferro retained a favorable relationship with

27 James G. Taliaferro to Susan [Taliaferro Alexander], January 7, 1870; Taliaferro to Susan, March 22, 1870; Taliaferro to Susan, March 2, 1873; Taliaferro to Daughter [Susan], January 2, 1874; Taliaferro to Daughter [Susan], January 19, 1874, Taliaferro Papers.
the reconstruction officials for he served on the Louisiana Supreme Court until his death in 1876. As president of the 1863 Constitutional Convention he probably received much praise from the Negroes. Perhaps some of them looked upon him as one of the sources of their newly gained rights. Taliaferro's favorable relationship with the newly enfranchised is shown by his being chosen to administer the oath of office to Governor P. S. B. Pinchback in December 1872. Although seventy-eight years old when he died, Taliaferro had carried on an active and vigorous life. It was said that no other justice was so careful and attentive to the cases assigned him. His decisions became noted for their learning and perspicuity. With his death the state lost a valuable and notable citizen.


29 New Orleans Republican, October 19, 1876.
Until late in life, Taliaferro made little reference to his health although letters written to him even in his youth established that he was sickly. Finally the years of political struggle and physical discouragement took their toll and Taliaferro began to brood over his sickness. In 1869 he wrote his daughter Susan that he had been sick all his life. Beginning in 1868 Taliaferro's health took the downward turn that ended in his death in 1876. In letters written to his family he mentioned having the "seven year itch," rheumatism, and stomach ailments. In 1874 he suffered a fall from which he never fully recovered. Four months before his death he wrote his daughter that he suffered from pain almost constantly. But in spite of bodily exhaustion he did his share of the work on the state Supreme Court until the very end. A reading of his decisions written in these last

1 Oliver Stout to James G. Taliaferro, September 27, 1825; H. W. Huntington to Taliaferro, September 12, 1844; Robert W. Taliaferro to James G. Taliaferro, November 17, 1856; Taliaferro to Susan Alexander, September 4, 1855, Taliaferro Papers.

2 James G. Taliaferro to Susan Alexander, February 4, 1869, Taliaferro Papers.

3 James C. Taliaferro to Susan Alexander, December 25, 1868; February 4, 1869; February 29, 1869, Taliaferro Papers.

4 James C. Taliaferro to Daughter [Susan Alexander], May 2, 1874; June 2, 1874, Taliaferro Papers.

5 James C. Taliaferro to Daughter [Susan Alexander], April 28, 1876, Taliaferro Papers.
years indicate a clearness of mind, surprising for one in his state of health.

After the 1876 summer session of the Supreme Court, Taliaferro returned to his home in Harrisonburg, and on October 13 he died quietly at the age of seventy-eight. Henry Bullard Taliaferro, youngest son of the Judge, served as administrator for the remaining heirs—Robert W. and David W. Taliaferro, Susan Alexander, and Elizabeth Wooten. Although the appraisal placed his estate at only $5,204.35 (including real estate and personal property), the succession credited him with a "considerable amount of property, real and personal and mixed, also rights, credits, and obligations."\(^6\)

It is difficult to draw conclusions about Judge Taliaferro's political beliefs because all manuscripts in the Taliaferro Collection of papers are letters written to Taliaferro. The Collection contains not a single letter written by Taliaferro expressing his political viewpoint on important issues. All conclusions must be drawn from what other people recorded and said about him. The only direct sources of his political philosophy are his speeches at the Secession Convention, at the Constitutional Convention of 1852 and 1868, and the scattered editorials in the Harrisonburg Independent.

However, it is clear Taliaferro was of a rare breed of statesman who held to his convictions and pursued them even across party lines if necessary. Although a Whig for many years, he forsook the aristocratic Whig stand at the 1852 Constitutional Convention (that state representation should be based only on total population) to

\(^6\) Succession Book "F," 527 ff.
follow the non-slaveholder republican conviction that representation meant number of qualified voters. Since Negroes were slaves and slaves were property, they could not affect governmental representation. However, Taliaferro based his conclusions on reason and logic and even reversed his stand once the slaves had been freed.

Taliaferro asserted that since the will of the people was the source of power in governments, the voters should be consulted on important issues. He protested that the Secession Ordinance be submitted to the people of the state before the state withdrew from the Union. After the formation of the Confederacy, he contended that it failed to represent the will of the people. At the 1868 Constitutional Convention Taliaferro insisted that even the state debt be determined by the vote of the people.

Taliaferro's spectacular stand as a wealthy slave owner opposing secession is to be viewed in light of his statesmanship rather than against the fact that two-thirds of Catahoula Parish, essentially non-slavcholding, opposed secession. Certainly the assurance that he was representing his parish must have strengthened his determination, but his Unionist position went much deeper than simply representing his constituents. Taliaferro considered secession not only as practically disadvantageous but primarily as a theoretical impossibility, existing not as a peaceful instrument but only as a revolutionary right. His fight as a dedicated Unionist opposing secession began in 1856, long before secession became an issue in Louisiana. He waged this struggle through the Secession Convention, held his position through the war, and afterwards carried the Unionist flag into the 1868 Constitutional
Convention where he successfully insisted that allegiance to the federal government was paramount and allegiance to the state was only secondary. Indeed it was Taliaferro's fondest desire to see Louisiana re-admitted to the Union.

Although Taliaferro was unsuccessful at the Secession Convention, in the election of 1865, and in the election of 1868, his appointment to the state Supreme Court won him a state office which he was more than capable of filling. As a justice he combined his experience as a lawyer, judge, and politician to become a prominent member of the bench and played an important role in reconstruction in Louisiana.

The one phrase which seems to summarize Taliaferro's political views and actions was that he was a man of principle. Once decided about an issue, he could not be swayed by the emotions of others—not even by political party pressure or by personal hardships. Although his colleagues did not always agree with him or support his point of view, they always respected his thoughts. He was a man of deliberate decision and of firm resolve; he was frequently the strong voice of the minority position. Taliaferro rarely took a stand which directly bettered his own personal life. If anything his position on secession and the Civil War worsened his economic position. As a man of property and as an owner of slaves, he had everything to gain by defending the Confederacy. Instead he took positions which caused him financial losses as well as physical pain.

Although Taliaferro actively participated in politics all his life, only the New Orleans Republican, the leading Republican newspaper in New Orleans during this period, carried an account of his death.

Perhaps one reason for the lack of newspaper coverage of his death was
that he was a Republican in a state of Democratic newspapers. Perhaps a second reason for this oversight was that he died in Harrisonburg rather than New Orleans and by the time the Supreme Court reassembled in the fall, he was forgotten. Had he died while serving on the bench, he undoubtedly would have received much more publicity than he did. A third possible reason for the lack of obituaries resulted indirectly from his quiet manner of carrying out his duties. Taliaferro was a powerful statesman, but he worked quietly. In fact he might be considered a "behind the scene" man; and men in this category ordinarily do not receive much recognition.

Taliaferro also seems to fall into the category of statesmen who are remembered during their life time but are then forgotten as the political scene changes. Perhaps one reason that Taliaferro has been forgotten by historians is because of the traditional interpretation of scalawags. Only in recent years have the scalawags received anything but denunciation from the historians. The old interpretation of scalawags led the reader to believe that a scalawag was nothing but the scum of the earth and was a native Southerner who had betrayed his state. However, in recent years historians have reversed their interpretation of the scalawag and found that many scalawags were prominent, educated, and influential men in their states. With this new interpretation it is quite possible that Taliaferro will receive more recognition for the role he played in Louisiana history.

Whatever the reasons for the lack of publicity of Taliaferro's death, it is certain that Democratic Louisiana did not regard him as important when he died. Taliaferro had been the outstanding Unionist in the Louisiana Secession debates and a prominent figure in Louisiana
reconstruction. The New Orleans Republican paid final tribute to him with these words:

He permitted none to outdo him in performance of his duties, and no ambitious student was ever more careful or attentive to the arduous labors assigned him...Few such men in these latter days have dignified the public service of our state, and his death is a great public calamity.

7 New Orleans Republican, October 19, 1876.
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APPENDIX I

CHILDREN OF JAMES GOVAN AND ELIZABETH M. B. WILLIAMSON TALIAFERRO

James Govan Taliaferro, Jr.
Zacharias Taliaferro—died young
Samuel Butler Taliaferro—died young
Susannah Bryson Taliaferro
John Quincy Adams Taliaferro
William Williamson Taliaferro—died young
Robert Williamson Taliaferro
Daniel Webster Taliaferro—died young
David Williamson Taliaferro
Sarah Elvira Taliaferro—died young
Elizabeth Ann Marie Taliaferro
Henry Bullard Taliaferro
APPENDIX II

HEIRS OF ELIZABETH WILLIAMSON TALIAFERRO

Adults: James G. Taliaferro, husband
        Susan Taliaferro Alexander
        John Quincy Adams Taliaferro
        Robert Williamson Taliaferro

Minors: David Williamson Taliaferro
        Elizabeth Ann Taliaferro
        Henry Bullard Taliaferro

William Taliaferro, grandson (Son of James G. Taliaferro, jr., deceased.)
## APPENDIX III

### ELECTION RETURNS FOR THE 1868 Gubernatorial Election

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</table>

*Parishes Taliaferro carried.

Wynona Gillmore Mills was born in Jackson, Alabama, on November 29, 1941. She graduated from Jackson High School in 1960. She attended Southwestern at Memphis and in June 1964 received a Bachelor of Arts Degree in history. In August 1964 she married Laney Ray Mills of Bogalusa, Louisiana. She began her postgraduate study in the Department of History at Louisiana State University in September 1965 and is now a candidate for the degree of Master of Arts in January 1968.
Candidate: Wynona Gillmore Mills

Major Field: History

Title of Thesis: James Govan Taliaferro (1798-1876): Louisiana Unionist and Scalawag

Approved:

[Signature]
Major Professor and Chairman

[Signature]
Dean of the Graduate School

EXAMINING COMMITTEE:

[R. Williamson]

[R. Meagle]

[L. Law]

Date of Examination:

October 30, 1967