

Suffrage for White Men Only:  
The Disfranchisement of Free Men of Color in Antebellum North Carolina

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**ABSTRACT**

This thesis explores the disfranchisement of free men of color in 1835 North Carolina through the lens of antebellum citizenship and within the context of the racial turmoil of the 1830s. Citizenship and the evolution of southern racial ideology converged in the 1835 North Carolina Constitutional Convention. On the one hand, free men of color voted, a right permitted in North Carolina for all taxpaying men regardless of race and one of the most crucial components of citizenship in the early republic and Jacksonian periods. But on the other hand, some North Carolina white slaveholders saw free people of color as instigators of slave uprisings and a threat to their social order and economic system. As convention delegates debated disfranchisement, they drew on their notions of citizenship and their fear of people of color, and a majority ultimately decided that free nonwhites did not deserve a voice in the political arena. My explanation of why delegates disfranchised free men of color is twofold. First, members of the convention supported disfranchisement because of the perceived connection between free people of color and slave violence. Disfranchisement also came about because the majority of delegates determined that political citizenship was reserved exclusively for white men, and the elimination of nonwhite suffrage in North Carolina was one of the most explicit representations of the ongoing transition of citizenship based on class to a citizenship based on race in the antebellum United States.

## ACKNOWLEDGEMENTS

I enrolled at Virginia Tech expecting to write a thesis on some aspect of the American Civil War, but as is often the case, expectations are not good predictors of the future. I came across the topic of disfranchisement in the pre-1877 American history graduate survey course taught by Melanie Kiechle. Dr. Kiechle encouraged me to explore this topic further in a short historiography paper, but I was hesitant to craft it into a thesis. Yet I grew increasingly intrigued that some people of color could vote in the southern states before the Civil War and that suffrage was taken away from them as the nineteenth century progressed. Disfranchisement began to fascinate me, and I slowly realized that I should research and analyze it further in my master's thesis even if it took me away from the Civil War. All of this is to say that without Dr. Kiechle's advice this thesis would never have been possible, and for that I owe her an enormous amount of thanks.

Like Dr. Kiechle, other Virginia Tech faculty members have contributed to the success of my project and deserve my gratitude. Dr. Kathleen Jones, the director of graduate studies, asked hard questions and challenged the significance of my project in ways that were incredibly frustrating at the time but upon reflection were essential for making my project stronger. I also wish to thank my committee members Brett Shadle and Warren Milteer. Although he is not an Americanist, Dr. Shadle has been invaluable for his insight into my project. He approached the disfranchisement of free men of color from a different scholarly perspective than my other committee members, and because of that, Dr. Shadle challenged many of the historical assumptions that afflict historians of the United States. Dr. Milteer actually began to read drafts of my thesis before he ever taught a class at Virginia Tech, and I am especially indebted to him for how he influenced my approach to North Carolina's nineteenth-century free nonwhite population and their relationship with both whites and slaves.

No one else at Virginia Tech deserves my thanks more than my thesis committee chair and advisor Paul Quigley. Like every advisor, Dr. Quigley has read numerous drafts of my thesis, met with me regularly to discuss specific issues, influenced my analytical framework, and pointed me to helpful secondary sources, but he has done so much more for me as a young historian. His encouragement and positive outlook on the oft-maligned history profession influenced my desire to further my academic study in a doctoral program, and he has patiently assisted me in several other side research projects that took time away from his more important duties. I am especially indebted to Dr. Quigley for inviting me to present at the Citizenship in the Era of the Civil War history conference that he organized and for making me feel welcome in the historical community more broadly by introducing me to numerous notable scholars in various academic settings.

I also need to recognize the many people and organizations that assisted me in the research and writing of my thesis. First, the Virginia Tech Department of History offered a significant grant through the Curtis Fund for Virginia and Civil War research that offered welcome financial assistance for my many trips to North Carolina. Second, the archivists at the Southern Historical Collection, Duke University, the State Archives of North Carolina, and the New Hanover County Public Library in Wilmington were all so helpful and patient and made me feel welcome in spite of my inexperience as a researcher. It has always been convenient dating a girl from North Carolina, where the beach was only a short trip away, but during the research for this project I also benefitted because of the proximity to archival venues. For that I need to thank my fiancée Emma Norris and her parents Bill and Anne for opening their homes to me during my research trips. Finally, my friends at the law firm of Kennerly, Montgomery, and Finley in Knoxville, Tennessee, provided me with a quiet space to write during several holiday breaks.

Whatever my endeavor, my family has always supported me, and this thesis was no different. The emphasis they have placed on my intellectual development and on teaching me the value of hard work and discipline throughout my life helped me overcome the research and writing impediments that I encountered over the course of this project with a positive outlook. It is to them, my grandparents Barbara, Gene, Norma, and Paul and my parents Michael and Melinda, that I dedicate this work.

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## Introduction

Long before Union soldiers occupied the vanquished South to enforce the citizenship rights of millions of emancipated slaves in the aftermath of the American Civil War, free men of color voted in North Carolina.<sup>1</sup> In doing so, they took part in the grandest political tradition the world had ever seen, what Alexis de Tocqueville called “the great experiment” of democracy.<sup>2</sup> But it was not to last. In 1835, delegates to the North Carolina constitutional convention disfranchised free men of color, implicitly ruling that they were not political citizens. Only after the bloodiest war in the history of the United States would they finally regain their suffrage rights.

Though a fraction of the voting population before 1835, free men of color in antebellum North Carolina were a viable force in local elections, where even the smallest number of votes could have an impact. Fayetteville’s 1834 House of Commons election is a case in point.<sup>3</sup> The race pitted Jacksonian Democrat challenger Thomas L. Hybart against Whig incumbent James Seawell. Free men of color composed a significant portion of the votes, as one townsman recollected that Whigs mobilized free men of color and even accompanied them to the polling place to presumably ensure they voted the party line. After a long, arduous campaign town

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<sup>1</sup> Instead of using the more common racial designations of “black” or “African American,” I have chosen to use the more broader term “free men of color” to refer to the nonwhite North Carolina residents who were disfranchised in 1835. This decision is based on the work of historian Warren Milteer, who has argued that nineteenth-century North Carolinians used “free person of color” to refer to people of various ethnic backgrounds, such as African, Native American, mixed-race, and even South Asian descent. Essentially, it meant “free and non-white” (Warren Eugene Milteer, Jr., “The Complications of Liberty: Free People of Color in North Carolina from the Colonial Period Through Reconstruction,” [PhD. Diss., University of North Carolina at Chapel Hill, 2013], 16-17).

<sup>2</sup> Alexis de Tocqueville, *Democracy in America* (1835; repr., New York: Bantam, 2004), 27.

<sup>3</sup> Before the 1835 constitutional convention, several North Carolina towns, like Fayetteville, had their own representative in the House of Commons, separate from the two representatives from each county.

residents returned Seawell to Raleigh by a vote of 200 to 184, but the electoral struggle did not stop after the ballots had been counted.<sup>4</sup>

Hybart charged Seawell with voter fraud, and the North Carolina General Assembly commenced an investigation into the matter during the 1834-1835 legislative session. Among other allegations, Hybart claimed that several Seawell supporters did not live in town or were not qualified to vote under the state constitution. Each candidate submitted depositions to the General Assembly's investigative committee, addressing some individuals' suffrage qualifications, such as age, place of residence, and number of months living in town. Hybart questioned witnesses as to the qualifications of at least nine free men of color, whose votes he claimed should be thrown out. A local tavern keeper recounted that one of the men only resided in Fayetteville "a few days at a time, when drunk," and the local constable swore that another only gained freedom during the 1833-1834 legislative session, meaning he could not have lived in Fayetteville for a year as a free man, as required by law to vote.<sup>5</sup> Whether the witnesses' statements were accurate or not, Hybart understood that free men of color contributed to his electoral defeat. Ultimately the legislature allowed Seawell to retain his seat in the House of Commons, but Hybart's persistent questioning of the qualifications of free men of color demonstrates their power as a voting bloc in the minds of some white politicians.<sup>6</sup> In close elections, like the 1834 Fayetteville house race where victory was decided by a mere sixteen votes, a candidate's success could rest on the votes of a few free men of color.

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<sup>4</sup> Harry Watson, *Jacksonian Politics and Community Conflict: The Emergence of the Second American Party System in Cumberland County, North Carolina* (Baton Rouge: Louisiana State University Press, 1981), 192.

<sup>5</sup> Quotation from *Fayetteville Observer*, January 20, 1835. *Fayetteville Observer*, January 27, 1835. See also Watson, *Jacksonian Politics and Community Conflict*, 191.

<sup>6</sup> The House dropped the charges against Seawell when legislators realized that one of Hybart's witnesses was a free man of color (Watson, *Jacksonian Politics and Community Conflict*, 193). For a discussion of the House's resolutions against Seawell, see *Journals of the Senate and House of Commons of the General Assembly of the State of North Carolina, at the Session of 1834-35* (Raleigh: Philo White, 1835), 150, 200, 207, 209-211, 260.



In the summer of 1835, however, free men of color lost their political power when delegates at the state constitutional convention disfranchised all North Carolina's free nonwhite population. Since the ratification of the state's constitution in December 1776, free men of color could vote in state elections so long as they met the necessary property and residency requirements. North Carolina's constitution used the general term "freemen" to classify potential voters, rather than the more specific phrase "free whites" found in the Virginia and South Carolina constitutions.<sup>7</sup> In order to vote in state Senate races, men had to own fifty acres or the equivalent in wealth, but property requirements were much lower to vote for representatives in North Carolina's House of Commons. Men only had to live in the county for one year and to have paid public taxes at some point in their lives.<sup>8</sup> The impoverished condition of most free men of color meant that their political participation was usually confined to House elections, but in 1835, delegates determined that free men of color no longer deserved the right of suffrage in any state election.

The outcome of disfranchisement was not a foregone conclusion at the beginning of the debate but was closely contested. Delegates initially discussed nonwhite suffrage for two days on June 12 and 13, where they approved of a disfranchisement amendment by a vote of 66 to 61.<sup>9</sup> The convention then moved on to other issues, like the reorganization of the General Assembly and allowing Catholics to hold office. But on July 6, William Gaston of Craven County implored the convention return to the question of nonwhite suffrage because "the majority against

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<sup>7</sup> Lacy K. Ford, *Deliver Us from Evil: The Slavery Question in the Old South* (New York: Oxford University Press, 2009), 420.

<sup>8</sup> North Carolina Constitution of 1776, articles VII and VIII. The constitution is available online through Yale Law School's Avalon Project at [http://avalon.law.yale.edu/18th\\_century/nc07.asp](http://avalon.law.yale.edu/18th_century/nc07.asp).

<sup>9</sup> *Proceedings and Debates of the Convention of North-Carolina, Called to Amend the Constitution of the State, Which Assembled at Raleigh, June 4, 1835. To Which are Subjoined the Convention Act and the Amendments to the Constitution, Together with the Votes of the People* (Raleigh: Joseph Gales and Son, 1836), 80-81.

allowing persons of this description to vote was so small, that he thought there would be no impropriety in testing the question again.”<sup>10</sup> After a flurry of arguments on both sides, the disfranchisement question carried again, this time by a margin of 64 to 55 and with no change to the original amendment.<sup>11</sup> The convention was thus nearly divided between delegates who sought to disfranchise every free man of color, and others who were willing for North Carolina’s “most intelligent and deserving” free nonwhite men to retain the franchise.<sup>12</sup> Proponents of disfranchisement eventually succeeded over advocates of limited nonwhite suffrage, but only after a lengthy and heated debate on the nature of antebellum citizenship and the causes of slave insurrections.

“Suffrage for White Men Only: The Disfranchisement of Free Men of Color in Antebellum North Carolina” explores the disfranchisement of free men of color through the lens of antebellum citizenship and within the context of the racial turmoil of the 1830s.<sup>13</sup> Citizenship

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<sup>10</sup> Ibid., 351.

<sup>11</sup> For a complete list of how all delegates voted, see *ibid.*, 80-81 and 357-358.

<sup>12</sup> John Branch, quoted in *ibid.*, 70.

<sup>13</sup> Barbara Jeanne Fields prompted historians to focus on race as a social construction, and my thoughts on disfranchisement of free people of color have been impacted by her work. See Barbara Jeanne Fields, “Slavery, Race, and Ideology in the United States of America,” *New Left Review* 181 (May/June 1991): 95-118. For her analysis of free people of color, see Barbara Jean Fields, *Slavery and Freedom on the Middle Ground: Maryland During the Nineteenth Century* (New Haven, Yale University Press, 1985), 63-89. “Race” is also a problematic term for the many connotations associated with it. Scholars, like Fields, have proved that race is a social construct, but here I am going to define nonwhite and white like the convention delegates did. For them, a person of color was anyone that had a nonwhite ancestor “within four degrees” (*Proceedings and Debates*, 71-72). Yet long before Fields’ identification of race as a social construction, Winthrop Jordan recognized that racism and race relations in early American history were “characterized by variety and complexity and that whites approached race through what he called “attitudes,” which were avenues for historical analysis (first quotation from Winthrop Jordan, foreword to *Race Relations in Virginia and Miscegenation in the South, 1776-1860*, by James Hugo Johnston [Amherst: The University of Massachusetts Press, 1970], vi; second quotation from Winthrop Jordan, *White Over Black: American Attitudes Toward the Negro, 1550-1812* [1968; repr., New York: Norton, 1977], viii). Recently, Walter Johnson has shown how the social construction of race was not always attributed to whites. He argues that slaves could contribute to the social construction of race, as well. See Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge: Harvard University Press, 1999).

and the evolution of southern racial ideology converged in the 1835 constitutional convention. On the one hand, free men of color voted, a right permitted in North Carolina for all taxpaying men regardless of race and one of the most crucial components of citizenship before the ratification of the U.S. Constitution's Fourteenth Amendment. But on the other hand, some North Carolina white slaveholders saw free people of color as instigators of slave uprisings and a threat to their social order and economic system. Long before the 1835 constitutional convention North Carolinians had already explicitly connected their fear of people of color to the continuation of nonwhite suffrage. The best example of this is an 1831 legislative petition from 164 white residents of New Bern to the North Carolina General Assembly. To support their plea that free men of color should be disfranchised, petitioners argued that "permitting free negroes to vote at elections, contributes to excite & cherish a spirit of discontent and disorder among slaves."<sup>14</sup> Similarly, an editorial in Wilmington's *Cape Fear Recorder* specifically outlined how abolitionists circulated radical pamphlets throughout North Carolina in order to gain "an admission of the free colored people of the United States, to a full participation of rights with the white citizens [and to ignite] a conspiracy for exciting insurrection in the South."<sup>15</sup> As convention delegates debated disfranchisement, they drew on their notions of citizenship and their fear of people of color, as did the New Bern petitioners, and decided that free nonwhites did not deserve a voice in the political arena.

My explanation of why delegates disfranchised free men of color is twofold. First, members of the convention supported disfranchisement because of the perceived connection

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<sup>14</sup> Petition of Inhabitants of New Bern to the General Assembly [of North Carolina], December 15, 1831, Records of the General Assembly, Session Records, State Archives of North Carolina (hereafter cited as SANC). Note that I am using the modern spelling of New Bern, rather than the antiquated "Newbern" to refer to the town, but I do use the antiquated spelling in referencing the town's newspaper, the *Newbern Spectator*, because that is the spelling the editors used in the masthead. I take similar action regarding other North Carolina towns and their newspapers when appropriate.

<sup>15</sup> *Cape Fear Recorder* (Wilmington, NC), September 2, 1830.

between free people of color and slave violence. Delegates' proximity to slave scares in early 1830s North Carolina correlated strongly with their vote on disfranchisement. Slave insurrections and the circulation of abolitionist propaganda through the mails demonstrated to southern white elites that their slaves were not content in their bondage but were sometimes willing to kill and be killed to throw off their oppressors. This was especially evident in North Carolina, as David Walker circulated his *Appeal* through clandestine agents and Carolina militia companies mobilized to quell Nat Turner's 1831 insurrection across the state line in Southampton County, Virginia. Like Virginia's famed slavery debate of 1831-1832, the North Carolina constitutional convention of 1835 served as a public venue for southern whites to address and discuss their fears of people of color, and their fear, whether genuine or manufactured for political reasons, proved detrimental for the suffrage of free nonwhites. As a whole, delegates from regions near sites of real or rumored slave insurrections overwhelmingly voted for disfranchisement. Others, far removed from the fear and anxiety, were more likely to favor limited nonwhite suffrage, arguing that the continued suffrage of some free men of color would, in their estimation, serve as a buffer between slaves and the white population. Delegates understood the danger slaves posed to white society, and free men of color, occupying the ambiguous position between slaves and free whites, could alleviate their fears if allowed to continue voting. In spite of the opposition's best efforts, complete disfranchisement prevailed.

Disfranchisement also came about because a majority of delegates determined that political citizenship was reserved exclusively for white men, and the elimination of nonwhite suffrage in North Carolina was one of the most explicit representations of the ongoing transition of citizenship based on class to a citizenship based on race in the antebellum period. Insurrections and abolitionist propaganda created a climate of fear in North Carolina's white

population, but issues of citizenship were also at the forefront of delegates' minds during the convention. In the Jacksonian period, more white men began taking part in the political system, regardless of wealth, as property qualifications for suffrage were lowered or even eliminated in some states. Property requirements for suffrage did not change in North Carolina until much later in the antebellum period, but western whites from the mountains and the piedmont challenged the hegemony of eastern planters and clamored for more equal sectional representation in the state legislature in the years preceding the convention.<sup>16</sup> Some westerners even pointed to how the sectional disparity in the composition of the state legislature meant that some eastern free men of color from small counties had greater political power than their white western counterparts. Thus as westerners argued that they had a political voice and deserved the same rights of citizenship as eastern whites, the majority of convention delegates determined that free men of color were not citizens in the same sense. Although free men of color voted, many whites argued that true citizenship was based on race, not wealth. Citizenship, as they understood it, was defined by whiteness, and free nonwhites' ability to vote broke down the color barrier. Delegate Joseph Carson summed up this idea, claiming that "the God of Nature has put his mark on the negro as a separate cast[e], and in that cast[e] he wished to keep him."<sup>17</sup> The majority of convention delegates held the same view, and through their debates on the issue of disfranchisement, we catch a glimpse of their conceptualizations and definitions of antebellum citizenship.

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<sup>16</sup> Virginia is the best example of intrastate conflict because of the very distinct geographic regions, but North Carolina shares similarities. Mountaineers from the western reaches of the Old North State had been calling for an amended constitution for years, and the 1835 constitutional convention was the result of their labor. See William G. Shade, *Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861* (Charlottesville: University Press of Virginia, 1996), 50-77; and William W. Freehling, *Road to Disunion*, vol. 1: *Secessionists at Bay, 1776-1854* (New York: Oxford University Press, 1990), 162-177; for their discussions of class conflict in antebellum Virginia. Both historians maintain that class division in Virginia was typical of other southern states.

<sup>17</sup> *Proceedings and Debates*, 356.

The outcome of disfranchisement, however, tends to obscure the fact that a very significant minority of delegates wanted free men of color to continue voting in some capacity. Although delegates opposing complete disfranchisement still hoped to restrict nonwhite suffrage to only the state's wealthy free men of color, an analysis of the 1835 disfranchisement debate provides a lens into the paradoxical nature of the antebellum South, where elite white men were undecided on the position of people of color in their society. From the contentious debate and close vote, antebellum North Carolinians did not wholeheartedly agree that free men of color deserved to lose their right to vote or even that they were not citizens. Many southern slaveholders tended to describe a white polity united by whiteness and in opposition to the blackness of slaves and free people of color. While this may have been more accurate as sectionalism came to dominate national politics on the eve of the Civil War, antebellum white southerners were actually quite divided on issues of race.<sup>18</sup> Within the convention itself, disfranchisement passed by a slim margin, and several newspaper editors and petitioners to the North Carolina state legislature lamented the fact that free men of color no longer could vote. Thus, we cannot let the outcome of disfranchisement overshadow the very real debate that was taking place among whites in the North Carolina convention, and more generally in the antebellum South as a whole, on the place of free people of color in southern society. Issues of race and citizenship were muddled, and disfranchisement was not inevitable for North Carolina's free men of color.

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<sup>18</sup> Lacy Ford contends that "there was not one antebellum South, but many, and not one southern white mindset but several" (Ford, *Deliver Us from Evil*, 4). See also, Freehling, *The Road to Disunion*, 119-286. In his book on antebellum Florida, Edward Baptist makes the related point that white slaveholders in the late antebellum period actually created a history of a united white South, forever committed to slavery and content with planter rule. He argues that this "myth... offered planters an imaginary history of stability, a dream genealogy of seamless rule that held that white alliance across classes was a constant, and ignored the harsh effects of planter-directed frontier disruption on the enslaved" (Edward E. Baptist, *Creating an Old South: Middle Florida's Plantation Frontier before the Civil War* [Chapel Hill: The University of North Carolina Press, 2002], 7).

Analyzing disfranchisement through the changing racial ideology of white southerners and the ongoing white conceptualization of citizenship complicates our understanding of the event. Historians of antebellum free nonwhite disfranchisement in North Carolina have traditionally viewed the subject only through the lens of antebellum politics.<sup>19</sup> I agree that conflict over political power, whether East versus West, Whig versus Democrat, or those in support of internal improvements versus those in opposition, is certainly connected to disfranchisement. My thesis, however, takes the existing historical conversation a step further by situating the elimination of suffrage rights into the broader temporal and geographical context of the antebellum South. Southern whites differed on the position of people of color in society, and the disfranchisement debate was one more example of the ongoing conversation.

Ideas of race are an essential component of “Suffrage for White Men Only,” and the scholarly baggage that goes along with the term warrants an explanation of how I use race as a category of analysis. I have been influenced by Africanist Patrick Manning’s understanding of race. He accepts it as a “historical reality,” while recognizing that “racial categorization is

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<sup>19</sup> Historian Harold Counihan, in his statistical analysis of the entire North Carolina constitutional convention, stresses the sectional nature of disfranchisement. He argues that forty-nine easterners were the “backbone” of the resistance to the suffrage of free men of color, and many westerners did not vote on the issue, seeing it as a problem for eastern North Carolinians to deal with. Elizabeth Hathhorn McGehee builds on Counihan, but offers her own perspective on disfranchisement. She argues that delegates from counties generally opposing internal improvements supported disfranchisement of free men of color. See Harold J. Counihan, “The North Carolina Constitutional Convention of 1835: A Study in Jacksonian Democracy,” *The North Carolina Historical Review* 46, no. 4 (Oct. 1969), 346-348; Elizabeth Hathhorn McGehee, “White Democracy, Racism, and Black Disfranchisement: North Carolina in the 1830’s.” (master’s thesis, The College of William and Mary, 1989), 5. McGehee does claim that delegates from counties closest to Southampton County, Virginia, also favored disfranchisement. She does not, however, explain why Halifax delegates did not support disfranchisement or offer any general analysis with respect to racial views of the delegates. For an overview of the debate on disfranchisement in the constitutional convention, see John Hope Franklin, *The Free Negro in North Carolina* (Chapel Hill: University of North Carolina Press, 1943), 109-117. For other, less nuanced work on the 1835 constitutional convention, see Fletcher M. Green, *Constitutional Development in the South Atlantic States, 1776-1860: A Study in the Evolution of Democracy* (1930; repr., New York: W.W. Norton & Company, 1966), 224-233; Hugh Talmage Lefler and Albert Ray Newsome, *North Carolina: The History of a Southern State* (Chapel Hill: The University of North Carolina Press, 1954), 332-341; and William S. Powell, *North Carolina Through Four Centuries* (Chapel Hill: The University of North Carolina Press, 1989), 267-281.

socially constructed and usually prejudicial.”<sup>20</sup> In my thesis, I am focusing primarily on white southern elite men and how they situated racial minorities within their society. Certainly, people of color, women, and lower class whites contributed to the social construction of race in the antebellum period, but here I am only dealing with the connotations of racial classification used by convention delegates. These white elites’ construction of race was a product of their domination of power relations, both as slaveholders and as the leading members of their communities, and it certainly contributed to their decision to disfranchise free men of color. Delegates agreed that people of color, whether free or enslaved, were inferior to whites based on of the complexion of their skin. They did associate slaves and free people of color with violence, but this was more a result of the panic caused by Nat Turner’s slave insurrection than a belief of an inherent violent demeanor based on their race. I do integrate a number of sources from white male North Carolinians outside of convention delegates that shed light on other elites’ conceptualization of race, but the delegates themselves are the true subjects of my analysis. Including the perspectives of women, lower-class white men, and people of color on disfranchisement and their notions of race would have added to my study, but the existing sources do not allow it.

Though I do not completely disagree with their conclusions, previous historians have provided insufficient analysis of delegates’ disfranchisement of free men of color in two ways. First, some have failed to relate the disfranchisement debate to the ongoing evolution of southern whites’ ideas of race in the nineteenth-century South, seemingly situating their studies in the vacuum of the summer of 1835. Other outside issues, like whites’ fear of nonwhites and ideas of citizenship in Jacksonian America, contributed to free men of color’s loss of suffrage. Second,

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<sup>20</sup> Patrick Manning, *The African Diaspora: A History Through Culture* (New York: Columbia University Press, 2009), 11.



historians have let the overarching result of the disfranchisement vote cloud their analyses, as they have insufficiently explained or simply chose to ignore why the convention's vote on the disfranchisement issue was so close. By including external evidence of white North Carolinians protesting disfranchisement or supporting other rights of free people of color, I prove that historians of disfranchisement have failed to fully understand that the contested vote on disfranchisement was not an anomaly but truly reflected whites' widespread indecision on the position of free men of color and the blurred nature of citizenship in antebellum society. By focusing on the influence of slave insurrections, my thesis contributes to historians' understanding of the evolution of whites' classification of people of color within southern society. In the eighty years between American Independence and the American Civil War, slaveholders' rhetoric changed. Initially the Jeffersonian stance of slavery as a "necessary evil" prevailed, but by the time of the Civil War, many white southerners defended slavery as a "positive good." Some historians have argued that the Virginia slavery debate of 1830-1831 was such the turning point in this gradual transition.<sup>21</sup> However, the disfranchisement of free people of color in North Carolina was another key event in the ongoing evolution of the slaveholding regime. While the Virginia debate highlighted slavery's place in southern society, the debate in North Carolina brought in the issue of free people of color. The ongoing process of identifying dark skin with slavery and limited citizenship and white skin with freedom and full citizenship came to a head in the North Carolina constitutional convention. Thus, my project sheds light on slaveholders' slow construction of a racially-demarcated South by analyzing one key event in that process.

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<sup>21</sup> Joseph C. Robert, *The Road from Monticello: A Study of the Virginia Slavery Debate of 1832* (Durham: Duke University Press, 1941); Elizabeth Varon, *Disunion!: The Coming of the American Civil War* (Chapel Hill: The University of North Carolina Press, 2008), 84.

My thesis also adds to the scholarship of citizenship in Jacksonian America. The modern conception of United States citizenship is rooted in the struggles and gains of the civil rights movement, especially the Civil Rights Act of 1964 and the Voting Rights Act of 1965, and scholars need to take care not to fall into the trap of analyzing early concepts of citizenship through the modern framework.<sup>22</sup> For nineteenth-century Americans, however, citizenship was a much more nebulous idea. The founding fathers, as two historians have put it, “failed to establish a definition of national citizenship, leaving details to individual states, [which created] considerable ambiguity over what it meant to be a citizen in the new republic.”<sup>23</sup> The ambiguity of citizenship is especially evident in the debates on disfranchisement in North Carolina. Here some delegates agreed that suffrage was an exclusive right of citizenship, and since free men of color were not citizens, they did not deserve to vote. Other delegates found that free men of color should be disfranchised but classified them as “one class of citizens” below whites.<sup>24</sup> Whites throughout North Carolina also differed on the definition of citizenship and who was included in the definition, and depending on their definition, they in turn either saw free people of color as a beneficial segment of society or sought to completely limit nonwhites’ rights because they were not citizens in any sense. Though still debated, today’s concept of citizenship is quite rigid and grounded in national laws and statutes. But my thesis shows that this was not always the case, as the concept of citizenship in nineteenth-century America was nebulous and open to interpretation.

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<sup>22</sup> For a convincing critique of these anachronistic analyses, see William J. Novak, “The Legal Transformation of Citizenship in Nineteenth-Century America,” in *The Democratic Experiment: New Directions in American Political History*, ed. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton: Princeton University Press, 2003), 85-87.

<sup>23</sup> William A. Link and David Brown, introduction to *Creating Citizenship in the Nineteenth-Century South*, ed. William A. Link, David Brown, Brian Ward, Martyn Bone (Gainesville: University Press of Florida, 2013), 3.

<sup>24</sup> *Proceedings and Debates*, 76. See also Novak, “The Legal Transformation of Citizenship,” 88-89.

The disfranchisement of free men of color fits within the ongoing and multifaceted historiographical conversation of white southerners' evolving conception of race before the Civil War. Most historians' work on race in the antebellum South deals with slavery, but the position of free people of color is related. Racial slavery was at the core of antebellum southern society, and it separated the antebellum South from the free-labor North. Free people of color held a more anomalous position, especially during the 1830s. The traditional interpretation of free people of color assumes that slaves and free nonwhites shared common interests, and antebellum whites lumped these two groups together on the basis of race, as well.<sup>25</sup> However, more recent historians contend that free people of color had few reasons to see common interests with slaves and sometimes even identified more with whites than enslaved blacks. These scholars also point out how whites were not unified in opposition to free people of color. Some whites recognized the economic benefit that free people of color provided to society, cohabitated with free people of color, and often sided with nonwhites in the courtroom.<sup>26</sup>

Few scholars contest that white views on slavery and race evolved during the first half of the nineteenth century from Jeffersonian indecision to a united defense of slavery as a positive good by future Confederates. Early historians of the antebellum South pointed to specific events or periods that radically changed white southerners' conception of race. The Virginia slavery debate of 1831-1832 and the circulation of abolitionist pamphlets throughout the South are the

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<sup>25</sup> Ira Berlin is the most noted historian for doing this. See Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South* (New York: New Press, 1974). See also Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974), 409-410.

<sup>26</sup> Warren E. Milteer, Jr., "Life in a Great Dismal Swamp Community: Free People of Color in Pre-Civil War Gates County, North Carolina," *The North Carolina Historical Review* 91, no. 2 (April 2014): 144-170; Richard C. Rohrs, "The Free Black Experience in Antebellum Wilmington, North Carolina: Refining Generalizations about Race Relations," *The Journal of Southern History* 78, no. 3 (August 2012): 615-638; Melvin Patrick Ely, *Israel on the Appomattox: A Southern Experiment in Black Freedom from the 1790s through the Civil War* (New York: Vintage, 2004); Joshua D. Rothman, *Flush Times and Fever Dreams: A Story of Capitalism and Slavery in the Age of Jackson* (Athens: The University of Georgia Press, 2012).

most prominent in the early literature.<sup>27</sup> This early scholarly position of isolated events changing southern whites' perspective would not long stand unchallenged, though, as historians of the antebellum South began to gradually point to a *process* of white southerners' evolution of racial ideology.<sup>28</sup> As social history took hold of the discipline, historians began to take more nuanced approaches to antebellum white southerners' racial ideology. One of the best examples of such an approach is William W. Freehling's *The Road to Disunion*, volume I: *Secessionists at Bay, 1776-1854*. In his monumental survey of the antebellum South, Freehling not only chronicled the evolution of racial thought, he also highlighted differences between sections of the South and

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<sup>27</sup> Writing in the 1940s, historian Joseph Clarke Robert argued that Nat Turner's rebellion generated fear of the dangers of free people of color and slaves, causing many Virginians to question the safety of their society. In the wake of such questioning arose "defense arguments" that "had a consequential share in turning Southern thought into" a united defense of slavery (Robert, *The Road from Monticello*, first quotation from page 46 and second quotation from page 56). Historian Charles S. Sydnor agreed with Robert that the defense of slavery in Virginia was essential to a South united in defense of slavery, but he also added that the pressure of northern abolitionists in the mid-1830s also had a "tremendous influence upon the South" (Charles Sydnor, *The Development of Southern Sectionalism, 1819-1848* [1948; repr., Baton Rouge: Louisiana State University Press, 1968], 229). The creation of white fear is a factor that is essential to my study. For a wonderful exploration of how exactly the Nat Turner rebellion manifested fear in the minds of southern whites, see Stephen B. Oates, *The Fires of Jubilee: Nat Turner's Fierce Rebellion* (1975; reprint, New York: Harper & Row, 1990).

<sup>28</sup> One of the first historians to do this was William W. Freehling in his book *Prelude to Civil War*. Freehling's primary argument revolved around explaining the reasons for the Nullification Crisis, but in doing so, he discussed how South Carolinians' defense of slavery slowly evolved over the course of the 1820s and 1830s (William W. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (New York: Harper, 1968). As a scholar of the antebellum South, Freehling's work stretched over forty years, and his position on white southerners' racial ideology changed through time. George M. Frederickson was one of the first scholars to actually point to a gradual transition in the entire first half of the nineteenth century, arguing that white southerners' debate of people of color's position "resulted from the interaction of prior conceptions of with historical developments and changing circumstances" (George M. Frederickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* [New York: Harper & Row, 1971], xiii). For other proponents of a gradual evolution of white thought in the antebellum period, see William J. Cooper, Jr., *The South and the Politics of Slavery, 1828-1856* (Baton Rouge: Louisiana State University Press, 1978); Drew Gilpin Faust, "Introduction: The Proslavery Argument in History" in *The Ideology of Slavery: Proslavery Thought in the Antebellum South, 1830-1860*, Drew Gilpin Faust, ed. (Baton Rouge: Louisiana State University Press, 1981): 1-20; Alison Goodyear Freehling, *Drift toward Dissolution: The Virginia Slavery Debate of 1831-1832* (Baton Rouge: Louisiana State University Press, 1982); William J. Cooper, Jr., *Liberty and Slavery: Southern Politics to 1860* (New York: Alfred A. Knopf, 1983). Even though Alison Goodyear Freehling primarily analyzes the ever-popular Virginia slavery debate, she downplays its significance, stressing that slavery's ideological evolution had no central event. The Virginia slavery debate was important but was "not an isolated aberration, but rather part of an ongoing contest between a white community irreparably divided by slavery (Goodyear Freehling, *Drift Toward Dissolution*, xii).

demonstrated how many southerners were undecided on the position of free people of color within their society.<sup>29</sup>

After Freehling, scholars continued to conceptualize racial ideology with new analytical frameworks. James B. Stewart's concept of racial modernity, which he used to argue that the discovery of their shared whiteness and the increasing number of abolitionists united whites together against people of color, is one such framework that has profoundly influenced historians of the antebellum South.<sup>30</sup> Southern historian Lacy Ford, in particular, applied Stewart's concept of racial modernity to the antebellum South by combining it with Freehling's previous work. Ford clarified much of Freehling's argument by using the term "whitening" to describe the process that caused white and nonwhite southerners to become increasingly racially separated in

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<sup>29</sup> Freehling, *The Road to Disunion*, 119-286. Freehling also does not deal only with the ideology of slavery. Lumping free people of color together with slaves, he shows how upper South southern whites sought to rid their states of all people of color, through gradual emancipation, colonization, or diffusion, whereby free people of color would be forced to migrate to other states or to colonies in Africa. Lower South whites, on the other hand, firmly supported paternalistic slavery and the permanent domination of all areas of free people of color's lives because of the economic necessity of slaves to the production of cotton and other commodities. Unfortunately, Freehling does not really focus much on North Carolina, instead preferring the oft-used comparison between Virginia and South Carolina as representative of the upper and lower South. Historian Merton L. Dillon similarly demonstrates the differences between the racial ideologies of whites in the two sections, but he does not do so as powerfully as Freehling (Merton L. Dillon, *Slavery Attacked: Southern Slaves and Their Allies, 1619-1865* [Baton Rouge: Louisiana State University Press, 1990], 87-161). Important for my thesis, Dillon highlights white fear of North Carolinians after Nat Turner's slave rebellion, claiming that the panic was even greater than in Virginia (*Ibid.*, 156). Other historians complicate this narrative by arguing that lower class whites had radically different views on issues of race and sometimes saw more in common with free people of color than wealthy white planters. Richard C. Rohrs argues that a "disparity" existed between legislative restrictions and laws passed at the state level "and the reality of daily life" (Rohrs, "The Free Black Experience in Antebellum Wilmington," 616-617). Joshua Rothman also makes the point that white slaveholders feared the interaction between people of color and poor whites and often reacted violently when such collaboration was suspected (Rothman, *Flush Times and Fever Dreams*).

<sup>30</sup> James Brewer Stewart, "SHA Roundtable: Racial Modernity - The Emergence of Racial Modernity and the Rise of the White North, 1790-1840," *Journal of the Early Republic* 18, no. 2 (Summer 1998), 203. Stewart defined this term as "a reflexive disposition on the part of an overwhelming number of northern whites...to regard superior and inferior races as uniform, biologically determined, self-evident, naturalized, immutable 'truths'--and, the development of integrated trans-regional systems of intellectual endeavor, popular culture, politics and state power that enforced uniform white supremacist norms as 'self-evident' social 'facts'" (Stewart, "Racial Modernity," 183). See also James Brewer Stewart, "Modernizing 'Difference': The Political Meanings of Color in the Free States, 1776-1840," in *Race and the Early Republic: Racial Consciousness and Nation-Building in the Early Republic*, ed. Michael A. Morrison and James Brewer Stewart (New York: Rowman & Littlefield Publishers, 2002): 113-133. Stewart's work is not without criticism, however, as historians see problems with his periodization of modernity. For examples of such criticism, see Jean R. Soderluld and James Oliver Horton's comments on Stewart's article in the SHA Roundtable, *Journal of the Early Republic* 18, no. 2 (1998), 218-221, 223-225

the minds of southern whites. He argued that whites in the upper South attempted to whiten their society by ridding themselves of blacks, whether free or enslaved, through the domestic slave trade. In contrast, lower South white people whitened their society through “the prevention of insurrections, tighter regulations or removal of free people of color, and the desirability of regulating or even eliminating the interstate slave trade.”<sup>31</sup> Ford’s work is especially important for my study on the disfranchisement of free people of color in North Carolina for his analysis of nonwhites’ position in the middle South—North Carolina and Tennessee—a classification introduced by Freehling.<sup>32</sup>

A similar historiographical conversation related to racial ideology involves the work of George M. Frederickson. Frederickson’s most important contribution to the literature of southern white racial ideology was his popularization of the term *herrenvolk* democracy. This concept, like that of Stewart’s racial modernity, has profoundly influenced historians of the antebellum South in such a way as to combine issues of class with issues of race. Originally coined by sociologist Pierre L. van den Berghe, *herrenvolk* democracy described governments that were

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<sup>31</sup> Lacy K. Ford, “Making the ‘White Man’s Country’ White: Race, Slavery, and State-Building in the Jacksonian South,” in *Race and the Early Republic: Racial Consciousness and Nation-Building in the Early Republic*, ed. Michael A. Morrison and James Brewer Stewart (New York: Rowman & Littlefield Publishers, 2002), 139. Also important for future historians, Ford classified Tennessee and North Carolina under the umbrella term “middle South” because the two states did not fit the paradigm of upper or lower South. In the middle south, Ford claimed, white southerners’ “debates over slavery and free people of color occurred within the cauldron of a white egalitarian crusade for constitutional revision,” and Tennessee and North Carolina sought to “ideologically” whiten their society, rather than using colonization or forced migration of their upper South neighbors (Ford, *Deliver Us from Evil*, 390, 445). His book *Deliver Us from Evil* is a monumental monograph that addresses the entire period of southern antebellum history and analyzes the upper, lower, and middle South, a level of detail not offered by any previous historians of racial ideology. Ford elaborates and develops his hypothesis other the course of several works, and his argument grows increasingly more detailed in each successive one. See also Lacy K. Ford, “Reconfiguring the Old South: ‘Solving’ the Problem of Slavery, 1787-1838,” *The Journal of American History* 95, no. 1 (Jun. 2008): 95-122. Other scholars have similarly described white southerners’ racial ideology in terms of either ridding themselves of people of color or codifying restrictive policies. See Eva Shepard Wolf, *Race and Liberty in the New Nation: Emancipation in the New Nation from the Revolution to Nat Turner’s Rebellion* (Baton Rouge: Louisiana State University Press, 2006), xii and Varon, *Disunion!*, 82-85.

<sup>32</sup> Freehling, *The Road to Disunion*, 17.

democratic with respect to the ruling race but despotic in the treatment of racial minorities.<sup>33</sup>

Frederickson primarily pointed to southern elites' use of the *herrenvolk* democracy concept as it related to the outbreak of the Civil War and specifically to poorer whites' support for the Confederacy.<sup>34</sup>

Various scholars have used *herrenvolk* democracy to describe the unification of southern white men, regardless of their social class. Harking back to the previous discussion of historians' argument for the influence of specific events on racial ideology, historians David Brown and Clive Webb agreed that "whiteness united southern men and muted class divisions," but they pointed to the fears associated with Nat Turner's slave rebellion as the "turning point for this view."<sup>35</sup> Important for my study, Brown and Webb also highlight how free people of color do not fit with the *herrenvolk* paradigm, "when to be white was to be free and to be black was supposedly to be slave."<sup>36</sup> Related to the idea of *herrenvolk* democracy, historians' emphasis on the social construction of whiteness was another strand of historical scholarship that dominated the discipline for a period of time and that is significant for my thesis. For by disfranchising free men of color, convention delegates were essentially constructing whiteness and blackness and

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<sup>33</sup> Pierre L. van den Berghe, *Race and Racism: A Comparative Perspective* (New York: John Wiley and Sons, 1967), 17-18; Frederickson, *The Black Image*, 61.

<sup>34</sup> Frederickson, *The Black Image*, 62.

<sup>35</sup> David Brown and Clive Webb, *Race in the American South from Slavery to Civil Rights* (Edinburgh: Edinburgh University Press, 2007), 101-102. In another work, however, Brown cautions the notion that the *herrenvolk* thesis applies to all classes of southern whites. In his view, whiteness in opposition to slaves' blackness did serve to unite yeomen farmers with the more affluent planter class, but it "did not necessarily extend to white men without land or property" (David Brown, "A Vagabond's Tale: Poor Whites, Herrenvolk Democracy, and the Value of Whiteness in the Late Antebellum South," *The Journal of Southern History* 79, no. 4 [Nov. 2013], 805).

<sup>36</sup> Brown and Webb, *Race in the American South*, 2.

seemingly propagating the binary classifications of race, as white and non-white, that several whiteness historians have emphasized in their approaches to the antebellum period.<sup>37</sup>

In addition to antebellum racial ideology, my analysis of the disfranchisement of free men of color also intersects the historiography of citizenship. Citizenship, as a category of analysis, emerged relatively recently. Writing in 1950, British sociologist T.H. Marshall challenged the notion that citizenship was a fixed and permanent condition. He argued instead for “an evolution of citizenship which has been in progress for some 250 years.”<sup>38</sup> Though Marshall focused on the British working class, his work profoundly influenced scholars to view citizenship as a continuously evolving process and to “go beyond the conventional idea that membership in a community is predominately a political matter,” meaning that other aspects of citizenship existed besides voting or holding office.<sup>39</sup> Historian James H. Kettner built off Marshall’s work and applied his evolving citizenship methodology to describe the “step-by-step” transition from British “subject” to American “citizen” from the colonial period to Reconstruction. Kettner especially emphasized the “confusion and contention” that surrounded the debate on the citizenship status of free people of color. By including people of color in his study, he influenced later scholars to focus specifically on this anomalous group.<sup>40</sup>

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<sup>37</sup> David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1991), 21-24; Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard University Press, 1998), 7. For an effective and convincing critique of whiteness scholarship, see Peter Kolchin, “Whiteness Studies: The New History of Race in America,” *The Journal of American History* 89, no. 1 (June 2002): 154-173.

<sup>38</sup> T.H. Marshall, “Citizenship and Social Class,” in *Citizenship and Social Class*, Robert Moore, ed. (Concord, MA: Pluto Press, 1992), 7.

<sup>39</sup> Nancy Fraser and Linda Gordon, “Contract versus Clarity: Why Is There No Social Citizenship in the United States?” in *The Citizenship Debates: A Reader*, Gershon Shafir, ed. (Minneapolis: University of Minnesota Press, 1998), 113.

<sup>40</sup> James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill, The University of North Carolina Press, 1978), first, second, and third quotations, 2; fourth quotation, 10. Political scientist Judith N. Shklar built off Kettner’s work but specifically focused on the influence of slavery on American citizenship. While



More recent scholars took the early work on citizenship and expanded the breadth and depth of the citizenship framework in their analyses of U.S. citizenship. Most historians agree that citizenship has always been evolving in the United States and that no national law or statute fully addressed citizenship in the United States until Congress passed the Fourteenth Amendment in 1868.<sup>41</sup> Possibly because of the vague nature of antebellum citizenship, few scholars have dealt with the evolution of citizenship before its passage.<sup>42</sup> Political scientist Rogers M. Smith, however, used an exhaustive survey of laws and court rulings that dealt with issues of citizenship to argue that “through most of U.S. history, lawmakers pervasively and unapologetically structured U.S. citizenship in terms of illiberal and undemocratic racial, ethnic, and gender hierarchies, for reasons rooted in basic, enduring imperatives of political life.”<sup>43</sup> Others scholars have built on Smith’s conclusions and suggested that a variety of influences affected the notion and practice of citizenship, such as the commodification of slaves, the proslavery argument, the

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recognizing that “citizenship has changed” in America, Shklar argues that suffrage and property ownership are and have been the two “attributes of an American citizen” that were in stark opposition to the non-citizen status of the slave (Judith N. Shklar, *American Citizenship: The Quest for Inclusion* [Cambridge: Harvard University Press, 1991], 3.

<sup>41</sup> Linda K. Kerber, “The Meanings of Citizenship,” *The Journal of American History* 84, no. 3 (Dec. 1997): 834; David N. Gellman and David Quigley, introduction to *Jim Crow New York: A Documentary History of Race and Citizenship, 1777-1877*, ed. David N. Gellman and David Quigley (New York: New York University Press, 2003), 6; Novak, “The Transformation of Citizenship,” 88; Link and Brown, introduction, 3.

<sup>42</sup> For example, historian Linda Kerber traces citizenship from the Revolution to the modern day, but she offers very little analysis of American citizenship between the naturalization laws of the 1790s and the passage of the Fourteenth Amendment. See Kerber, “The Meanings of Citizenship.”

<sup>43</sup> Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997), 1. Historians of gender have touched on issues of citizenship, especially to challenge the idea that women were politically powerless during the antebellum and Civil War period, but have not focused their works explicitly around citizenship. Nevertheless, their work is important for a complete understanding of the evolution of U.S. citizenship. For examples, see Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations, and the Political Culture of the Antebellum South Carolina Low Country* (New York: Oxford University Press, 1995); and McCurry, *Confederate Reckoning: Power and Politics in the Civil War South* (Cambridge: Harvard University Press, 2010).

practice of voluntary enslavement, expansion of suffrage to white males, and warfare.<sup>44</sup> The collective work of these historians demonstrates that citizenship in the antebellum and Civil War period varied depending on race, gender, political power, and a multitude of other factors.

North Carolina's 1835 constitutional convention was a long time coming and was steeped in the intrastate sectionalism that dominated North Carolina politics before and even after the development of the second party system. According to one early historian of the drive for constitutional revision, "the cause is almost as old as statehood itself."<sup>45</sup> For many North Carolinians, the most significant issue facing the convention was the reorganization of representation in the General Assembly. Since the ratification of the state's constitution in 1776, residents of the western and central regions of the state had clamored, as did Orange County's state representative in 1816, that the constitution's "principal defect is the inequality of representation in the Legislature."<sup>46</sup> The East had held a disproportionate amount of political power for decades because each county elected one senator and two members of the House of Commons and most of the state's counties crisscrossed the tidal regions. Even as the population migrated west, eastern politicians continuously blocked the formation of new western counties or

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<sup>44</sup> For the importance of commodification, see Diana Ramey Berry, "'Ter Show Yo' de Value of Slaves': The Pricing of Human Property," in *Creating Citizenship in the Nineteenth-Century South*: 21-40; for the importance of the proslavery argument, see Watson Jennison, "Rewriting the Free Negro Past: Joseph Lumpkin, Proslavery Ideology, and Citizenship in Antebellum Georgia," in *Creating Citizenship in the Nineteenth-Century South*: 41-83; for work on citizenship and voluntary enslavement, see Emily West, "Free People of Color, Expulsion, and Enslavement in the Antebellum South," in *Creating Citizenship in the Nineteenth-Century South*: 64-83; for the importance of the expansion of white suffrage on citizenship, see David Brown, "Citizenship, Democracy, and the Structure of Politics in the Old South," in *Creating Citizenship in the Nineteenth-Century South*: 84-110; for the influence of war on American citizenship, see Gregory P. Downs, *Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861-1908* (Chapel Hill: The University of North Carolina Press, 2011), 2; and Paul Quigley, "Civil War Conscription and the International Boundaries of Citizenship," *The Journal of the Civil War Era* 4, no. 3 (Sep. 2014): 373-397.

<sup>45</sup> William K. Boyd, *The Antecedents of the North Carolina Convention of 1835* (n.p., 1910), 19.

<sup>46</sup> Archibald D. Murphey, quoted in Lefler and Newsome, *North Carolina*, 333.

created new counties in the east to offset western gains, and they stifled the funding of infrastructural improvements that westerners in the piedmont and mountain regions so desperately needed.<sup>47</sup>

Westerners attempted to organize a convention to revise the outdated constitution beginning as early as 1787, but easterners blocked it at every turn. The General Assembly mulled convention bills in 1812, 1816, 1819, and 1821, but nothing materialized. In an attempt to overcome the legislative gridlock, forty-seven delegates from twenty-seven western and central counties met in Raleigh in 1823 and drafted detailed proposals for a state convention. Again, the eastern-dominated General Assembly rejected their persistent demands, and the issue of constitutional reform simmered in the background of Carolina politics for the next several years. The census of 1830, however, brought the issue of legislative representation back to the forefront of state politics, when North Carolinians realized that the western population eclipsed that of the East for the first time by 374,092 to 363,896.<sup>48</sup> Motivated by the new information, western legislators introduced convention bills in every legislative session from 1830 to 1834. Still easterners defeated them, in spite of both an unofficial popular referendum in August of 1833 where thirty thousand westerners voted for constitutional reform and the election of David Lowry Swain as governor in 1832, the first governor to hail from the western mountain region.<sup>49</sup>

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<sup>47</sup> Marc W. Kruman, *Parties and Politics in North Carolina, 1836-1865* (Baton Rouge: Louisiana State University Press, 1983), 11. For my understanding of the historical context of the 1835 constitutional convention, I have relied on Boyd, *The Antecedents of the North Carolina Convention of 1835*; Green, *Constitutional Development in the South Atlantic States*, 204-205, 224-233; Lefler and Newsome, *North Carolina*, 332-341; Powell, *North Carolina Through Four Centuries*, 267-281; Ford, *Deliver Us from Evil*, 422-428; and William A. Link, *North Carolina: Change and Tradition in a Southern State* (Malden, MA: Wiley-Blackwell, 2009), 176-179. For an excellent example of westerners' connection between constitutional reform and internal improvements, see Jonathan Parker to the Freemen of Guilford County, in *Greensborough Patriot*, August 6, 1834.

<sup>48</sup> Statistic from Lefler and Newsome, *North Carolina*, 334.

<sup>49</sup>The exact figures of the referendum can be found in *A Statement of the Number of Votes given on the 1<sup>st</sup> & 2d of April last, And at the August Elections, in 1833 on the Convention Question; Also, The Number of White Male Persons in each County of Twenty Years of Age and Upwards, Agreeably to the Last Census* (Raleigh: J. Gales

With nowhere else to turn, some westerners began advocating for secession and revolution during the summer of 1834 if their demands were not met during the upcoming legislative session, and a violent sectional confrontation seemed eminent.<sup>50</sup>

The West's demands were finally realized in the 1834-1835 session of the General Assembly. Western legislators gained support from some easterners in the Cape Fear region and from delegates elected by the borough towns because of shared interests in internal improvements, a desire on the part of some legislators to relocate the capital from Raleigh to the more accessible Fayetteville, and the threat of massive emigration of westerners and subsequent loss of political power on the national stage.<sup>51</sup> The newly-emergent Whig Party also served to unite easterners and westerners under a common cause. With the coalition in place, the House of Commons passed the convention bill on December 31 by a vote of 66 to 62, and it survived the Senate by a one-vote majority three days later.<sup>52</sup> The Convention Act required North Carolina voters' approval of holding a constitutional convention, and they assented to it in a referendum held in April 1835 by a vote of 27,550 to 21,694, with the overwhelming western popular

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& Son, 1835), 2. For more on the referendum, see Thomas G. Polk to the Sheriffs of N. Carolina, in *The Farmers' Reporter* (Salem, NC), July 13, 1833. Swain was a significant figure in the drive for constitutional revision. He repeatedly used his influence as governor to demand the legislature call a convention. In his annual message to the General Assembly in the fall of 1834, Swain stressed the dire need for a convention since "from an early period in [North Carolina's] history...this basis of representation has been the source of constant disquietude" (*Journals...1834-35*, 133).

<sup>50</sup> "Reform of the Constitution," *The People's Press and Wilmington Advertiser*, September 24, 1834; "Constitutional Reform," *Raleigh Register and North Carolina Gazette*, July 29, 1834.

<sup>51</sup> There had not always been an alliance between the Cape Fear region and the West. For a long period of time, residents of the Cape Fear area sought the relocation of the capital to Fayetteville but were unwilling to address the representation issue. For more, see "Late Omissions," *Miners' and Farmers' Journal* (Charlotte, NC), December 21, 1831.

<sup>52</sup> *Journals...1834-35*, 104, 228.

support outnumbering protesting easterners. Voters from each county also elected two delegates to represent them in the convention a month later.<sup>53</sup>

The Convention Act was very specific on the actions that could be taken by the popularly-elected delegates. The legislature required convention delegates to reduce the number of state senators and state representatives in some form or fashion through constitutional amendment, but also allowed the convention to address a variety of issues if they saw fit. Delegates could prohibit bureaucrats from concurrently holding multiple governmental positions, revise taxation classifications, change militia appointment procedures, force state legislators to vote vocally on issues relating to militia appointments, formally allow Catholics to hold state office, determine how vacancies in the General Assembly would be filled, reduce the meeting of the legislature to biennial sessions, eliminate the borough towns' representation in the House of Commons, and even assent to electing the governor through a popular vote.<sup>54</sup> Especially detrimental for free men of color, the Act allowed convention delegates to also consider whether or not “to abrogate or restrict the right of free negroes or mulattoes to vote for members of the Senate or House of Commons.”<sup>55</sup>

Although disfranchisement was certainly not the central reason for constitutional revision, the question of free nonwhites' suffrage rights was referenced repeatedly in the General Assembly's numerous debates on a convention. In 1823, the constitutional revisions drafted by westerners did include a new clause that would restrict voting rights to only those “free white

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<sup>53</sup> Returns of each county can be found in issues of numerous state newspapers, but I relied on the convention records themselves. See *A Statement of the Number of Votes given on the 1<sup>st</sup> & 2d of April last*, 3-4.

<sup>54</sup> “An ACT concerning a Convention to amend the Constitution of the State,” in *Acts Passed by the General Assembly of the State of North Carolina, at the Session of 1834-35* (Raleigh: Philo White, 1835), 5-6. The Convention Act did not specifically exclude free men of color from voting in the referendum, but specified that delegates had to be “all free white men,” in addition to other requirements (“An ACT concerning a Convention,” 4).

<sup>55</sup> *Ibid.*, 5.

men” who met the necessary property requirements.<sup>56</sup> Interestingly, amendments drafted in 1830 included no reference to disfranchisement, but legislators’ proposed drafts of convention bills in the 1831-1832 Senate and House of Commons, the session immediately following Nat Turner’s rebellion, implicitly included disfranchisement.<sup>57</sup> In their resolutions submitted to the Senate and House of Commons, Senator John M. Dick from Guilford County and Representative James Whitaker from Macon County both proposed that the “House of Commons shall be composed of members biennially chosen by the free *white* men of the State.”<sup>58</sup> The reference to disfranchisement was more obvious a year later during the 1832-1833 legislative session. After a senator introduced a convention proposal without a reference to racial suffrage requirements, Bridger I. Montgomery of Hertford County hoped that the convention committee, whose task it was to devise some plan of constitutional revision, would “inquire into the expediency of limiting the right of suffrage, in the election of members of the General Assembly to the free white men of this State.”<sup>59</sup> The committee followed Montgomery’s advice and drafted a disfranchisement amendment: “So much of the Constitution as entitles free persons of color to vote for members of the Senate and of the House of Commons, is hereby made void and of no

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<sup>56</sup>*The Proposed New Constitution of the State of North-Carolina, as agreed upon by the Convention assembled in Raleigh, on the 10<sup>th</sup> of November, 1823. Together with a copy of the Present Constitution* (Raleigh: J. Gales & Son, 1829), 3.5. The proposed constitution also excluded men of color from being elected to the Senate or House of Commons. For more on this extralegal convention, see *The Journal of A Convention Assembled at the City of Raleigh, on the 10<sup>th</sup> of November, 1823; To adopt such measures as were deemed necessary to procure an Amendment to the Constitution of North-Carolina* (Raleigh: J. Gales & Son, 1823).

<sup>57</sup> Resolutions submitted in the 1830-1831 House of Commons by Alfred C. Moore of Surry County on holding a constitutional convention did not reference disfranchisement. However, he either did not know how to classify the state’s free nonwhite population or simply chose to ignore them altogether and lump them together with slaves. Moore claimed that “the Constitution ought to be so amended, as that each citizen of the State should have an equal share in the rights of representation, upon the principles of free white population and taxation, or of free white population, including three fifths of all other persons” (*Journals of the Senate & House of Commons of the General Assembly of the State of North Carolina, at the Session of 1830-31* [Raleigh: Lawrence & Lemay, 1831], 246).

<sup>58</sup> *Journals of the Senate & House of Commons of the General Assembly of the State of North Carolina, at the Session of 1831-32* (Raleigh: Lawrence & Lemay, 1832), 80, 228. Emphasis added.

<sup>59</sup> *Journals of the Senate and House of Commons of the General Assembly of the State of North Carolina, at the Session of 1832-1833* (Raleigh: Charles R. Ramsay, 1833), 36.

effect.”<sup>60</sup> Although none of these earlier convention proposals passed, the repeated references to disfranchisement likely contributed to the 1834-1835 legislature’s decision to allow convention delegates to address the continuance of nonwhite suffrage.

The push for complete disfranchisement of all of North Carolina’s free men of color originated in the eastern portions of the state, where the hysteria from alleged slave rebellions was strongest, but some westerners also called for disfranchisement before the 1834-1835 session of the General Assembly. Whereas easterners hoped that no free man of color could ever exercise the franchise again in the Old North State, many westerners only supported limited disfranchisement, meaning eliminating suffrage rights from free men of color deemed unworthy of suffrage. While certainly based on the notion that men of color were naturally inferior to white men, the argument for limited disfranchisement took on sectional overtones related to the issue of unequal representation. William H. Haywood, Jr., a prominent politician from Wake County, believed that the suffrage of free men of color “is of no practical advantage to them, and ought to be confined to the more respectable of that class.” Yet Haywood went on to explain that “it shocks our sense of pride and justice, that a *single* free negro in one county, should have as much weight in the election of Members to the Assembly as *seven free white men in Lincoln, or as four or five free white men in Wake!*” Haywood’s central complaint was not that a well-respected free man of color could vote in North Carolina. Rather, he argued that the apportionment in the General Assembly based on county populations actually meant that a voting free man of color in the East, even one without “an interest in the country and a character for respectability,” carried

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<sup>60</sup> William H. Haywood, Jr., et al., *An Address to the Freemen of North-Carolina, on the Subject of Amending the State Constitution, With the amendments reported to the Legislature at the Session of 1832-33* (Raleigh: J. Gales & Son, 1833), 17.

more weight in state politics than a white man from the western reaches of the state.<sup>61</sup> Because the House of Commons and Senate voted on proposed constitutional amendments collectively, it is difficult to determine from the records of the General Assembly how individual members approached the disfranchisement amendment. Nevertheless, Haywood's support for a disfranchisement amendment demonstrates that easterners and westerners hoped the convention would address the question of nonwhite suffrage, even if the two sections' overall goals differed.

Although the 1834-1835 General Assembly ultimately included it in the Convention Act, a disfranchisement amendment was not part of the original bill. The legislature assembled on Monday November 17, 1834, and only twelve days later, Senator John Beard, Jr. of Rowan County introduced a complete draft of a convention bill, which passed its first reading and was referred to the Senate's constitutional committee.<sup>62</sup> Beard's draft included no explicit reference to disfranchisement, but it did prohibit free men of color from voting for convention delegates and specified that delegates must be free white men.<sup>63</sup> The Senate's constitutional committee

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<sup>61</sup> William H. Haywood, Jr., *To the People of Wake County* (Raleigh: n.p., 1834), 7-8. Haywood was not the only non-eastern proponent of constitutional reform who publicly advocated for limited disfranchisement. A group of western legislators, including Haywood, angry that the General Assembly once again failed to approve of a convention, met in Raleigh on January 11, 1834, to address the convention question and to draft a document for public circulation that declared their grievances with the existing constitution. The central focus of the document was the unequal representation, but they also tacked on an amendment relating to the suffrage of free men of color. They hoped to "clothe [convention delegates] with authority to divest *free negroes* of the right of voting at elections, or else to restrict this right to such of them only as have interests at stake in the country, and a character to deserve the privilege" (William H. Haywood, Jr., et al., *Proceedings of a Meeting of Members of the Legislature, held in Raleigh, January 11, 1834; with an Address to the People of North-Carolina, on the Subject of Amending the Constitution of the State* [Raleigh, Jos. Gales & Son, 1834], 18).

<sup>62</sup> *Journals...1834-35*, 27. The Senate's constitutional committee was composed of Samuel P. Carson of Burke, John A. Hogan of Davidson, Samuel T. Sawyer of Chowan, William Montgomery of Orange, and William B. Lockhart of Northampton. Barton Craige of Rowan, Daniel M. Barringer of Cabarrus, William A. Graham of the town of Hillsborough, John W. Potts of Edgecombe, and Henry S. Clark of Beaufort composed the House of Commons' constitutional committee.

<sup>63</sup> Beard's convention bill was printed in numerous newspapers throughout the state. See "Convention Bill," *The People's Press and Wilmington Advertiser*, December 10, 1834; "Convention Bill," *North Carolina Journal* (Fayetteville), December 17, 1834; "Convention Bill," *Western Carolinian* (Salisbury), December 13, 1834; "A Bill Concerning a Convention to amend the Constitution of the State of North Carolina," *Newbern Spectator*, December 2, 1834. Interestingly, Beard's draft also included a clause that would make the abolition of slavery only



used Beard's draft as a starting point, but its members were not completely satisfied with the bill. When Samuel Carson of Burke County, on behalf of the committee, introduced a revised draft of Beard's convention bill on December 11, it included two significant additions. One addressed how a new constitution should be ratified, but the other inserted the words "and that only free white men shall be allowed to vote for members thereof" in the bill's section on what possible changes a constitutional convention could enact.<sup>64</sup> A similar amendment was made to the House of Commons' original convention bill, as well. No copy of its original wording exists, but on December 23, a representative proposed an amendment that allowed "the right of free persons of color to vote, to be abrogated or restricted."<sup>65</sup> The 1835 legislative journal does not include a breakdown of votes on including the disfranchisement amendment, but the General Assembly's approval of it would ultimately point the way toward ending the suffrage of North Carolina's free men of color in the antebellum period.<sup>66</sup>

In the pages that follow, I outline my argument concerning the disfranchisement of free men of color in the 1835 North Carolina constitutional convention. My first chapter deals with the relationship between convention delegates' repeated references to slave insurrections and the prevalence of whites' fear of people of color in the years preceding the convention. I specifically

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possible through a state convention. This was most likely a way for westerners to appease easterners who feared that if the West controlled the legislature they would have the power to end slavery in the state (Haywood et al., *Proceedings of a Meeting of Members of the Legislature*, 17).

<sup>64</sup> *Journals...1834-35*, 50.

<sup>65</sup> Quotation from "Convention," *The North Carolina Standard* (Raleigh), December 26, 1834. See also *Journals...1834-35*, 212.

<sup>66</sup> Had disfranchisement not been included in the Convention Act, there was a chance that free men of color would have lost their suffrage anyway. On December 17, Representative Sandy Harris of Granville County introduced a bill to the House of Commons "concerning the exercise of suffrage by free persons of color." One day after the passage of the Convention Act, however, the bill was "postponed indefinitely" (*Journals...1834-35*, 199, 247).

highlight how individual delegates responded to the circulation of David Walker's *Appeal*, the Nat Turner insurrection, and the various other uprising scares that sent shockwaves across North Carolina in the fall of 1831. Delegates who lived in regions of the state that experienced any of these events tended to vote for complete disfranchisement in 1835, and the farther a delegate's home was from sites of white hysteria, the more likely he was to favor only limited disfranchisement. Ironically, most delegates who referenced the danger that free men of color and slaves posed to white society were those who actually advocated for the continuation of nonwhite suffrage, believing that voting free men of color served as a buffer between whites and slaves.

In my second chapter, I deal with how convention delegates understood free men of color's citizenship. In the convention, delegates discussed five dimensions of citizenship: biological, contractual, statutory, social, and economic.<sup>67</sup> After extensive debate on them, a small majority of delegates concluded that free men of color did not meet what was, in their minds, the necessary requirements for American political citizenship, and they eliminated nonwhite suffrage. A significant minority, however, concluded that some reputable free men of color were citizens based on the five dimensions and sought to disfranchise only those nonwhites who were without a significant amount of property, showing stronger emphasis on the economic aspects of citizenship than their opponents. The construction of American citizenship was an ongoing process in the nineteenth century, and the 1835 North Carolina convention serves to highlight how elite white southerners conceptualized this complex concept. The suffrage of North Carolina's free men of color ceased in 1835, but the ongoing definition of citizenship within the context of the evolving racial stratification of southern society would have lasting ramifications

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<sup>67</sup> Smith, *Civic Ideals*, 255.

for who belonged in the political community and who did not as the nineteenth century progressed.

**Chapter 1:  
The Long Memory of Insurrection Scares and the North Carolina Constitutional  
Convention of 1835**

On Saturday, December 3, 1831, around 150 prominent residents of New Bern, North Carolina, gathered at the local Masonic Hall to draft a petition to the state General Assembly asking that the legislature address the continuance of nonwhite suffrage. Over two-thirds of the “free white voters” of the seaport town were “opposed to the influence of negro votes in the decision of our elections” and protested “against the right of *Emancipated* or as they are usually called, *Free Negroes* to vote for members of the General Assembly.”<sup>1</sup> Central to their argument was the danger free men of color posed to white society. They claimed that “permitting free negroes to vote at elections, contributes to excite & cherish a spirit of discontent and disorder among the slaves.”<sup>2</sup> During election campaigns, candidates would seemingly treat free men of color with “respect and attention” just like white voters, and even provide alcohol to free men of color to guarantee their vote. The petitioners worried that slaves would see their “brother,” the free man of color, being treated on equal footing as whites and seek to gain similar status through insurrection or, in the words of a local judge, a “servile war.” Eliminating the suffrage of free men of color would decrease this risk of violence. The North Carolina Senate’s judiciary committee mulled over the petition after it was presented to the legislature, but they evidently decided not to take any action on the measure.<sup>3</sup>

Like the New Bern petitioners, the 1835 North Carolina constitutional convention’s decision to disfranchise the state’s nonwhite population was grounded in whites’ pervasive fear

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<sup>1</sup> *Carolina Sentinel* (New Bern, NC), December 14, 1831 and December 7, 1831. Emphasis in original.

<sup>2</sup> Petition of Inhabitants of New Bern to the General Assembly [of North Carolina], December 15, 1831, Records of the General Assembly, Session Records, State Archives of North Carolina. John Hope Franklin contends that the white petitioners were “the best New Bern had to offer” (Franklin, *The Free Negro in North Carolina*, 108).

<sup>3</sup> *Carolina Sentinel* (New Bern, NC), December 12, 1831.

of slaves and free people of color that swept across the state in 1830 and 1831. The works of abolitionists, like North Carolina-born free man of color David Walker's pamphlet and William Lloyd Garrison's newspaper *The Liberator*, circulated clandestinely among Carolina slaves beginning in the early 1830s. North Carolina was also greatly affected by Nat Turner's slave insurrection in Virginia's Southampton County, as militia companies from counties along the state line marched into Virginia to suppress the rebellion. In the aftermath, insurrection scares wracked North Carolina, and the specter of slave violence persisted in the minds of Carolina whites.

Scholars of the antebellum South have long understood the profound importance of Nat Turner's slave insurrection. Turner murdered around sixty whites, but in the words of one historian, he also "murdered slaveholders' domestic illusion" of a contented and cowed slave population.<sup>4</sup> In the immediate aftermath, many Virginians, including the governor, advocated for emancipation based on the clear danger of slaves to white social hegemony, and the Virginia legislature came very close to outlawing slavery in the Old Dominion forever.<sup>5</sup> South Carolinians never seriously debated ending slavery because of the necessity of slave labor to their vast agricultural fortunes in cotton production. Instead, they strengthened the existing slave laws, restricting the limited freedom previously granted to some slaves, in order to protect their state's white population.<sup>6</sup> In contrast to the gradualism discussed in Virginia and the passage of strict slave codes in South Carolina, North Carolina's response to Turner's rebellion was less drastic.

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<sup>4</sup> Freehling, *The Road to Disunion*, 180.

<sup>5</sup> For more on this, See Goodyear Freehling, *Drift Toward Dissolution*; Shade, *Democratizing the Old Dominion*, 191-224.

<sup>6</sup> Freehling, *Prelude to Civil War*, 49-86; Manisha Sinha, *The Counter-Revolution of Slavery: Politics and Ideology in Antebellum South Carolina* (Chapel Hill: The University of North Carolina Press, 2000), 14-15; Lucas P. Kelley, "Ardent Nullifier and Gradual Emancipator: The Paradox of Virginia Governor John Floyd," (Unpublished essay).

The state legislature had already taken preventative measures, like those in South Carolina, against its slave and free nonwhite population as a result of the circulation of abolitionist pamphlets a year before, but the continuation of slavery was also never up for debate as in Virginia.<sup>7</sup> Four years later, however, delegates to the constitutional convention had not forgotten the events of 1830 and 1831.

Within the convention, a central reason for the disfranchisement of North Carolina's free men of color was the danger that they posed to white security. Delegate James W. Bryan of Carteret County, for example, argued that "long experience" had convinced "all our Southern sister States that they are dangerous and useless citizens," which had led to the disfranchisement of free men of color through the South.<sup>8</sup> Bryan was one of the few pro-disfranchisement delegates to explicitly reference the danger of free men of color, but a very strong correlation existed between sites of North Carolina insurrection scares and pro-disfranchisement delegates' home counties. Although most whites throughout North Carolina must have felt some alarm after learning of Turner's butchery, three specific regions of the state experienced mass hysteria unique from the rest of North Carolina: northeastern counties across the state line from Southampton County, Virginia; the east-central region in and around Duplin County and Sampson County; and the mountain counties of Burke and Rutherford. Delegates hailing from these areas were the backbone for the success of the disfranchisement amendment. (See Appendix.) Their intimate experience with the insurrection panics contributed to their desire to eliminate nonwhite suffrage in North Carolina.

Most delegates at the constitutional convention were not new to politics or the public spotlight in 1835. Eighty former state legislators, eight U.S. congressmen, three governors, and

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<sup>7</sup> Franklin, *The Free Negro in North Carolina*, 70.

<sup>8</sup> *Proceedings and Debates*, 69.

one U.S. senator composed the convention.<sup>9</sup> Many of them occupied seats in the state legislature during the investigation into David Walker's *Appeal* and subsequent restrictions against free people of color in 1830-1831 or tried to address the uproar and paranoia caused by Turner's insurrection in the 1831-1832 session of the General Assembly. Even some not serving in the capital during both of these trying times took action in their home counties, like mobilizing in the militia. Thus in order to fully prove that the 1835 decision to disfranchise free men of color was grounded in delegates' memory of David Walker and Nat Turner, this chapter will situate delegates within the geographical and political context of the early 1830s by highlighting delegates' reactions to the slave scares and circulating pamphlets in the 1830-1831 and 1831-1832 legislative sessions and outlining the significant insurrection panics that terrified whites in various locales throughout the state.

A secondary task for this chapter will be to explain why most references to slave insurrections in the convention came from delegates opposing disfranchisement. Historian Lacy Ford links the Nat Turner scare to the disfranchisement debate in the 1835 convention and argues that disfranchisement represented North Carolinians' attempt to "whiten" their state as a part of "a white egalitarian crusade for constitutional revision."<sup>10</sup> This may have been the case for delegates favoring total disfranchisement, but Ford seems to overlook the fact that many delegates emphasized the potential of slave insurrections not to support disfranchisement but rather as a reason for free men of color to continue voting in a limited capacity. I will seek to resolve this paradox by referencing delegates' possible political motivations for the continuation

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<sup>9</sup> For all delegates' previous political experience, see Boyd Dale Cathey, "Race, Representation, and Religion: The North Carolina Constitutional Convention of 1835," (master's thesis, University of Virginia, 1971), 68-78.

<sup>10</sup> Ford, *Deliver Us From Evil*, 390.

of nonwhite suffrage and their hope that free men of color could serve as a buffer between slaves and white masters.

### ***David Walker's Appeal in North Carolina***

Before Nat Turner's insurrection, the circulation of David Walker's *Appeal to the Coloured Citizens of the World* introduced southern whites to the potential danger of people of color in their midst and contributed to legislation targeting nonwhites in North Carolina. Walker, a free man of color born in Wilmington, North Carolina, published the pamphlet in 1829 in Boston and used it to vehemently criticize the institution of slavery and the widespread racism in the United States. Walker distinguished between slaves and free nonwhites, but he called on free people of color to "go to work and enlighten your [enslaved] brethren."<sup>11</sup> The overthrow of white hegemony would only come about if free people of color and slaves worked together against white "oppressors and murderers."<sup>12</sup> Meant to bring about the downfall of southern slavery, Walker's *Appeal* was useless if it never reached the nonwhite population in the South. Reports of the pamphlet's circulation among people of color in Savannah appeared in late 1829, but it would be nearly a year later before whites discovered it in North Carolina.<sup>13</sup>

The *Appeal* came to the attention of North Carolina white authorities in August 1830, when Wilmington's magistrate of police found it in the possession of a local slave and a free person of color, writing Governor John Owen that a slave had received two hundred copies of Walker's pamphlet with the intention to distribute it in New Bern, Fayetteville, and Elizabeth

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<sup>11</sup> David Walker, *Appeal, in Four Articles; Together With a Preamble, to the Coloured Citizens of the World, But in Particular, and Very Expressly, to Those of the United States of America*, ed. Peter P. Hinks (University Park: The Pennsylvania State University Press, 2000), 32. Emphasis in the original.

<sup>12</sup> *Ibid.*, 67.

<sup>13</sup> Sydnor, *The Development of Southern Sectionalism*, 222.



City.<sup>14</sup> Owen directed that whites in North Carolina's major towns investigate the local nonwhite population to determine whether they had been exposed to the *Appeal* or were planning insurrection and "that every means should be promptly used to prevent [its] dissemination."<sup>15</sup> Soon reports of the slave population's strange behavior appeared from almost every eastern county: slaves congregating after dark, setting fire to slave patrols' quarters, and simply being "uncontrollable [*sic*]."<sup>16</sup> Widespread fears of an insurrection in Craven County even prompted several leading men, including convention delegates Alexander Gaston and Richard Spaight, to petition Owen for "three hundred stand of arms [to] effectually suppress any insurrectionary movement."<sup>17</sup>

Though slaves posed the greatest danger to their security, some North Carolina whites put the blame for their property's belligerent behavior on the shoulders of free people of color. Northern people of color, like Walker, were especially culpable. One North Carolina newspaper editor writing in September had "no doubt...that a conspiracy for exciting insurrection in the South is carrying on, by the free colored people of the North, under a sense of imaginary wrongs and privations," though he did recognize that "the conduct of a *few* of our [Southern] free negroes" also contributed to the panic.<sup>18</sup> Governor Owen similarly blamed free people of color in his address to the 1830-1831 General Assembly but did not make any geographical distinction. Based on his investigation, "some of the free persons of color in the State, have permitted

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<sup>14</sup> Peter P. Hinks, *To Awaken My Afflicted Brethren: David Walker and the Problem of Antebellum Slave Resistance* (University Park: The Pennsylvania State University Press, 1997), 137.

<sup>15</sup> "Walker's Pamphlet," *Tarborough Free Press*, August 31, 1830. See also Franklin, *The Free Negro of North Carolina*, 67.

<sup>16</sup> Hinks, *To Awaken My Afflicted Brethren*, 140-141.

<sup>17</sup> Charles G. Spaight, Richard D. Spaight, Alexander Gaston, John M. Bryan to Montford Stokes, December 20, 1835, GP 61, SANC. For more on the insurrection scare in New Bern, see Hinks, *To Awaken My Afflicted Brethren*, 142-143.

<sup>18</sup> *Fayetteville Journal*, quoted in *Edenton Gazette*, September 23, 1830. Emphasis in original.

themselves to be used as agents, for the distribution of seditious publications.” Owen hoped the legislature would take action to somehow regulate this dangerous group.<sup>19</sup> They heeded his advice.

In the words of historian John Hope Franklin, “David Walker’s *Appeal* [did] more than any other single thing to reduce the legal status of free Negroes in North Carolina.”<sup>20</sup> The circulation of Walker’s *Appeal* was so important to state senators in the 1830-1831 legislature that they deliberated on it in secret session, only the second secret session in the state’s history, according to the *Raleigh Register*.<sup>21</sup> Senators placed numerous restrictions on free and enslaved people of color; of the sixteen legislators who would later attend the 1835 convention, nearly all were involved in these decisions.<sup>22</sup> One of the most significant questions that the Senate faced, for example, was whether or not to prevent slaves from learning to read or write. By outlawing slave literacy, there would be no way for slaves to read Walker’s *Appeal* and other “seditious publications.” Delegates were on both sides of this issue, but there was a strong correlation between their vote on disfranchisement in 1835 and their vote on literacy.<sup>23</sup> In other words, those seeking to prohibit slaves from reading or writing would five years later vote to disfranchise free men of color and those hoping to protect slave literacy would vote against disfranchisement.

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<sup>19</sup> *Journals...1830-31*, 161.

<sup>20</sup> Franklin, *The Free Negro in North Carolina*, 70.

<sup>21</sup> “Legislature,” *Raleigh Register and North Carolina Gazette*, December 9, 1830.

<sup>22</sup> These sixteen were William R. Hall of Brunswick, James Gudger of Buncombe, Christopher Melchor of Cabarrus, Joseph Ramsey (or Ramsay) of Chatham, Richard D. Spaight of Craven, Louis D. Wilson of Edgecombe, William P. Williams of Franklin, William Welch of Haywood, Hillory Wilder of Johnston, James W. Guinn of Macon, William W. Boddie of Nash, William B. Meares of New Hanover, William Montgomery of Orange, William P. Dobson of Surry, Gabriel Sherard of Wayne, and Edmund Jones of Wilkes. See *Journals...1830-31*, 3.

<sup>23</sup> William R. Hall and Edmund Jones each sought to limit slave literacy and favored limited nonwhite suffrage, while Christopher Melchor and William Welch supported disfranchisement but saw no need to outlaw slave literacy (*Journals...1830-31*, 51). Though sixteen convention delegates were in the Senate, Hillory Wilder of Johnston County did not vote on the literacy question, and Joseph Ramsay of Chatham did not vote on disfranchisement.

No convention delegate occupied a more prominent role in the Senate's restriction of people of color's rights than William B. Meares. Although New Hanover residents elected him to the Senate in 1830, five years later he represented Sampson County in the constitutional convention and introduced the constitutional amendment declaring free men of color to be incapable of citizenship.<sup>24</sup> In 1830, Meares convinced the Senate to form a committee to deal with "persons of color, and the circulation of certain incendiary publications," which he then served on for the duration of the session, alongside later convention delegates Richard D. Spaight, William Montgomery, and Louis D. Wilson.<sup>25</sup> With Meares as their spokesman, this committee introduced bills prohibiting people of color from gambling, preventing the circulation of "seditious publications," barring slaves from attending militia muster, outlawing anyone from teaching slaves to read or write, allowing free people of color to be hired out like slaves if unable to pay criminal fines, altering the current emancipation marriage laws, and even establishing a fund to pay for the forced emigration of free people of color to Liberia.<sup>26</sup> Foreshadowing the events of the fall of 1831, Meares also introduced a petition from citizens in New Hanover, Sampson, Bladen, and Duplin Counties asking for a reorganization of the current militia "as more effectually to protect the property of individuals against the depredations of runaway slaves."<sup>27</sup> Thus in the 1830-1831 North Carolina Senate, most convention delegates seeking restrictions against nonwhites would, like Meares, favor disfranchisement five years later.

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<sup>24</sup> *Proceedings and Debates*, 71.

<sup>25</sup> *Journals... 1830-31*, 10. See also *ibid.*, 13.

<sup>26</sup> *Ibid.*, 33, 83, 100.

<sup>27</sup> *Ibid.*, 61.

Ten convention delegates in the 1830-1831 House of Commons also took part in creating the laws that would prove detrimental to North Carolina's nonwhites.<sup>28</sup> Delegates' votes in the House on laws relating to North Carolina's nonwhite population did not correlate as strongly to their votes on disfranchisement five years later, but during the session, state representatives did approve of many of the Senate's restrictions on people of color. Members of the 1830 House of Commons also passed a bill prohibiting free men of color from voting for county sheriffs and attempted to pass a similar law for the election of county clerks.<sup>29</sup> No legislator explicitly connected nonwhite suffrage to the perceived threat of violence, but events in Virginia in the fall of 1831 would change this.

### ***Nat Turner and Northeastern North Carolinians' Response***

On the night of August 22, 1831, approximately seventy slaves under the leadership of Nat Turner rampaged across Southampton County, Virginia, killing around sixty whites.<sup>30</sup> Turner was convinced that God had ordained him to overthrow the southern system of racial slavery, and using his religious rhetoric, he convinced a posse of other slaves to join him on his divine

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<sup>28</sup> The ten House of Commons delegates were William A. Morris and Joseph White of Anson, Daniel M. Barringer or Cabarrus, Alexander F. Gaston of Craven, Council Wooten of Lenoir, Bartlett Shipp of Lincoln, Jesse Cooper of Martin, Roderick B. Gary of Northampton, Charles Fisher of the Town of Salisbury, and Samuel T. Sawyer of the Town of Edenton. Gaston would represent Hyde County in the Constitutional Convention five years later. As a consequence of being speaker, Fisher could only vote to break a tie. We are thus left with little information about his views on the restrictions against people of color because all of the discussions carried one way or another.

<sup>29</sup> *Journals... 1830-1831*, 248. The Senate postponed deliberation on the bill. For more on the restrictions placed on people of color by the 1830-1831 North Carolina General Assembly, see Franklin, *The Free Negro in North Carolina*, 68-70.

<sup>30</sup> The exact number of Turner's followers has always been up for debate. Turner himself thought that his band numbered from sixty to eighty and Virginia Governor John Floyd believed the number to be closer to seventy. For more on the debate, see Herbert Aptheker, "The Event" in *Nat Turner: A Slave Rebellion in History and Memory*, ed. Kenneth S. Greenberg (New York: Oxford University Press, 2003), 53.

mission.<sup>31</sup> The group initially met with grisly success, killing the entire family of Turner's master and many other sleeping white families living nearby. The rebellion faltered in the morning, however, when Turner's henchmen broke into a planter's liquor supply. Their pause for alcohol allowed a group of white men the opportunity to slow the slaves' progress, giving the local militia enough time to mobilize and destroy what remained of Turner's band over the course of the next two days. Even after the rebellion ended, other militia companies from across Virginia and North Carolina flooded into Southampton County, along with U.S. seamen from warships docked at Norfolk.<sup>32</sup> In spite of the multitude of whites on his trail, Turner eluded capture until October 30, though most of his band were not so fortunate and were captured and summarily executed.<sup>33</sup> After a quick trial, Nat Turner was hanged on November 11, but his influence on southern white society lived on long after his death.

Such a clear challenge to white hegemony sent shockwaves throughout the antebellum South, and whites everywhere feared the enslaved population in their midst. Like Virginia, North Carolina was literally on the front lines of the insurrection. Southampton County bordered North Carolina, and militia companies from Halifax, Northampton, and Hertford counties marched into Virginia to quell the rebellion.<sup>34</sup> Other counties also saw fit to "hold their [militia] in readiness to

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<sup>31</sup> For more on Turner and religion, see Oates, *The Fires of Jubilee*, 25-27; Herbert Aptheker, *American Negro Slave Revolts*, 6<sup>th</sup> ed. (1993; repr., New York: International Publishers, 2013), 296-297.

<sup>32</sup> Aptheker, *American Negro*, 298-302.

<sup>33</sup> Aptheker, "The Event," 57.

<sup>34</sup> "Insurrection and Murder," *Raleigh Register and North Carolina Gazette*, September 1, 1831; Carter Jones to Montford Stokes, August 26, 1831, Folder 62, Governor's Papers, SANC.

as the occasion might require.”<sup>35</sup> Though ultimately unnecessary since Turner had been already been defeated, the militias mobilized as if going to war.

Whites on the home front in North Carolina’s northeastern towns also took action to protect themselves from the seemingly imminent invasion of a Virginia slave army and potential uprisings from their own slaves. After their militia company departed, white community leaders of Halifax assembled a volunteer company to guard the town and organized slave patrols. The local newspaper editor recounted how Halifax “was for three days and nights literally a garrison, and every citizen was a soldier.”<sup>36</sup> It took residents well over a week to conquer their hysterical fears, and they remained vigilant for signs of insurrection for a long time after because “the black population and free persons of color are very numerous and,” in the words of a militia leader, “to which we are much exposed.”<sup>37</sup> The situation was different in Jackson, the county seat of Northampton County. Nearly two hundred women and children from Virginia poured into Jackson, fleeing the death and destruction near their homes, and the town’s militia company remained in the area to guard the refugees.<sup>38</sup> Though the immediate danger was over, Nat Turner and his band of followers haunted many North Carolina slaveholders.

Fears of further slave rebellions caused panic in northeastern North Carolina, near the epicenter of Southampton County, Virginia. In a report sent to Governor Stokes in Raleigh asking for arms and providing information, a Gates County militia commander predicted that

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<sup>35</sup> “Insurrection among the Negroes,” *Tarborough Free Press*, August 31, 1831. Counties mobilizing troops included Nash, Edgecombe, Gates, Northampton, Warren, and Halifax. For more details on their mobilization, see Governor Stokes’ correspondence in Folder 62 of the Governors Papers in SANC.

<sup>36</sup> “Insurrection of the Slaves &c.” *Roanoke Advocate* (Halifax, NC), September 1, 1831.

<sup>37</sup> S. Whitaker to Montford Stokes, August 26, 1831 and Edward Morecock to Montford Stokes, September 21, 1831, both in Folder 62, Governor’s Papers, SANC.

<sup>38</sup> John Haughtin and E.W. Best to Montford Stokes, August 24, 1831, Folder 62, Governor’s Papers, SANC.

violence would not be confined to Virginia. Murfreesboro in Halifax County would “be the next scene of bloodshed,” he warned.<sup>39</sup> Murfreesboro residents seemed to agree, and over the next week, they imprisoned eight slaves and blocked the road leading to Southampton in order to prevent communication between slaves in Nash and in what one resident called “the infected neighborhood.” A free nonwhite Baptist preacher was also jailed because whites believed these religious leaders could convince many slaves “that to die in the cause in which they are engaged [insurrection] affords them a passport to heaven.”<sup>40</sup> In addition to those from Nash County, militia commanders from several other northeastern counties also petitioned Stokes for weapons or permission to form new volunteer companies, believing that their county would be the next Southampton.

As hysteria blossomed after Turner’s insurrection, many convention delegates in the northeastern section of North Carolina served in militia companies to protect their family and neighbors from possible violence. Joseph B.G. Roulhac of Bertie County signed a petition sent to Governor Stokes on August 31 asking for permission to form a new militia company, and two weeks later his neighbors nominated Roulhac for captain of the proposed company.<sup>41</sup> Already a major in his militia company, Asa Biggs did not need the governor’s promotion. Instead, the delegate from Martin County wanted more muskets for his troops.<sup>42</sup> Samuel Calvert of Northampton County and Robert Williams of Pitt County, like Roulhac, also hoped to establish

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<sup>39</sup> John D. Pipkin to Montford Stokes, August 23, 1831, Folder 62, Governor’s Papers, SANC.

<sup>40</sup> Solon Borland to Roscius Borland, August 31, 1831, Folder 62, Governor’s Papers, SANC.

<sup>41</sup> Haywood et al. to Montford Stokes, August 31, 1831, and Outlaw et al. to Montford Stokes, September 16, 1831, both in Folder 62, Governor’s Papers, SANC.

<sup>42</sup> Asa Biggs to Montford Stokes, September 19, 1831, Folder 62, Governor’s Papers, SANC.

additional militia companies in their respective counties.<sup>43</sup> Williams thought it was especially important because his county “contains a large number of blacks.”<sup>44</sup> These men had taken action to protect their home communities from the specter of slave uprisings, and many of them would use disfranchisement as another avenue to defend their constituents’ safety in 1835.

Delegates from most of these counties in the northeast voted overwhelmingly for disfranchisement in the constitutional convention, and although none specifically referenced Turner on the floor of the convention, several hinted that disfranchisement would check future violence. Early in the debate, Jesse Wilson from the northeastern county of Perquimans argued that the convention must use disfranchisement to protect whites from free people of color. “We already suffer evils enough,” claimed Wilson, “from the black and mixed classes among us; and the more nearly we assimilate their conditions to that of the whites, the more we do to multiply those evils.”<sup>45</sup> One of the “evils” Wilson specifically referenced was miscegenation, but the specter of racial violence could also have contributed to Wilson’s reasoning. Jesse Cooper of Martin County was similarly vague about the reasons he supported disfranchisement, though the continuation of nonwhite suffrage would “have a bad tendency” and result in “much mischief” on the part of free men of color and slaves.<sup>46</sup>

### ***A Phantom Insurrection Farther South***

Initially, Turner’s rebellion had the greatest impact on North Carolina whites in the northeastern reaches of the state. They lived close to Southampton County, so it was only natural that they

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<sup>43</sup> Samuel Calvert to Beverly V. Daniel, September 27, 1831, and Robert Williams to Montford Stokes, September 29, 1831, both in Folder 62, Governor’s Papers, SANC.

<sup>44</sup> Robert Williams to Montford Stokes, September 29, 1831, Folder 62, Governor’s Papers, SANC.

<sup>45</sup> *Charlotte Journal*, July 3, 1835.

<sup>46</sup> *Proceedings and Debates*, 71, 79.



feared the spread of violence the most. Outside of the northeast, whites remained relatively calm. No one petitioned Stokes for arms or military protection, and newspapers made no references to any danger from the local nonwhite population. However, North Carolina's "Southampton," or the phantom insurrection prominent whites initially perceived to be even more violent than Nat Turner's uprising, occurred not along the Virginia state line but in the east-central part of the state.

On the afternoon of Monday, September 12, 1831, Major General Nathan B. Whitfield of the Lenoir County militia penned a letter to Stokes that would spark a firestorm. According to "an express" in Whitfield's possession, local magistrates in Duplin, convinced "from wisdom before them that a conspiracy was in agitation among" the slave population, had arrested thirty-five individuals the past Saturday suspected of being involved in a plot. The investigation was not over, though, and what whites soon discovered that weekend must have chilled them to the bone. The plot was more extensive than the magistrates had imagined and according to slaves' confessions was not confined to only Duplin. Rather, after killing the local whites on October 1, the slaves had planned to join 2,000 people of color in Wilmington and murder the whites there. But Whitfield's letter included another shock besides the extensive slave insurrection plot. Only the night before, whites' fears had become reality when local slaves had "horribly murdered" seventeen white families in the "upper edge of Duplin and lower edge of Sampson Counties."<sup>47</sup> Now the state's east-central white population could experience the fear and hysteria felt only three weeks before by residents of Virginia and northeastern North Carolina.

Whitfield's letter went directly to the governor, but several days after he sent it, accounts of an insurrection in Duplin and Sampson Counties appeared in Fayetteville and in Raleigh. Based on letters from a "respectable gentleman" in Clinton, the seat of Sampson County, the

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<sup>47</sup> Nathan B. Whitfield to Montford Stokes, September 12, 1831, Folder 62, Governor's Papers, SANC.

editor of the *Fayetteville Observer* shared details of the insurrection that differed slightly from Whitfield's report. Though mentioning that the planned invasion of Wilmington on October 1 had been prevented, the newspaper's account mentioned that five hundred people of color had assembled in Duplin and were moving in an unknown direction, and based on a slave's confession, the editor speculated that it was likely they were still headed for Wilmington. Taking preemptive measures, residents of Wilmington had prepared for the coming invasion by mobilizing two hundred militiamen and instituting martial law.<sup>48</sup> Women and children huddled together in a defended garrison, where according to a local minister, "one [woman] was stretched out on a mattress in the hysterics, a number fainted, and one was jabbering nonsense, in a fit of derangement."<sup>49</sup>

But there was no gathering of slaves, no massacre of whites, and no invasion of Wilmington. It was all false. Whitfield's report, the newspaper accounts, and the infamous "express" from Duplin County were all mistaken. The same day that the *Raleigh Register* published the story on the massacre of seventeen white families, the capital's other paper, the *Raleigh Star*, ran an afternoon extra based on a new information that informed the public that "no overt act of rebellion has taken place, and that the alarming reports now circulating through the country about the burning of property and massacre of several white families, are utterly erroneous."<sup>50</sup> The *Newbern Spectator* also reported that the insurrection was "entirely false" and, with surprising insight, admonished readers to "not lend too ready a belief to the existence of

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<sup>48</sup> "Rumoured [*sic*] Insurrectionary Movements in Sampson County," *Fayetteville Observer*, September 14, 1831; *Cape Fear Recorder* (Wilmington, NC), September 14, 1831.

<sup>49</sup> Personal Diary of Moses Ashley Curtis, September 12, 1831, entry, Folder 111, M.A. Curtis Papers, 1720-1952, Southern Historical Collection, University of North Carolina (hereafter cited as SHC). Curtis' diary is an excellent source about the response in Wilmington to the fear of a slave uprising. Throughout, Curtis is very skeptical that the white population is in any danger.

<sup>50</sup> "Negro Conspiracy," *Raleigh Star*, published as an extra, September 15, 1831, in *Tarborough Free Press*, September 20, 1831.

*Plots...when the public mind is excited, and credulity and alarm become epidemic.*<sup>51</sup> Writing to Stokes only two days later, Whitfield happily admitted that his previous information had been incorrect, and “no white person had been killed there by the negroes.”<sup>52</sup> In spite of the misinformation, however, all reports warned that whites in these areas still needed to exercise caution because, although slaves had yet to kill anyone, the plot was by all accounts true and no one wanted a repeat of “the Southampton tragedy” in North Carolina.<sup>53</sup>

Instead of caution, whites in Duplin and Sampson Counties exercised vengeance against the people of color in their midst.<sup>54</sup> Even before the newspaper accounts or Whitfield’s report to Stokes, the imprisoned slaves had already painfully felt slaveholders’ hysterical wrath. The confessions given by Duplin and Sampson slaves were not voluntary, but the result of extralegal torture. After a free person of color, a “mulatto” man from south Washington County, mentioned to one of the local whites the insurrection plans of the Sampson County slave Dave, vigilantes brought him and others suspects to a place called the “line lodge,” likely a secluded hideaway along the Duplin-Sampson county line and what one slave owner described as a place with “no

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<sup>51</sup> *Newbern Spectator*, September 16, 1831. Emphasis in the original.

<sup>52</sup> Nathan B. Whitfield to Montford Stokes, September 14, 1831, Folder 62, Governor’s Papers, SANC.

<sup>53</sup> *Cape Fear Recorder* (Wilmington, NC), September 14, 1831; “Negro Conspiracy,” *Raleigh Star*, published as an extra, September 15, 1831, in *Tarborough Free Press*, September 20, 1831; Nathan B. Whitfield to Montford Stokes, September 14, 1831, Folder 62, Governor’s Papers, SANC. It is difficult for scholars to determine whether slave conspiracies actually existed or were only the result of antebellum whites’ paranoia. The Denmark Vesey slave conspiracy in Charleston, South Carolina, has long been included in the list of substantiated slave revolts, but some scholars have recently questioned whether the Vesey conspiracy actually occurred. For an overview of this debate, see James O’Neil Spady, “Power and Confession: On the Credibility of the Earliest Reports of the Denmark Vesey Slave Conspiracy,” *William and Mary Quarterly* 68, no. 2 (April 2011): 287-304.

<sup>54</sup> Whites in Southampton County took similar action against their slave population. See Oates, *The Fires of Jubilee*, 94-104.

Courts, no Law, nor no Justice.”<sup>55</sup> Jeremiah Pearsall, who would four years later be a convention delegate, witnessed the ensuing brutal torture and offered a description to a neighbor:

Dave [a slave] was committed and after a *Very* severe punishment criminated several others, the whole of which was taken up and whipped without mercy, (some will probably yet die of the wounds.) and those who were most guilty, bore the most punishment, yea some almost died before they would make a disclosure.<sup>56</sup>

The confessions, or “disclosures” as Pearsall calls them, were then used to convict more slaves, but as they were induced through torture, it is almost certain that slaves simply said what their tormentors wanted to hear. In fact, Duplin County whites seeking an executive pardon for one of the slaves convicted based on information given at the line house made that exact point, arguing to Governor Stokes that the slave “made the confessions, which led to his condemnation” because of “the *fear* of torture.”<sup>57</sup> Regardless, the whites hearing the slaves’ agonized, pained, and likely false confessions were successful in using this information to sentence slaves to death, but the violence against people of color did not stop there.

To prevent the alleged plot from blossoming into an insurrection, whites jailed twenty-three suspected slaves in Kenansville in Duplin County and twenty-five in Clinton in Sampson County until they could stand trial. The supposed ringleader Dave, however, did not live that long. Newspapers only mentioned that Dave and his chief henchman Jim, “the two supposed most guilty, *have been shot*,” “executed,” or “put to death.”<sup>58</sup> Pearsall, however, provides a much

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<sup>55</sup> John Farior et al. to Montford Stokes, November 1831, and John J. Hill to Montford Stokes, both in Folder 63, Governor’s Papers, SANC.

<sup>56</sup> Jeremiah Pearsall to Samuel Langdon, September 19, 1831, Folder 2, Langdon, Young, and Meares Family Papers, SHC. Emphasis in the original.

<sup>57</sup> John Farior et al. to Montford Stokes, November 1831, Folder 63, Governor’s Papers, SANC. Emphasis in original.

<sup>58</sup> *Newbern Spectator*, September 16, 1831; “The Conspiracy,” *Fayetteville Observer*, September 12, 1831; “Negro Conspiracy,” *Raleigh Star*, published as an extra, September 15, 1831, in *Tarborough Free Press*, September 20, 1831. Emphasis in original.

more gruesome account. Believing that slaves were marching on Kenansville to free Jim and Dave, Kenansville residents took preemptive measures. Dave and Jim, known to Pearsall as the general and colonel of the insurrection, “were brought out [from the jail], shot down, their heads severed from their bodies, and elevated in the air.”<sup>59</sup> A similar attempt was likely made on the imprisoned slaves in Clinton, but taking the advice of residents concerned by such vigilantism, Governor Stokes assigned a militia force to guard the jail from whites seeking bloodshed.<sup>60</sup> After speedy trials, many slaves in Duplin, Sampson, Wilmington, and even Onslow County were hanged over the course of the next several weeks and months for attempted insurrection in hopes that the public executions would serve to dampen slaves’ plans for future uprisings.<sup>61</sup> Three free men of color were tried in Wilmington for “*Conspiracy to make insurrection*,” but they were exonerated after a short trial.<sup>62</sup>

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<sup>59</sup> Jeremiah Pearsall to Samuel Langdon, September 19, 1831, Folder 2, Langdon, Young, and Meares Family Papers, SHC. Whitfield of the Lenoir militia made a similar, though less explicit account to the Governor, but he insisted that three slaves had been executed instead of only two. The editor of the *Carolina Sentinel* (New Bern, NC) reported three slaves being executed, as well. See Nathan B. Whitfield to Montford Stokes, September 14, 1831, Folder 62, Governor’s Papers, SANC; *Carolina Sentinel* (New Bern, NC), September 30, 1831.

<sup>60</sup> William Blanks et al. to Montford Stokes, September 13, 1831, Folder 62, Governor’s Papers, SANC.

<sup>61</sup> “The Conspiracy,” *Fayetteville Observer*, September 21, 1831; “Summary Justice,” *Cape Fear Recorder* (Wilmington, NC), in *Miners’ and Farmers’ Journal* (Charlotte, NC), October 5, 1831; *Cape Fear Recorder* (Wilmington, NC), in *Raleigh Register and North Carolina Gazette*, October 6, 1831; *Cape Fear Recorder* (Wilmington, NC), September 28, 1831, in *Miners’ and Farmers’ Journal* (Charlotte, NC), October 12, 1831; *Cape Fear Recorder* (Wilmington, NC), in *Miners’ and Farmers’ Journal* (Charlotte, NC), October 19, 1831; *Raleigh Register*, October 20, 1831; *Cape Fear Recorder* (Wilmington, NC), November 16, 1831. In Wilmington, the severed heads of executed slaves were displayed on poles throughout the town (Personal Diary of Moses Ashley Curtis, September 21, 1831, entry, Folder 111, M.A. Curtis Papers, 1720-1952, SHC).

<sup>62</sup> “Proceedings of the late Superior Court,” *Cape Fear Recorder* (Wilmington, NC), November 9, 1831. The actions of Lewis H. Marsteller and Owen Holmes, New Hanover County’s representatives in the 1835 constitutional convention, do not fit my argument that proximity to slave conspiracies caused delegates to favor the disfranchisement of free men of color. Regrettably there is no way to conclusively understand why Marsteller and Holmes, unique among delegates affected by insurrection panics, differed from Duplin, Sampson, or Onslow County delegates. A key factor in their decision to vote against disfranchisement, however, could be due to the unique situation of Wilmington’s free nonwhite population, a group, according to one scholar, that “cannot be treated as a microcosm of the North Carolina experience” of all free people of color (Jeremy T. Canipe, “Black Wilmington: Free African Americans on the Lower Cape Fear,” [master’s thesis, Wake Forest University, 1997], vii). Situated along the Cape Fear River near its confluence with the Atlantic Ocean, Wilmington, the state’s largest town, was one of the few truly urban communities in North Carolina. There opportunities existed for free people of color, such

The murder, torture, and interrogation of Duplin and Sampson slaves was a brutal event, and Jeremiah Pearsall, John E. Hussey, William B. Meares, and Thomas I. Faison, all delegates to the 1835 convention, approved of such ruthlessness and might have even taken part. Some citizens of these counties, including Jerry's owner, petitioned Governor Stokes to pardon the convicted slave Jerry, whom they believed was innocent of promoting insurrection. All of the two counties' 1835 convention delegates, however, signed a competing petition urging Stokes to sanction the execution. The petitioners claimed that "there cannot exist a rational doubt on the minds of any man as to the guilt of Jerry" because he confessed to taking part in the failed insurrection. To give further credence to their argument, the delegates and other white residents agreed that the Duplin and Sampson "conspiracy has been among the deepest laid, best designed, and widest spread attempts at insurrection ever attempted in the Southern States."<sup>63</sup> These scenes of torture and murder reveal the extent to which residents and convention delegates of Duplin, Sampson, and the surrounding counties feared an insurrection among their slaves. Even from an economic perspective, such killing demonstrates that whites preferred safety over the financial value of their slaves.

Meares was the only one of the four delegates from Sampson and Duplin Counties to take an active role in the convention's debate on nonwhite suffrage, but all of them voted for complete disfranchisement. The memory of the phantom insurrection likely persisted in the minds of these delegates, but their actions in the fall of 1831 proves without a doubt that they

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as in construction and the shipping industry, which were uncommon in the more rural regions of North Carolina. According to historian Richard C. Rohrs, "most of Wilmington's free black population avoided the stereotyping endured elsewhere as the town's whites commended individual free blacks whom they considered industrious" (Rohrs, "The Free Black Experience in Antebellum Wilmington," 637). Thus, the two New Hanover convention delegates' vote on the disfranchisement issue could be related to the prominent role that free people of color played in antebellum Wilmington. For more on Wilmington's free people of color, see Canipe, "Black Wilmington." His thesis is especially helpful for its statistical analysis of the port city's free nonwhite population.

<sup>63</sup> William B. Meares et al to Montford Stokes, November 11, 1831, Folder 63, Governor's Papers, SANC.

believed people of color to be of great hazard to their communities. Thus, these men who would in four years disfranchise free men of color were already convinced of the danger of nonwhites to white society in 1831.

The phantom insurrection was the most significant slave scare in North Carolina, but whites in other regions of the state perceived possible uprisings among their slaves soon after learning of the scare in Duplin and Sampson Counties. Residents in counties along the coast and in the northeast with a large population of people of color were especially insistent. Letters from Hyde County streamed into the governor's office, and newspapers across the state published accounts of insurrection scares in Onslow, Nash, Camden, and Edgecombe Counties.<sup>64</sup> Yet counties in the western reaches of the state also experienced uprising scares, the most significant occurring in the gold mines of Burke and Rutherford Counties.<sup>65</sup>

### *An Alleged Uprising in the West*

First reported on September 20, 1831, rumors of an impending slave insurrection circulated throughout the western counties, and white residents' actions paralleled those of eastern North Carolinians.<sup>66</sup> Authorities first discovered an alleged plot in three mines located halfway between

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<sup>64</sup> Isaiah H. Spencir to Montford Stokes, September 20, 1831; Thomas L. Singleton to Montford Stokes, September 21, 1831; Benjamin Watson to Montford Stokes, September 25, 1831, all in Folder 62, Governor's Papers, SANC; *Raleigh Register*, October 6, 1831; *Tarborough Free Press*, October 11, and November 1, 1831.

<sup>65</sup> Other western and central counties where insurrectionary scares were reported include Montgomery, Anson, and Richmond. See *Miners' and Farmers' Journal* (Charlotte, NC), September 28 and October 5, 1831; *Raleigh Register*, October 6, 1831. For an informative, though dated, chronology of the various slave scares in North Carolina during this period, see R.H. Taylor, "Slave Conspiracies in North Carolina," *The North Carolina Historical Review* 5, no. 1 (Jan. 1928), 31-33. For a detailed analysis of earlier slave insurrection panics, see John Scott Strickland, "The Great Revival and Insurrectionary Fears in North Carolina: An Examination of Antebellum Southern Society and Slave Revolt Panics," in *Class, Conflict, and Consensus: Antebellum Southern Community Studies*, ed. Orville Vernon Burton and Robert C. McMath, Jr. (Westport, CT: Greenwood Press, 1982).

<sup>66</sup> For more on white responses to rumors of slave conspiracies, see Steven Hahn, "'Extravagant Expectations' of Freedom: Rumour, Political Struggle, and the Christmas Insurrection Scare of 1865 in the American South," *Past & Present*, no. 157 (Nov. 1997): 122-158.

Morganton and Rutherfordton from information provided to them by a woman of color. An organizer of the insurrection, a man “who for some time past had been in the mines,” had sought to recruit her, but she declined, being reportedly afraid of the consequences.<sup>67</sup> The man was a preacher, who “mixed his religion with politics” by referencing the North Carolina Constitution and the Bill of Rights in his sermons and was known for his shiftless behavior since his master had allowed him to hire his own time.<sup>68</sup>

After the man’s interrogation and trial, “it appeared that a rebellion was intended,” so authorities arrested two other slaves and expanded their investigation. According to the *Rutherfordton Spectator*, the insurrection plot was nearly as grand as that in Sampson and Duplin Counties, and one Rutherfordton resident believed it to be “like that of Nat in Virginia.”<sup>69</sup> The investigation found that slaves had hoped to invade Rutherfordton and Morganton, overrun and loot the towns, and secure their freedom. They had even already met to form a government, appointing “a President, and all the subordinate Officers of Civil Government.” Probably even more terrifying for white residents, several slaves claimed that the western insurrection was to be performed in concert with the ones in the eastern portions of the state, making it seem as if the entire state’s slave population would rise up at any moment.<sup>70</sup>

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<sup>67</sup> *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), September 24, 1831. The mines were in the Jamestown, Brackettton, and Brindletown Districts in southwestern Burke and northwestern Rutherford County. See Edward W. Phifer, “Champagne at Brindletown: The Story of the Burke County Gold Rush, 1829-1833,” *The North Carolina Historical Review* 40, no. 4 (Oct. 1963), 491.

<sup>68</sup> *Carolina Sentinel* (New Bern, NC), October 12, 1831; *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), September 24, 1831.

<sup>69</sup> *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), September 24, 1831; *Tarborough Free Press*, November 8, 1831. Throughout most of the insurrection scare, the editor of the *North Carolina Spectator and Western Advertiser* reported that an uprising was imminent. The editor of the *Western Carolinian* in Salisbury was much more skeptical, even going so far as to say that “the [insurrection] reports have no foundation in truth” (*Western Carolinian* [Salisbury, NC], October 3, 1831).

<sup>70</sup> *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), September 24, 1831.



With around 5,000 slaves working in the mines of Burke alone, white residents in the area realized that they had to do something to quell the feared impending insurrection.<sup>71</sup> They organized more slave patrols to “prevent surprise,” and a group of Rutherfordton residents met to determine measures “to put down this insurrectionary spirit.”<sup>72</sup> Although few still believed that they were in imminent danger, whites at the October 7 meeting concluded that an actual insurrection had been planned and that they needed to take preemptive measures to suppress a future outbreak of violence. Attendees, including Rutherford County convention delegate Theodorick F. Birchett, passed resolutions asking the governor for more arms, codifying slave patrols, and even outlawing the false circulation of insurrection rumors. Pointing to the danger of people of color among them, residents also agreed that “negroes from abroad, of bad or suspicious character,” were responsible for the recent insurrection scare, and they asked the state legislature to allow them to “prohibit entirely, the introduction” of slaves either involved in past insurrections or even living in regions where insurrections had been discovered.<sup>73</sup> By October 15, the perceived danger of a slave insurrection in Burke and Rutherford Counties had passed, but convention delegates from this area would not so quickly forget.<sup>74</sup>

The response of convention delegates from Burke and Rutherford Counties on the issue of disfranchisement is the best example of the corollary relationship between sites of perceived slave uprising and the disfranchisement of free men of color. Many of the other issues discussed

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<sup>71</sup> Statistic from Richard F. Knapp and Brent D. Glass, *Gold Mining in North Carolina: A Bicentennial History* (Raleigh: State Archives of North Carolina, 1999), 21. Many of North Carolina’s largest slaveholders moved to Burke and Rutherfordton Counties around 1830 with hopes of striking it rich. They would work their slaves in agriculture during the growing season and mining for gold in the off season (Phifer, “Champagne at Brindletown,” 492, 495).

<sup>72</sup> *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), September 24, 1831; “A Card,” *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), October 1, 1831.

<sup>73</sup> “Communication,” *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), October 8, 1831.

<sup>74</sup> *North Carolina Spectator and Western Advertiser* (Rutherfordton, NC), October 15, 1831.

in the convention were sectional in nature, such as the size and representation of the state legislature. With only a cursory glance at the disfranchisement debate, it is clear that more western delegates opposed complete disfranchisement, while more eastern delegates favored disfranchisement. Burke and Rutherford delegates' opposition to nonwhite suffrage, however, challenges the sectional explanation of disfranchisement, especially evident during delegates' vote on Gaston's amendment. Unlike most of the convention's westerners, delegates from these two mountain counties, and to some extent neighboring Yancey and Iredell, favored disfranchisement.<sup>75</sup> Samuel Carson of Burke even took part in the disfranchisement debate, the only mountain delegate to do so. He "did not believe the free negro ever had, or ever was intended to have, a vote for a Member of [the General] Assembly."<sup>76</sup> Such opposition to nonwhite suffrage in these western reaches cannot be simply explained through a sectional interpretation of the vote on disfranchisement, political affiliation, or stance on internal improvements. Pro-disfranchisement delegates' memory of racial violence trumped all other factors.

### ***Convention Delegates in the 1831-1832 General Assembly***

As had been the case a year before, after the discovery of David Walker's *Appeal*, the North Carolina state legislature attempted to craft laws to protect their white constituents from violence during the winter of 1831-1832. Although the alleged insurrection conspiracies were reported to only be the work of slaves, the General Assembly lumped free people together with the enslaved

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<sup>75</sup> *Journal of the Convention, Called by the Freemen of North-Carolina, to Amend the Constitution of the State, Which Assembled in the City of Raleigh, on the 4<sup>th</sup> of June, 1835, and Continued in Session Until the 11<sup>th</sup> Day of July Thereafter* (Raleigh: J. Gales & Son, 1835) , 22, 74-75.

<sup>76</sup> *Proceedings and Debates*, 356.

population in two laws that further restricted the rights of free people of color and slaves alike.<sup>77</sup> The first, “An act for the better regulation of the conduct of negroes, slaves and free persons of color,” prohibited nonwhites from public preaching and slaves from masquerading as free. Both slaves and free people of color were to receive thirty-nine lashes as punishment if guilty of preaching, further proof that members of the General Assembly saw little distinction between enslaved and free nonwhites.<sup>78</sup> In the Senate, convention delegates’ votes on the bill appeared somewhat unrelated to their votes on constitutional disfranchisement in 1835, but the House of Commons was a different story.<sup>79</sup> There nearly all future proponents of disfranchisement favored the bill, and almost all those against disfranchisement voted against it. Interestingly, William Gaston, the most vocal proponent of the suffrage rights of free men of color, chose to abstain from voting, despite being in attendance.<sup>80</sup>

The second law relating to free men of color also demonstrated a blurring of the line that separated free people of color and slaves in the minds of North Carolina legislators. Because of their impoverished condition, many free people of color were unable to pay fines if convicted of a criminal offence. In order for the county courts to still receive payment, the 1831-1832 General

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<sup>77</sup> The legislature also authorized more militia companies in various counties and further distributed the state’s cache of weapons.

<sup>78</sup> *Acts Passed by the General Assembly of the State of North Carolina, at the Session of 1831-32* (Raleigh: Lawrence & Lemay, 1832), 7.

<sup>79</sup> *Journals...1831-32*, 120. The convention delegates in the 1831-1832 Senate were William R. Hall of Brunswick, Christopher Melchor of Cabarrus, Richard D. Spaight of Craven, John D. Toomer of Cumberland, Louis D. Wilson of Edgecombe, William P. Williams of Franklin, James W. Guinn of Macon, Jesse Cooper of Martin, William W. Boddie of Nash, William Montgomery of Orange, Benjamin Elliott of Randolph, William P. Dobson of Surry, Henry Seawell of Wake, and Gabriel Sherard of Wayne.

<sup>80</sup> *Journals...1831-32*, 249. Convention delegates in the 1831-1832 House of Commons were William A. Morris of Anson, Richard H. Bonner of Beaufort, David Outlaw of Bertie, Daniel M. Barringer of Cabarrus, Hugh McQueen of Chatham, Joseph Skinner of Chowan, John A. Hogan of Davidson, Whitmel Stallings of Gates, Council Wooten of Lenoir, Henry Cansler of Lincoln, Hezekiah Spruill of Tyrrell, James W. Howard of Jones, Charles Fisher of the Town of Salisbury, Samuel T. Sawyer of the Town of Edenton, and William Gaston of the Town of Newbern.

Assembly passed an act that allowed “the sheriffs of the county...to hire out the free negro or free person of colour so convicted to any person who will pay the fine for his services for the shortest space of time.”<sup>81</sup> The wording of the act likens free people of color to the process of slaveholders “hiring out” their slaves, and the rhetoric was similar in the Senate’s debate on the bill. One senator proposed an amendment whereby if the county sheriffs could not “make sale of said negro or free person of color” they would not be penalized, and a House of Commons amendment identified the person hiring the free person of color as a “master or mistress.”<sup>82</sup> The vote on the proposed bill was not tabulated in the Senate, but in the House, the votes of a majority of the fifteen convention delegates in attendance correlated with their stance on disfranchisement.<sup>83</sup> In spite of the fact that only slaves were found guilty of inciting insurrection, the 1831-1832 General Assembly agreed that free people of color should also be controlled and managed by the state because of the danger they posed to the white population. Four years later free men of color’s rights would be further curtailed in the state constitutional convention. Delegates at the 1835 constitutional convention had not forgotten the panic and fear that spread across North Carolina in the fall of 1830 and 1831, and those whose home counties experienced the hysteria, or were close to counties that had, voted overwhelmingly for the disfranchisement of free men of color.

### ***Free Men of Color as Buffers and Political Constituents***

The sanctuary of Raleigh’s First Presbyterian Church, where the convention met, echoed with delegates’ repeated references to the insurrections and circulation of “seditious publications.”

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<sup>81</sup> *Acts Passed by the General Assembly...1831-32*, 10.

<sup>82</sup> *Journals...1831-32*, 57, 178.

<sup>83</sup> *Ibid.*, 185.

The men making these arguments, however, were ironically *not* proponents of disfranchisement. Rather, they brought up the subject of insurrections to buttress their argument that free men of color deserved to continue voting. For example, Emmanuel Shober of Stokes County, a region entirely unaffected by insurrection scares, argued that free men of color

ought to be considered as a class of persons standing between the whites and the slave population, and in proportion as we raise them above the slaves, by allowing them certain privileges, they will become our safeguard from any evil designs from them; but if, by neglect, we force the free negro into the ranks of the slaves, we can expect no friendly aid from them.<sup>84</sup>

Shober's conclusion reveals the dual influence that the perceived danger of North Carolina's nonwhite population had on delegates on both sides of the issue. For some it was a reason for disfranchisement, but for others it was a motivation to allow nonwhite suffrage to continue.

The votes and arguments of the Halifax County delegation is the best example that some delegates hoped that voting free men of color could serve as a buffer between whites and slaves. Though they hailed from a county along the Virginia state line where their militia had mobilized to quell the insurrection in neighboring Southampton County, delegates Joseph Daniel and John Branch, unlike other delegates from northeastern counties, both voted against disfranchisement. They both also felt compelled to take part in the debate on the suffrage of people of color in the convention, agreeing that free men of color "might be serviceable to [whites] in case of any combination for evil purposes among their brethren in bondage."<sup>85</sup> While other delegates would make similar arguments, the two men from Halifax County were the only members of the convention that feared an outbreak of violence in their home county should disfranchisement succeed. Branch specifically "feared" how if he and Daniel "on their return home to [Halifax], be under the necessity of telling [the free men of color] that the Convention had wholly abrogated

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<sup>84</sup> *Proceedings and Debates*, 73.

<sup>85</sup> *Ibid.*, 61.

their right of voting, the information... would not be well received.” Daniel and Branch preferred that disfranchisement not apply to “the most intelligent and deserving of the free men of color.”<sup>86</sup>

Like the argument of its delegates, Halifax County was unique in antebellum North Carolina for its large population of slaves and free people of color. According to the Census of 1830, the northeastern county contained 2,079 free nonwhites, another 9,790 slaves and only 5,870 whites. Though both enslaved and free populations were the most of any county in the state, Halifax’s population of free people of color dwarfed all other North Carolina counties and was one of the highest totals of any county in the entire slaveholding South. The North Carolina county with the next largest free nonwhite population, Pasquotank, only contained around 1,000 free people of color.<sup>87</sup> Though slaveholding was prominent in northeastern North Carolina, it was not common for people of color to outnumber whites by such a majority. Most likely the anomaly was the result of an influx of people of color from Virginia due to that state’s strict treatment of free people of color in the antebellum period.<sup>88</sup> Therefore, delegates Branch and Daniel harbored real fear of the numerical strength of people of color in their county, a fear not as strong in delegates from other locales, and it contributed to their legitimate desire for the continuation of suffrage for free men of color.

On the other hand, some delegates might have manipulated delegates’ insurrection fear as a tactic to ensure that their political constituents, their county’s free men of color, did not lose the franchise. In the fall of 1831, William Gaston of New Bern in Craven County was not directly

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<sup>86</sup> *Ibid.*, 70-71.

<sup>87</sup> Census of 1830, Historical Census Browser, University of Virginia Library, <http://mapserv.lib.virginia.edu>. Halifax County contained more free people of color than any county in Georgia, Kentucky, and Tennessee and the entire states of Alabama, Mississippi, and Missouri. The only counties outside of Maryland and Delaware to contain more free people of color than Halifax were Accomack County in Virginia, Charleston County in South Carolina, and Orleans County in Louisiana.

<sup>88</sup> Franklin, *The Free Negro in North Carolina*, 42.

involved in preventing any alleged insurrection or uprising. Unlike some other delegates, Gaston remained calm, distancing himself from the hysteria that gripped North Carolina's white population. Hearing of the "black banditti" in Duplin County, Gaston and other New Bern residents sent an agent to investigate the rumor, who reported "that *the entire story* [of an insurrection] *was false*." Gaston attributed this unfounded fear to Turner's uprising in Virginia, telling his son-in-law that "it is one of the miserable consequences of the Southampton Tragedy that the public mind is to be abused from time to time with false rumors."<sup>89</sup> Skeptical that there had been a plot whatsoever, Gaston was dismayed at the prospect of violent retribution by whites against people of color. He feared that whites' rampant fear would make them "like a herd of cattle terrified by the...supposed scream of a Panther[. They] rush forward unconscious to the end to which they are hastening, goading and goaded by each other, until their powers are exhausted and they stop from inability to go on."<sup>90</sup> Gaston's prediction would prove true in the white reaction against people of color in the regions affected by phantom insurrections.

Yet Gaston's response to the insurrection scares in North Carolina is surprising considering his rhetoric on free people in the 1835 constitutional convention. Unlike delegates who saw free men of color as a buffer between whites and slaves, Gaston did not continually harp on the danger people of color posed to white society. He did admit, however, that "evils always do result from sudden changes, whether in our physical or political condition," and if free men of color could continue voting, they "will exercise an important influence over the slaves."<sup>91</sup> If in 1831, during the height of white hysteria over possible slave insurrections, Gaston was calm

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<sup>89</sup> William Gaston to James Donaldson, September 14, 1831, Folder 49, William Gaston Papers, SHC. Emphasis in the original.

<sup>90</sup> William Gaston to Susan Jane Donaldson, September 22, 1831, Folder 49, William Gaston Papers, SHC.

<sup>91</sup> *Proceedings and Debates*, 79.

and insisted that no white North Carolinian was in any danger, why would he reference the potential danger of disfranchised free men of color in the convention? Gaston may have done so because he was known for being the preferred candidate of free people of color in the town of New Bern.

In the 1831 election for the town's representative in the House of Commons, Gaston defeated his opponent, Charles Shepard, by only one vote. Shepard, however, was convinced that it was free men of color who had swung the election in Gaston's favor since Shepard was sure "that a majority of the free *white* men of the town have given him their support."<sup>92</sup> The circumstances of Gaston's election followed him to Raleigh. In a letter referencing the controversy, State Representative Louis D. Henry of Fayetteville apologized to Gaston for a "mortifying" report that was circulating in Gaston's home of New Bern. According to Henry, New Bern Democrats had misinformed the citizens there by claiming that he had criticized Gaston in the state legislature by "calling you free negro candidate, that you had been elected by free negroes, and come there pledged to support them." Henry's alleged remarks had even been supposedly corroborated by convention delegate Richard D. Spaight, among others.<sup>93</sup> No detailed sources exist from the 1831-1832 General Assembly, so there is no way to be sure whether Henry had actually made the connection between Gaston and nonwhite voters. Nevertheless, the fact that New Bern Democrats saw Gaston as the candidate of people of color gives credence to the argument that political considerations could have contributed to some delegates' references to insurrection scares in their opposition to disfranchisement.

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<sup>92</sup> *Carolina Sentinel* (New Bern, NC), November 11, 1831. Emphasis in original.

<sup>93</sup> L.D. Henry to William Gaston, December 30, 1831, Folder 50, William Gaston Papers, SHC.



### *Conclusion*

Delegates on both sides of the disfranchisement question situated their argument within the context of the dangers that slave violence posed to white society, but they disagreed on the consequences of their decision. Those in favor of eliminating the suffrage rights of free men of color were influenced by their proximity to the sites of the phantom insurrections and areas where Walker's *Appeal* circulated. Nearly all of the delegates from counties in or near the three foci of insurrections, both real and imagined, voted for disfranchisement. Convention delegates from North Carolina's northeastern counties overwhelmingly supported disfranchisement, to a greater extent than any from the Old North State's other geographic regions. These men had witnessed their counties' militia companies marching off to attack Turner's marauding band, and some had even taken part in the action, like delegate Joseph B. G. Roulhac of Bertie County. Likewise, delegates representing Sampson, Duplin, Lenoir, and other surrounding counties were directly confronted with the phantom insurrection that prompted whites to torture, behead, or hang many suspected people of color. William B. Meares of Sampson County also was one of the most vehement proponents of restricting the rights of people of color after the discovery of David Walker's *Appeal* in North Carolina. Finally, the alleged discovery of an insurrectionary plot in the mines of Burke County was likely enough to convince some delegates in the western reaches of the state that free nonwhites should be disfranchised in the West, as well.

On the other hand, delegates whose home counties did not experience any slave conspiracies tended to vote against disfranchisement, but in the convention, their rhetoric rang with references to the danger that free people of color and slaves posed to white society. This is especially interesting because some delegates, like William Gaston of Craven County, actually downplayed the danger people of color posed to white society in 1831, while other delegates

were torturing nonwhites at the line house in Sampson and Duplin County. Men like Gaston who had remained aloof from the insurrectionary panic or had simply not been directly affected by it likely realized that their only way to protect nonwhites' suffrage rights would be to advocate that free men of color's voting would continue to serve as a buffer between slaves and whites. Such thinking fell on deaf ears since most of the convention delegates would have understood that people of color had not protected whites during the Nat Turner and David Walker-induced crises. Another reason for the references to insurrections, especially on the part of delegates from Halifax County, might have been the result of legitimate fears of retribution from people of color against delegates if disfranchisement succeeded. Finally, the decision to oppose complete disfranchisement was also done for political reasons, as some delegates realized that free men of color were their constituents and to disfranchise them would mean losing votes.

## **Chapter 2: The Termination of Free Men of Color’s Political Citizenship in Antebellum North Carolina**

On the afternoon of June 12, 1835, William B. Meares introduced a resolution that cut to the heart of the convention’s debate on nonwhite suffrage. It read: “It is the opinion of this convention that, by the existing Constitution of this State, free persons of color never have been considered as citizens, and therefore not entitled to vote; and that no privilege to vote for Senators or members of the House of Commons shall hereafter be extended to any free persons of color.” Meares believed that free men of color were not citizens, and since suffrage was a right reserved exclusively for citizens, free men of color should not be allowed to maintain their political voice. After what the editor of the convention’s journal deemed a “considerable debate,” delegates determined that the question of citizenship was “going beyond the bounds” of the Convention Act and decided to limit their conversation to suffrage only.<sup>1</sup> The citizenship status of free men of color, however, was inextricably tied to their suffrage rights, and delegates continued to use the debate on disfranchisement to subtly (and in ways not so subtle) address whether free men of color were citizens or not.<sup>2</sup> But did delegates share an overarching definition of citizenship? How did free men of color fit into that definition?

Simply put, free men of color lost their suffrage rights in North Carolina because a small majority of convention delegates concluded that full political citizenship was reserved for white men only. Most likely agreed with Perquimans County delegate Jesse Wilson’s assertion that “however much colored persons might be elevated, their color alone would prove a barrier to

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<sup>1</sup> *Proceedings and Debates*, 71-72. Although the editor of *The Proceedings and Debates* did not include this debate in his document, it was printed in several other newspapers around the state. For example, see *Charlotte Journal*, July 3, 1835.

<sup>2</sup> George Frederickson makes a similar point about the connection between suffrage and citizenship in the context of free men of color (George M. Frederickson, *Diverse Nations: Explorations in the History of Racial and Ethnic Pluralism* [Boulder, CO: Paradigm Publishers, 2008], 23).

keep them in a degraded state.”<sup>3</sup> Proponents of disfranchisement were united in the opinion that men of color were not citizens, and some delegates who opposed total disfranchisement even agreed with them. Charles Fisher of Rowan County, for example, adhered to this ambiguous position, as he “never believed that free blacks were ‘citizens’ in the full sense of the term” but nonetheless voted for their continued suffrage.<sup>4</sup> A significant minority of the convention, however, determined that nonwhites were citizens even if they did not consider people of color to possess an equal standing with whites.

The disfranchisement of free men of color in the 1835 North Carolina constitutional convention thus exemplifies a top-down imposition of elites’ conceptualizations of citizenship on the Old North State’s nonwhite population. A majority of delegates agreed that “free negroes and mulattoes, within four degrees inclusive, be deprived of the privilege of voting for members of the Senate and House of Commons,” with the “four degrees” meaning that a man could only vote if none of his grandparents had been a person of color.<sup>5</sup> In making this decision, delegates classified free nonwhites as the political anti-citizen, against which true political citizenship for white men would be defined.

Citizenship was complicated in the antebellum United States, but the disfranchisement debate provides a lens into how delegates defined the complicated concept. The most explicit definition offered in the North Carolina convention was ambiguous, when Samuel King of Iredell County made the extremely general assertion that citizenship was merely a person’s “condition in life,” but since there was no formal definition to fall back on, delegates had to

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<sup>3</sup> *Proceedings and Debates*, 71.

<sup>4</sup> *Charlotte Journal*, July 3, 1835.

<sup>5</sup> *Journal of the Convention*, 25.

define citizenship as they were arguing about who was or was not a citizen.<sup>6</sup> Regardless of their stance on the issue, however, delegates' discussion of disfranchisement provides a rich summary of how elite white southerners in the Jacksonian period defined and manipulated the limits of political citizenship to suit their own interests. There was a back-and-forth debate during some periods of the convention's discussion of disfranchisement, with delegates either clearly supporting or opposing the previous man's argument. Yet in their three-day debate on disfranchisement, delegates referenced the biological, contractual, statutory, popular, and economic dimensions of citizenship. Taken together these five present a comprehensive summary of what citizenship meant to elite white men, and delegates used all of them to either argue for or against the disfranchisement of free men of color. By analyzing all five dimensions and how they overlap, we are able to understand not only the evolving citizenship status of antebellum free men of color, but also antebellum white southerners' general conceptualizations of the true meaning of American political citizenship.

Wealth, gender, and religion implicitly contributed to delegates' notions of who deserved a political voice in North Carolina. At the time, there was never any likelihood of women gaining suffrage, but Catholics and lower-class whites were challenging the hegemony of wealthy white Protestants. Catholics could vote in North Carolina, but the state constitution forbade them from holding office. The exclusion was largely overlooked for the most part, as prominent convention delegate William Gaston had served on the state supreme court and in the state legislature while publicly expressing his Catholic faith, but nevertheless an amendment was on the convention's docket to eliminate the constitutional exclusion. Similarly, the poorer whites in the western regions of the state sought a change in the representation formula of the legislature that would extend them more political power at the expense of wealthy eastern whites. Political activity

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<sup>6</sup> *Proceedings and Debates*, 353.

remained a male-only endeavor, but with the passage to the two amendments, elite Protestant men were slowly and begrudgingly making room for poorer whites and Catholics in the political arena. As wealth and religious exclusions dropped away, however, delegates were imposing racial exclusions to citizenship. Thus, through their arguments on the disfranchisement of free men of color, delegates at the 1835 North Carolina constitutional convention revealed who, in their minds, was a political citizen and who was not.

My understanding of citizenship in antebellum North Carolina is based on the work of British sociologist T.H. Marshall. Marshall separated citizenship into three categories: social, political, and civil. He defined political citizenship as “the right to participate in the exercise of political power,” such as suffrage or holding office, and civil citizenship as “the rights necessary for individual freedom,” like property ownership and the ability to enter into formal contracts. Marshall’s more general definition of social citizenship encompassed modern elements found in stable nation-states, such as access to public education and other social services.<sup>7</sup> As explained by historian Adreas Fahrmeir, key for Marshall’s theory was the incremental development of modern citizenship: “a reliable legal system had preceded mass political participation, which was in place before states accorded social rights to their citizens.”<sup>8</sup> Before 1835, North Carolina’s propertied free men of color also held a tenuous grip on both political and civil citizenship, but their access to political rights was in jeopardy.<sup>9</sup>

Using Marshall’s chronology, the antebellum South in the 1830s occupies a position when civil citizenship and political citizenship were ascendant. More men were gaining access to

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<sup>7</sup> Marshall, “Citizenship and the Social Class,” 8.

<sup>8</sup> Adreas Fahrmeir, *Citizenship: The Rise and Fall of a Modern Concept* (New Haven: Yale University Press, 2007), 2.

<sup>9</sup> Marshall’s concept of social citizenship is not relevant to my argument, as it did not develop until long after the antebellum period. Fahrmeir offers his own dimension of citizenship, but I have chosen to use Marshall’s theory, as it is more applicable to the antebellum South. See Fahrmeir, *Citizenship*, 2-4.

suffrage regardless of religion or class, and for the most part, the government respected the legal rights of all free men. On one hand, free men of color were considered civil citizens in communities across the antebellum South. With respect to North Carolina, historian Warren Milteer has argued that “free people of color were a recognized and accepted part of the Gates County community,” and Richard C. Rohrs claims that “all residents, regardless of their race, were members of the Wilmington community.”<sup>10</sup> Yet on the other hand, the United States increasingly became a nation exclusively for white men in the Jacksonian period. Numerous state governments eliminated property requirements for suffrage, and because of this expansion of the franchise, the traditional positive narrative emphasizes that it was during this time that the United States finally became truly democratic. For example, Jacksonian historian Charles Sydnor wrote in the late 1940s that “the principal goal [of constitutional reformation] was a broader and more equitable distribution of political power, and this goal was in a large measure gained.”<sup>11</sup> But as more white men attained the right to vote, the reverse was true for free men of color, especially in the South. At the time of the American Revolution, free men of color could vote in Delaware, Georgia, Kentucky, Maryland, and North Carolina, but as the period progressed, they slowly lost their political citizenship in all southern states, with North Carolina being the last state to disfranchise free men of color in 1835.<sup>12</sup> Property requirements for suffrage may have been slowly eliminated, but racial requirements were just as steadily imposed.

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<sup>10</sup> Milteer, “Life in a Great Dismal Swamp Community,” 145; Rohrs, “The Free Black Experience in Antebellum Wilmington,” 638.

<sup>11</sup> Sydnor, *The Development of Southern Sectionalism*, 275. See also Green, *Constitutional Development in the South Atlantic States*.

<sup>12</sup> For an excellent chart on the evolution of race-based suffrage requirements in state constitutions, see Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 328-345. Political Scientist Christopher Malone offers a detailed narrative of northern nonwhite suffrage in Christopher Malone, *Between Freedom and Bondage: Race, Party, and Voting Rights in the Antebellum North* (New York: Routledge, 2008). See also Jeffrey A. Mullins, “Race, Place and African-American

The analysis of citizenship I offer in this chapter is especially significant because of my focus on an actual debate. Many scholars of citizenship in the antebellum period have concentrated solely on judicial decisions to view how the courts understood and defined who was included and who was excluded under the law.<sup>13</sup> Judges were certainly influential, but rulings were crafted by only one or a few individuals and based on laws already drafted. The North Carolina constitutional convention, in contrast, was composed of most of the state's leading political figures, and through their debate on the question of nonwhite suffrage we see a more nuanced view of how antebellum white men conceptualized and defined political citizenship. As historian Paul Quigley states, "African Americans functioned as internal 'others' against which the white citizenry was defined," and this was certainly the case with the disfranchisement decision in 1835 North Carolina.<sup>14</sup> For by questioning whether or not to formally exclude people of color from the polity, delegates were imposing and defining the limits of citizenship on North Carolina's population, with whites inside the citizenship bubble and African Americans, Native Americans, and people of mixed races outside of it. Some delegates, however, did not believe that political citizenship should only be restricted to white men and hoped that upstanding free men of color should continue voting in state elections. Thus, the convention debate demonstrates the contested, messy, and confusing nature of antebellum citizenship and illuminates the five

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Disenfranchisement in the Early Nineteenth-Century American North," *Citizenship Studies* 10, no. 1 (Aug. 2006): 77-91. The most conclusive decision on the citizenship of free men of color in the antebellum period came in the Supreme Court's ruling on Dred Scott, where free men of color were found to not be American citizens (Smith, *Civic Ideals*, 241-285; Kettner, *The Development of American Citizenship*, 256, 324-333; McCurry, *Confederate Reckoning*, 15-16; Paul Quigley, *Shifting Grounds: Nationalism and the American South, 1848-1865* [New York: Oxford University Press, 2011], 32; Link and Brown, introduction, 7).

<sup>13</sup> Rogers M. Smith's monumental *Civic Ideals* and James Kettner's *The Development of American Citizenship* are examples of relying exclusively on judicial decisions.

<sup>14</sup> Quigley, *Shifting Grounds*, 157.



dimensions that delegates used to define citizenship, neither of which would have been evident in carefully crafted judicial decisions.

### ***Biological Citizenship***

Biological citizenship is a general theme that I am using to describe two separate but related aspects of citizenship that deal with a person's birth in the United States. The first of these is birthright membership, a term used by scholars to explain the traditional view, based in English common law, that simply being born in a nation meant a man forever belonged to that nation's political and civil community. It would be formally codified in the Fourteenth Amendment of the U.S. Constitution.<sup>15</sup> The second is hereditary citizenship, the idea that children shared the citizenship status of their parents.<sup>16</sup> Delegates did not separate birthright membership and hereditary citizenship but used them almost interchangeably in their discussion of free men of color's ancestral, or biological, right to citizenship and suffrage.

In the early republic and antebellum periods, American politicians could conveniently apply biological citizenship to native-born whites and white foreigners, but difficulties arose when it was applied to native-born free people of color.<sup>17</sup> What resulted was, in historian James H. Kettner's words, that "some Americans found themselves facing glaring inconsistencies between their professed principles of citizenship and their deep-seated desire to exclude certain groups permanently from the privileges of membership."<sup>18</sup> Such "glaring inconsistencies" were

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<sup>15</sup> Smith, *Civic Ideals*, 255; Kettner, *The Development of American Citizenship*, 287.

<sup>16</sup> For pointing me in the direction of hereditary citizenship, I am particularly indebted to legal scholar Kristin A. Collins.

<sup>17</sup> For more on nativism and citizenship, see Smith, *Civic Ideals*, 128-134; Kettner, *The Development of American Citizenship*, 177-209.

on display in the 1835 North Carolina constitutional convention. Some delegates seemed to legitimately believe that free men of color were political citizens because they were, like most white voters, simply born in the United States. Others, however, insisted that free nonwhites' ancestry meant that biological citizenship was inapplicable to them. A third group of delegates cleverly avoided altogether the question of whether native birth equated citizenship.

In a near echo of the Declaration of Independence, three members of the convention publicly argued that free men of color held natural rights, like suffrage, that were inherently tied to their personhood and birth in the United States. Emanuel Shober of Stokes County was the most vocal proponent of nonwhites' natural rights. Though he declined to declare whether he viewed free men of color as citizens, Shober posed that "it was sufficient for him that they were human beings, are free agents, and have a free will[, so] they ought to be allowed some privileges," like suffrage.<sup>19</sup> Free men of color's birth in the United States and their lineage was also important to Shober, as he felt that free nonwhites' ancestors had been British subjects and therefore "their descendants being born here, surely acquired some right[s]"<sup>20</sup> Henry Seawell of Wake County was even more explicit than Shober on the natural rights of free men of color. Basing his argument on the language of the Constitution, Seawell held that the document's use of the word "people" actually meant citizen. Therefore, he reasoned that "since then *citizens* and *the people* are one and the same thing—and since it is generally admitted that free blacks are *people*—he thought it must be admitted that they had a right to exercise the privileges pertaining

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<sup>18</sup> Kettner, *The Development of American Citizenship*, 288. Historian Laura Edwards makes a similar point when she argues that "without political backing and a strong commitment to democracy and equality, a government based in the protection of individual rights can lead in profoundly oppressive directions" (Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* [Chapel Hill: The University of North Carolina Press, 2009], 16).

<sup>19</sup> *Proceedings and Debates*, 72.

<sup>20</sup> *Ibid.*, 73.

to citizenship, in voting at the polls.”<sup>21</sup> John Kelly of Moore County shared a similar view to Seawell, contending “for the broad principle that all men are entitled to equal rights.”<sup>22</sup> Though Shober, Seawell, and Kelly were all slaveholders, they held the seemingly contradictory position that free men of color deserved the same access to biological citizenship in the United States as did white male Americans.<sup>23</sup>

Other delegates, however, could not disagree more and insisted that free men of color’s racial tie to the institution of slavery proved them unworthy of biological citizenship. James W. Bryan of Carteret County, seemingly the champion of disfranchisement, held this position. He questioned how “those who were subsequently emancipated acquired the political rights of freemen [since] the history of our country informs us, that all the colored population were originally slaves.” In fact, the freedom and even the limited rights of free men of color were not attributed to the nation, as was the case with whites. Rather, “the emancipated slave... is made a freeman but only [with respect to] the master.”<sup>24</sup> Macon agreed with Bryan’s assessment of the condition of free nonwhites, asking how free men of color, whose ancestors were “imported into this country, not as *persons*, but as goods and merchandize,” could share the birthright political rights of whites. He “believed neither they, nor their descendants, were entitled to citizenship.”<sup>25</sup>

While Bryan and Macon implied that slavery forever tarnished free men of color, Hugh McQueen of Chatham County explicitly connected slavery with the inability to apply natural rights to nonwhites. In his view, the “negro came to this country in a state of slavery... He came

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<sup>21</sup> *Charlotte Journal*, July 3, 1835. Emphasis in original.

<sup>22</sup> *Proceedings and Debates*, 356.

<sup>23</sup> According to the 1830 census, Shober owned eleven slaves, Seawell owned forty-seven slaves, and Kelly owned three slaves.

<sup>24</sup> *Proceedings and Debates*, 62-63.

<sup>25</sup> *Charlotte Journal*, July 3, 1835. Emphasis in original.

here debased; he is yet debased, and there is no sort of polish which education or circumstances can give him, which ever will reconcile the whites to an extension of the right of suffrage to the free negro.” Because their ancestors were slaves at the time of the drafting of the Constitution, McQueen also claimed that free men of color were outside the bounds of its power, even going so far as to compare native-born people of color to foreign Africans.<sup>26</sup> This sentiment was a clear manifestation of the developing pro-slavery argument of white supremacy shared by a number of southern whites that equated blackness with slavery and whiteness with freedom.<sup>27</sup> The taint of their ancestors’ enslavement made free men of color’s biological citizenship impossible for these delegates.

William Gaston disagreed, but was not an outspoken proponent of nonwhites’ biological citizenship. His point of contestation lay with Bryan, Macon, and McQueen’s assertion that North Carolina’s free men of color were descendants of Revolutionary-era slaves and, therefore, not privy to the natural rights doctrine of the Constitution. Based on his investigation, Gaston found that there were “scarcely any” freed slaves in North Carolina during the Revolutionary period, and the population of free nonwhites were “chiefly Mulattoes, the children of white women, and therefore unquestionably free, because their mothers were so.” Free men of color were “therefore entitled to all the rights of free men.” As their population increased due to manumission, Gaston said that the same rights that applied to nonwhite children of white women began to be applied to all free men of color because they were descended from free people.<sup>28</sup> The

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<sup>26</sup> *Proceedings and Debates*, 77. Supreme Court Chief Justice Roger B. Taney made a similar argument in his ruling in the *Dred Scott v. Sandford* case by claiming that the Constitution did not apply to people of color when it was ratified (Smith, *Civic Ideals*, 267).

<sup>27</sup> Ford, *Deliver Us from Evil*, 9-10; Freehling, *Road to Disunion*, 37-40. Nicholas Wood makes a comparable point in his analysis of Pennsylvania’s disfranchisement of free men of color, see Nicholas Wood, “A Sacrifice on the Altar of Slavery’: Doughface Politics and Black Disenfranchisement in Pennsylvania, 1837-1838,” *Journal of the Early Republic* 31, no. 1 (Spring 2011), 80.

fact that Gaston used such complicated reasoning to support free men of color's biological citizenship demonstrates both the flexible and fluctuating nature of nineteenth-century citizenship. Gaston was disfranchisement's most vehement opponent, but he did not wholeheartedly support free men of color's biological citizenship, like some delegates.<sup>29</sup> Instead, he crafted his argument, similar to proponents of disfranchisement, around the ancestral heritage of North Carolina's free men of color.

Other delegates weighed in on the subject of biological citizenship of free men of color as well, using complicated reasoning to reconcile the difficulty between natural rights rhetoric and racism against nonwhites. Joseph Carson, a delegate from Rutherford County, distinguished between free men of color whose ancestors were born into slavery and those who were the offspring of free white women, but unlike Gaston, he was not willing to accord the same rights to both groups. Carson felt strongly that "emancipated slaves, and their descendants, were not 'citizens,' in the full meaning of the word," but was less sure of how "the mulatto offspring of white women were entitled to be considered."<sup>30</sup> Maybe his indecision on the latter group was enough to convince Carson that free men of color deserved to retain their suffrage, as he surprisingly voted against total disfranchisement on June 13.<sup>31</sup> Samuel King of Iredell voted with Carson on the subject of disfranchisement, but fundamentally disagreed with his colleague from Rutherford County on the biological citizenship of free men of color. For King, the rights of free

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<sup>28</sup> *Proceedings and Debates*, 351-352.

<sup>29</sup> As a former Federalist, Gaston's opinion on biological citizenship was probably shaped by that defunct political party's push for stringent naturalization requirements in the early republic period. See Kettner, *The Development of American Citizenship*, 243-245.

<sup>30</sup> *Charlotte Journal*, July 3, 1835.

<sup>31</sup> *Proceedings and Debates*, 81. Joseph Carson might have also been influenced by the arrival of his brother Samuel, a delegate from Burke County, who was very outspoken for disfranchisement, as Carson voted against Gaston's amendment in the July 7 disfranchisement debate.

men of color were not dependent on the natural rights of all men but “depended measurably on their emancipation.” A free man of color who gained his freedom for some act of valor or “meritorious service” deserved the exercise all the rights accorded to him “under the operation of the law.”<sup>32</sup> Possibly King found both the hereditary and birthright aspects of biological citizenship to be inapplicable to free men of color but reconciled this with his argument that nonwhites gained rights through some exceptional deed.

The tension between Marshall’s concepts of political citizenship and civil citizenship was implicit in the discussion of biological citizenship. Few delegates were willing to unequivocally attribute biological citizenship to all free nonwhites because they did not believe that all free men of color were worthy of true political citizenship, but there was no convenient way to legitimize excluding them on the grounds of biological citizenship. The state’s free men of color held civil citizenship in many regions where whites recognized them as contributing members of society. Delegates’ complicated, convoluted, and complex arguments were the result of such tension. For example, Bryan, Macon, and McQueen’s insistence that their ancestors’ enslavement voided the biological citizenship of free men of color depended tenuously on whether *all* their ancestors were at one time slaves and did not address those free nonwhites who were the mixed-race offspring of white women. Nearly every convention delegate agreed that citizenship certainly depended on biological citizenship, but they disagreed on how to apply the concept to free men of color.

### ***Contractual Citizenship***

Delegates’ emphasis on contractual citizenship was a natural outgrowth of their ideas related to biological citizenship and had roots in era of the American Revolution. At the time of

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<sup>32</sup> *Proceedings and Debates*, 353.

the war, the United States was not a nation, so no man could claim American citizenship based on his birth. What resulted was, according Kettner, the “contractual and volitional” notion of citizenship, whereby a man had to take an active role in proving his allegiance to the new nation before attaining political citizenship.<sup>33</sup> Two ways to do this were through military service and swearing a loyalty oath, so any former white subject of the British crown who had fought for the Revolutionary cause or had taken an oath of allegiance to the United States became a member of the body politic.<sup>34</sup> For people of color and whites of other nationalities in the new republic, attaining contractual citizenship was more complicated. In addition to their service, foreign-born whites had to also remain in the country for a specified amount of years before their naturalization and swear a number of loyalty oaths not required of men born in the thirteen colonies.<sup>35</sup>

Free men of color initially experienced some success at attaining contractual citizenship in the immediate aftermath of the Revolution. A number of free men of color in Boston, for example, petitioned the Massachusetts state government in an attempt to achieve the same citizenship status of white men based on their actions during the war. Massachusetts whites in several surrounding towns supported their claims, possibly seeing in the free men of color’s situation, in the words of historian Douglas Bradburn, “the ideal American—once enslaved, now independent.” During the debate on the Articles of Confederation, delegates there also dealt with the question of nonwhite citizenship when a member of the South Carolina delegation attempted

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<sup>33</sup> Kettner, *The Development of American Citizenship*, 10.

<sup>34</sup> *Ibid.*, 213. Military service was a central feature of white citizenship in the nineteenth century throughout the modern world, beginning with the French Revolution (Paul Quigley, “The American Civil War and the Transatlantic Triumph of Volitional Citizenship,” [Unpublished essay], 6).

<sup>35</sup> For an excellent example of the difficulties faced by foreign whites’ attempts to naturalize as American citizens, see Kettner’s discussion of Albert Gallatin. Gallatin had fought for the Americans in the Revolution but had not taken the required oaths or resided in Virginia for the mandatory two-year period (Kettner, *The Development of American Citizenship*, 233-235).

to insert “white” in an article about who would be included under the term “free citizens.” The measure failed, however, when eight states voted against it, seemingly unwilling to forever ban free men of color from attaining citizenship.<sup>36</sup>

Yet as the United States transitioned to nation-building, nonwhites’ prospects for equal citizenship decreased and the memory of their contributions to the war effort slowly diminished. In North Carolina, free men of color and slaves had served in the state militia, and some slaves even gained their freedom for service against the British. By 1812, however, the North Carolina General Assembly officially prohibited people of color from serving in any military combat role. State lawmakers seemed to agree with the state adjutant-general who claimed in 1819 that “it lessens the respectability of a military company to have men of colour in the ranks, and prevents many [white men] from mustering who would otherwise do so.”<sup>37</sup> Although it was an essential component in the immediate aftermath of the Revolution, free men of color’s military service was increasingly overlooked in the United States as the nineteenth century progressed.

Within the 1835 North Carolina Constitutional Convention, a key point in the disfranchisement debate hinged on the military contributions of North Carolina’s free men of color as a way to prove or disprove their contractual citizenship. By emphasizing their service, opponents of disfranchisement demonstrated that the importance of military service to American citizenship, so prominent during and immediately after the Revolution, persisted to some extent. Delegate Joseph Daniel of Halifax, echoing the sentiment of some Revolutionary-generation whites, highlighted the hypocrisy of denying free men of color the natural rights both whites and nonwhites had fought for in the war for independence. He claimed that “during the Revolution,

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<sup>36</sup> Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774-1804* (Charlottesville: University of Virginia Press, 2009), 245-246.

<sup>37</sup> Franklin, *The Free Negro in North Carolina*, 102.



numbers of free blacks fought as bravely to obtain the liberties we now enjoy, as whites; and would you now deny to them all the rights and privileges acquired, in part, by their valor?”<sup>38</sup> Eliminating the ability to participate in the world’s first modern democratic government was too egregious for Daniel to accept. The principle of the matter likely was more significant to Daniel than the actual contribution of North Carolina’s free men of color in the Revolution; historian John Hope Franklin claims that at most only fifty-eight free men of color fought on behalf of the Old North State, though this might be an underestimate.<sup>39</sup> Nevertheless, Daniel contended that they “had rendered effectual service in the ranks of the army” and would therefore be of assistance to North Carolina whites should insurrection break out amongst the slave population, another example of the relationship between the insurrection scares and free men of color’s citizenship.<sup>40</sup>

Delegates favoring complete disfranchisement did not consider military service, and contractual citizenship more broadly, to be relevant to American citizenship. Rather, they equated free men of color’s military service to that of slaves and foreign whites—who were patently not citizens. Bryan of Carteret was the first delegate to make this point. He agreed with Daniel that free men of color had served “faithfully” but asserted that “this argument would apply with equal force and pertinency [*sic*] to our slaves,” a possibility that none of the prominent slaveholders in the convention could accept. Nathaniel Macon of Warren County supported Bryan’s point that free men of color’s military service did not prove them worthy of citizenship and lumped them together with foreign whites. According to Macon, “many slaves, and some free negroes, entered into [military] service, like other persons, who were not [British]

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<sup>38</sup> *Charlotte Journal*, July 3, 1835.

<sup>39</sup> Franklin, *The Free Negro in North Carolina*, 102.

<sup>40</sup> *Proceedings and Debates*, 61.

subjects.” Macon understood that free men of color had “been employed to fight but were never made citizens—they made no part of the political family.”<sup>41</sup> He also deemphasized their contributions to the war effort, calling free men of color mere “auxiliaries,” even though free men of color had served in the same capacity as white men in battles on North Carolina soil.<sup>42</sup>

Thus according to Bryan and Macon’s argument, a man had to be a white American before his military service could count for his contractual citizenship. Ironically, such circular reasoning simply made military service irrelevant for free men of color, and it offers clear proof of the malleability of citizenship in the antebellum period before any concrete national laws clearly stated who was and who was not a political citizen. Bryan and Macon’s insistence that nonwhites’ military service had no bearing on their citizenship status demonstrates how memory of the Revolution could be manipulated to, on the one hand, prove the citizenship of colonial whites, while on the other, to downplay the citizenship of people of color and white foreigners.

No delegate rose to counter the points made by Bryan and Macon on the subject of nonwhites’ military service in the Revolution. Instead, a few select delegates attested to free men of color’s contractual citizenship by referencing the loyalty oaths that they swore to prove allegiance to the infant United States. Although Bradburn makes the point that the oaths were “crafted more to deal with the problems of loyalty in the midst of a rebellion than to create a new political world,” some convention delegates insisted that the free men of color who had sworn these oaths were citizens under the law and deserved to retain their right to vote.<sup>43</sup> In spite of

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<sup>41</sup> Ibid., 69. Macon had held this view for some time, as he pontificated on the subject in an 1832 letter to John Bryan, James’ brother. Macon wrote that some free men of color “served in the continental army and some in the militia, so did white foreigners in the war of the revolution, but that service did not make them citizens” (Nathaniel Macon to John H. Bryan, April 20, 1832, Folder 2, William S. Bryan Papers, Rubenstein Library, Duke University).

<sup>42</sup> Quotation from *Charlotte Journal*, July 3, 1835. See Milteer, “The Complications of Liberty,” 105.

<sup>43</sup> Bradburn, *The Citizenship Revolution*, 11.

Macon's assertion that no man of color had ever sworn such an oath, William Gaston, in his final effort to preserve suffrage for some free men of color on July 6, offered proof that John Chavis, a resident of Wake County and one of the most prominent and wealthy free men of color in all of North Carolina, took the loyalty oath on December 20, 1778.<sup>44</sup> Gaston even presented a "Certificate of his having taken the Oath of Allegiance" to the convention for all of the delegates to see.<sup>45</sup> Owen Holmes of New Hanover agreed with Gaston that the oath was relevant to the question of citizenship, since free men of color had sworn allegiance "like any other citizen," and Holmes claimed that he knew of other free men of color in the Wilmington area that had taken the oath, as well.<sup>46</sup> In spite of their persistence, Gaston and Holmes' argument went unheeded in the convention. Although the Revolutionary War occurred fifty years before the constitutional convention, it had a lasting impact on delegates' definition of contractual citizenship.

### *Statutory Citizenship*

In responding to delegate Daniel's claim that free men of color's military service necessitated their contractual citizenship, James W. Bryan referenced slaves' actions in the Revolutionary War and how they were obviously not citizens. But Bryan made a second point regarding Revolutionary-era slaves that hinted at the significance of statutory citizenship, another dimension of citizenship in the debate on the disfranchisement of free men of color. Bryan argued that Daniel's point was "much diminished also by the fact, that at the second Congress of

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<sup>44</sup> *Proceedings and Debates*, 69, 351. Chavis himself certainly considered his military service to warrant him some semblance of respect from white elites. When some of his white correspondents had not returned his letters, Chavis told his former student and current U.S. Senator from North Carolina Willie Person Mangum to tell the two men that "if I am Black I am free born American and a revolutionary soldier and therefore ought not be thrown entirely out of the scale of notice" (Franklin, *The Free Negro in North Carolina*, 173). Chavis was notable for running a school for educating white children.

<sup>45</sup> *Proceedings and Debates*, 351.

<sup>46</sup> *Ibid.*, 354.

the United States, an act was passed, excluding [slaves] from bearing arms in the militia.”<sup>47</sup> In other words, Congress’ legal exclusion against slaves was more relevant for proving that slaves were not citizens than their military service was for proving that they were citizens.

Bryan and other delegates applied a similar argument to North Carolina’s free men of color, essentially making the point that the mere existence of state laws that specifically restricted the liberty of free men of color proved that they were not citizens and were undeserving of suffrage. Historian James Kettner argues that such a strategy was not only the case in North Carolina but was common throughout the country in the antebellum period.<sup>48</sup> In many states, judges ruled that free men of color were not citizens based on the precedent of existing laws specifically targeted at them, and the historical record in North Carolina demonstrates that such an opinion was quite widespread and persisted outside of the antebellum courtroom. The irony of basing disfranchisement on existing state legal discriminations is that many convention delegates were responsible for enacting many of the restrictive laws against free people of color in the legislature.

The legal question of nonwhites’ statutory citizenship surfaced early in the disfranchisement debate. On June 12 delegate Daniel proposed an amendment that would restrict suffrage to only those free men of color who controlled an “estate” valued at \$250 or possessed fifty acres of land. Anticipating counter-arguments referencing the legal restrictions against them, Daniel claimed that free men of color did in fact have protection under the law. They were “secured from injury by anyone, having the same remedies for redress as the white man.” But strangely when Weldon Edwards of Warren County referenced the Bill of Rights to question whether any person could be disfranchised if they paid taxes, Daniel, a member of North

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<sup>47</sup> Ibid., 62.

<sup>48</sup> Kettner, *The Development of American Citizenship*, 321.

Carolina's supreme court and a career attorney, replied that "the Bill of Rights did not apply to men of colour [*sic*]. It embraced only white men." Daniel was thus implying that free men of color were not political citizens, but nevertheless deserved the right to vote in order to give "the most respectable portions of the colored population...an opportunity of some intercourse with the whites."<sup>49</sup> Free nonwhite men would never attain citizenship equal to whites, but a few propertied free men of color deserved to continue voting.

Although he also must have agreed that the Bill of Rights did not apply to free men of color, James W. Bryan countered Daniel's insistence that some nonwhites deserved to vote. He did not agree that citizenship and suffrage could be separated, arguing that "it is evident from our laws, that we do not view free blacks as *citizens*, in the full meaning of the term." He specifically pointed to the state law that prohibited free people of color from leaving North Carolina and being able to return again, which in his mind proved that they were not citizens because such a restriction "would be an unwarrantable infringement of their rights."<sup>50</sup> If free people of color were citizens in the same way as white men, these discriminatory laws would not hold up in court, but because they were not citizens, the courts had assented to the laws' constitutionality.<sup>51</sup> At the same time, Bryan agreed that free nonwhites were not on the social level of slaves. Rather, the free man of color was "a *citizen of necessity*, and must, as long as he abides among us, submit to the laws which necessity and the peculiarity of his situation compel us to adopt."<sup>52</sup> As a "citizen of necessity," free men of color could retain their *civil* citizenship, but true political

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<sup>49</sup> *Proceedings and Debates*, 60-61.

<sup>50</sup> *Charlotte Journal*, July 3, 1835. Emphasis in original.

<sup>51</sup> *Proceedings and Debates*, 64.

<sup>52</sup> *Ibid.*, 69. Emphasis in original.

citizenship was out of the question. The ambiguity of Bryan's argument is telling and shows the difficulty faced when classifying free men of color in antebellum society.

Other delegates built on Bryan's argument for disfranchisement based on statutory citizenship. Jesse Wilson hinged his argument on the inability of free men of color to testify in court against white men, a law that Daniel chose not to mention. Wilson pointed to the fact that a white man could literally "go to the house of a free black, mal-treat and abuse him, and commit any outrage upon his family—for all which the law cannot touch him, unless some white person saw the acts committed." Not focusing on the inhumanity of his example, Wilson instead mentioned the illogical legal statutes that allowed free men of color to vote but considered them incapable of testifying even when they were innocent victims of white perpetration. After prohibiting their testimony, "shall we invest [the free man of color] with the more important rights of a *freeman*—the high privilege of exercising the functions of a voter?" asked Wilson.<sup>53</sup> He spoke to the "impropriety of allowing to a man, who was declared to be incompetent to be a witness, the right of voting for a Representative to form the laws by which the country should be governed."<sup>54</sup>

Hugh McQueen of Chatham County also harped on the discriminatory restrictions already placed on free men of color, but he drew the convention's attention to the general applicability of these laws to people of any race. Citing among other things the birth requirements that excluded those born outside the United States from becoming president and the age and property restrictions placed on suffrage rights, McQueen argued that it was certainly legal to disfranchise free men of color if other "prohibitions, restrictions, and exclusions" could

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<sup>53</sup> *Charlotte Journal*, July 3, 1835.

<sup>54</sup> *Proceedings and Debates*, 353.

be placed on “the liberty of white persons.”<sup>55</sup> The existing laws already proved that free men of color were not political citizens, so disfranchisement had legal precedence.

Among those who understood free men of color to be true statutory citizens, only William Gaston of Craven County countered the legal restriction arguments of Bryan, Wilson, and McQueen. One of the state’s most brilliant legal minds, Gaston had served on the bench of the North Carolina State Supreme Court and was widely known for his “learning, talents and integrity.”<sup>56</sup> To make his point that free men of color were citizens, Gaston cited an 1833 state Supreme Court ruling that supported his conclusion.<sup>57</sup> The case involved a slave convicted under an 1825 law of attempting to escape bondage, having been discovered hiding on an outgoing ship. The case’s significance for Gaston, however, revolved around the fact that the owner of the slave was a free “mulatto.” The argument was posed to the court that free men of color were not citizens and, therefore, had no legal rights to own slaves. The court, in an opinion written by convention delegate Daniel, however, found that “a free man of color may own and hold lands and personal property [and] that the owner is a citizen within the meaning” of the 1825 law.<sup>58</sup> On the floor of the convention, Gaston publicly agreed with the ruling in an attempt to undermine the notion that free men of color were not statutory citizens and did not deserve to vote.

Gaston’s argument, nevertheless, went unheeded. Samuel Carson of Burke County had moments before made the point that the ruling “might have decided that the owner of the slave was a free man, but [Carson] doubted whether they could have declared him to be a citizen of the

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<sup>55</sup>Ibid., 76.

<sup>56</sup> John H. Bryan to William Gaston, December 1833, Folder 60, William Gaston Papers, SHC. John Bryan was a political ally of Gaston in the North Carolina Whig Party and the brother of delegate James Bryan.

<sup>57</sup> Owen Holmes also referenced this ruling but did not attempt to go into any detail (*Proceedings and Debates*, 356).

<sup>58</sup> *The State v. Edmund, a Slave*, 15 N.C. 340 (1833).

United States. If they did so declare him, he would say their decision was wrong.”<sup>59</sup> Like Bryan did earlier in the disfranchisement debate, Carson differentiated here between political citizenship and civil citizenship. As civil citizens, free men of color could own slaves, but the right of voting, the clearest indicator of political citizenship, was impossible for them. Also, no delegate even bothered to counter Gaston’s point, and only minutes later the convention passed the disfranchisement amendment for the final time. Thus the multitude of legal restrictions against free men of color was found to be more significant in determining their statutory citizenship than one state Supreme Court decision.

### *Social Citizenship*

The discriminatory laws themselves supposedly proved that free men of color did not possess true statutory citizenship in North Carolina, and because there was no public outcry against the laws from whites, some delegates argued further that the general public agreed that free men of color were not citizens. In emphasizing the importance of public opinion, delegates were pointing to another aspect of citizenship in the disfranchisement debate: social citizenship.<sup>60</sup> If the general public did truly categorize free men of color as citizens then “is there a doubt in this Convention,” Bryan asked, “that with one voice, from the Mountains to the Seashore, the people...would have declared the [discriminatory laws] void”?<sup>61</sup> Delegate McQueen argued even more specifically that “the current of public sentiment sets strongly against their exercise of this right” of voting, a practice which “will forever constitute an offence to the

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<sup>59</sup> *Proceedings and Debates*, 356.

<sup>60</sup> By using “social citizenship,” I am not referring to Marshall’s use of the same term.

<sup>61</sup> *Proceedings and Debates*, 66.



people.”<sup>62</sup> John Toomer of Cumberland County disagreed, however. He was the only delegate to claim that public sentiment was on the side of free men of color, finding that “it was generally conceded that the existing Constitution did extend to free blacks the privilege of voters.”<sup>63</sup> His position is even more unique given that Owen Holmes of New Hanover County, a delegate opposing disfranchisement, conceded that many whites in the southeast region of the state held “many prejudices” against free men of color.<sup>64</sup> How could public opinion encompass both views on free nonwhite suffrage? Was there a general consensus throughout North Carolina relating to the social citizenship of free men of color? Did residents of the Old North State actually influence the debate on disfranchisement, or was it true, like political scientist Rogers M. Smith warns, that “popular deliberation...rarely determines actual policy outcomes”?<sup>65</sup>

Social citizenship was thus one more dimension that delegates agreed was relevant to nineteenth-century citizenship but that convention members on both sides of the disfranchisement debate sought to use to their own advantage. Scholars disagree on how to deal with antebellum politicians’ use of public opinion to craft policies. Though tied to democracy and the will of the popular majority, public opinion was, according to historian Robert E. Bonner, “the seemingly omnipotent power of widely diffused sentiments.”<sup>66</sup> Essentially it was a way for antebellum politicians to give their various arguments credence without actually providing any substantive proof. Historian Mark G. Schmeller makes the point that individuals could also use this “magical agent” for “seemingly contradictory impulses, desires, and

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<sup>62</sup> First quotation from *ibid.*, 79; second quotation from *ibid.*, 77-78.

<sup>63</sup> *Ibid.*, 80.

<sup>64</sup> *Ibid.*, 72.

<sup>65</sup> Smith, *Civic Ideals*, 36.

<sup>66</sup> Robert E. Bonner, *Mastering America: Southern Slaveholders and the Crisis of American Nationhood* (New York: Cambridge University Press, 2009), 97.

expectations.” Antebellum politicians might reference public opinion to support their position on some political issue, while also using it to “[transcend] unruly controversies, [supersede] stubborn particularities, [and sustain] civic tranquility.”<sup>67</sup> Bradburn, however, emphasizes that the importance of public opinion should not be ignored, as it “provided legitimacy and ensured consent” for politicians, even if “doesn’t really exist.”<sup>68</sup> This was most likely why delegates on both sides of the disfranchisement debate supported their arguments by citing the abstract public opinion.

In spite of delegates’ claims, North Carolina’s white population seemed to be as divided as the convention on the question of disfranchisement and the social citizenship of free men of color based on the available sources.<sup>69</sup> Newspaper editors were almost evenly split between those that were “glad to see” disfranchisement and others who proclaimed disfranchisement to be “*Damnable!*”<sup>70</sup> Papers in Fayetteville, Greensboro, New Bern, Wilmington, and Raleigh all ran editorials criticizing free nonwhites’ loss of suffrage, while residents of Elizabeth City, Charlotte, and Salisbury read newspapers that hailed the benefits of disfranchisement.<sup>71</sup> Not only did they personally disagree on the subject, several newspaper editors took different stances on

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<sup>67</sup> Mark G. Schmeller, “Imagining Public Opinion in Antebellum America: Fear, Credit, Law, and Honor,” (PhD. diss., University of Chicago, 2001), 1-2.

<sup>68</sup> Bradburn, *The Citizenship Revolution*, 204.

<sup>69</sup> Franklin warns that simply because of the existing sources, the sentiment of North Carolina’s more rural population is less easy to ascertain than the opinion of urban dwellers that lived nearer to newspapers and had more say in policy-making. He does agree that around the time of the convention there was “a growing feeling against the very presence of the free Negro” in the rural areas (Franklin, *The Free Negro in North Carolina*, 198). Similarly the opinion of women and people of color is also nearly impossible discover given the available sources.

<sup>70</sup> First quotation from “The Convention,” *Western Carolinian* (Salisbury, NC), June 20, 1835; second quotation from “Convention,” *Greensborough Patriot*, July 4, 1835. Emphasis in original.

<sup>71</sup> “The Convention,” *Fayetteville Observer*, June 16, 1835; “Convention,” *Greensborough Patriot*, July 4, 1835; “Convention,” *Newbern Spectator*, June 19, 1835; “New Constitution,” *The People’s Press and Wilmington Advertiser*, November 6, 1835; “The Amended Constitution,” *Raleigh Register and North Carolina Gazette*, September 29, 1835; *Elizabeth City Star and Eastern Intelligencer*, September 18, 1830; “State Convention,” *Charlotte Journal*, July 3, 1835; “The Convention,” *Western Carolinian* (Salisbury, NC), June 20, 1835.

the general population's opinion of disfranchisement. The editor of the *Charlotte Journal* believed that less than one North Carolinian in one hundred would be "opposed to disfranchising the negroes, in toto."<sup>72</sup> Yet according to articles in the *Newbern Spectator* and even the pro-disfranchisement *Western Carolinian* certain segments of the North Carolina population would likely "feel serious regret at the total disfranchisement" and "were in favor of admitting that portion of our free colored population to the privilege of voting" who held sufficient property.<sup>73</sup>

Other sources besides newspaper editorials also point to the divisions in North Carolina's general public on the question of free men of color's social citizenship. Various antebellum petitions to the General Assembly, possibly the best available way to analyze the sentiments of the general public, demonstrate that, on the one hand, some North Carolinians favored restricting the citizenship rights of free people of color. Once again, the best example of such a desire is the 1831 petition from residents of New Bern that sought to completely eliminate the suffrage of free nonwhites. Other petitioners from Duplin, Lenoir, and Craven Counties also hoped to restrict the rights of free nonwhites, ranging from owning guns and hunting to selling alcohol.<sup>74</sup> On the other hand, a significant number of petitions streamed into the state capitol seeking to protect the rights of free men of color. Residents of Hertford County, for example, hoped to convince North Carolina state legislators to repeal a law that allowed slaves to testify in court against free people of color; petitioners from Granville County wanted free men of color to

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<sup>72</sup> "State Convention," *Charlotte Journal*, July 3, 1835. Emphasis in original.

<sup>73</sup> "Convention," *Newbern Spectator*, June 19, 1835; *Western Carolinian* (Salisbury, NC), July 4, 1835.

<sup>74</sup> Abner Hartley et al. to the Honorable the General Assembly of the State of North Carolina, December 2, 1828, Accession 11282801, Reel 6, Series I, Race and Slavery Petitions Project (hereafter cited as RSPP); William Cooper et al. to the Honorable General Assembly of North Carolina, 1830, Accession 11283002, Reel 6, Series I, RSPP; Isaac Croom et al. to the Honble [*sic*] the General Assembly of N. Carolina, November 1831, Accession 11283105, Reel 6, Series I, RSPP; David B. Gibson et al. to the General Assembly of the State of North Carolina, December 1835, Accession 11283503, Reel 7, Series I, RSPP.

be able to enter the state; and Wilmington residents hoped the General Assembly would lift the Quarantine Act that forced nonwhite sailors to be jailed while their ships were in the port city.<sup>75</sup>

Individuals did not hesitate to express their opinion either, as several North Carolinians submitted letters to newspapers on the disfranchisement issue. Two letters in the Fayetteville *North Carolina Journal* were especially critical of disfranchisement.<sup>76</sup> The first, written anonymously under the name “Madison,” argued that “many [free men of color] make the very best citizens,” but by disfranchising them, the convention had taken away their only “principle of citizenship.”<sup>77</sup> For this correspondent, suffrage *was* citizenship. A second letter, appearing only a week after the first, shared a similar perspective on free men of color’s suffrage and held that they “were recognized as entitled to representation under [the original state constitution], and consequently, as constituent parts of the federative body, of North Carolina.”<sup>78</sup> A correspondent in the *Tarborough Free Press*, however, disagreed with the authors of the Fayetteville letters. Writing on the various parts of the Convention Bill, this anonymous correspondent known as “Aristides” mentioned that “the propriety of excluding free negroes from the polls is so palpable, that it is needless to do more than state that this is one of the objects proposed” by the legislature.<sup>79</sup>

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<sup>75</sup> Watson Lewis et al. to the Honorable General Assembly of the State of North Carolina, December 9, 1822, Accession 11282202, Reel 5, Series I, RSPP; A.E. Henderson et al. to the delegation from Granville County, December 1, 1833, Accession 11283303, Reel 6, Series I, RSPP; L.H. Marsteller et al. to the Honourable [*sic*] the General Assembly of the State of North Carolina, December 1831, Accession 11283101, Reel 6, Series I, RSPP.

<sup>76</sup> Watson argues that Cumberland County, of which Fayetteville was the county seat, disapproved of the result of the convention in general possibly because of the undemocratic nature of disfranchisement (Watson, *Jacksonian Politics and Community Conflict*, 201).

<sup>77</sup> Madison, “For the Journal,” *North Carolina Journal* (Fayetteville, NC), June 24, 1835.

<sup>78</sup> Smith to the Editors of the North Carolina Journal, *North Carolina Journal* (Fayetteville, NC), July 1, 1835.

<sup>79</sup> Aristides, *Tarborough Free Press*, quoted in “Our State Constitution,” *Raleigh Register and North Carolina Gazette*, October 21, 1834.

Thus, newspaper editorials, legislative petitions, and anonymous correspondence demonstrate that the “general public” was neither entirely for nor entirely against disfranchisement but was divided like the convention. As a theme of citizenship, the notion of the general public’s will is seemingly too nebulous of a concept to effectively determine who was or who was not a social citizen in the antebellum period. The fact that delegates invoked the term is indicative, though, of the weight that alleged united popular will held in political debates. So although antebellum North Carolina was divided on whether free men of color were citizens or not, delegates at the convention hoped to sway their adversaries by hinting that the general public acceded to their specific view on the issue, even though that was impossible for any man in the convention to rightly claim.

### *Economic Citizenship*

According to the editor of the *Western Carolinian*, free men of color’s property ownership made “them feel an interest in the prosperity of the State, and in the peace and good order of society,” a view he correctly claimed was widespread not only among North Carolina’s general public but also shared by “a very respectable portion of the Convention.”<sup>80</sup> Economic citizenship was thus a final citizenship theme that surfaced in North Carolina’s 1835 constitutional convention. Delegates who favored complete disfranchisement did not hinge their argument, for the most part, on the importance of wealth or economic status. Their opponents, however, delegates against complete disfranchisement, continuously referenced the bearing that free men of color’s wealth had on their citizenship status and their right to vote.<sup>81</sup> Property

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<sup>80</sup> *Western Carolinian* (Salisbury, NC), July 4, 1835.

<sup>81</sup> Their insistence on a wealth requirement might have come from the precedent set by New York’s 1821 constitutional convention, where Empire State politicians instituted a stringent property qualification on black voters

ownership and taxation proved free nonwhite's economic citizenship in the minds of some delegates.

Wealth had been a requirement for suffrage since the drafting of North Carolina's constitution in 1776 and even stretched back into colonial times. North Carolinians did not yield to the pressure for universal manhood suffrage until 1857, but before 1836 when the revised constitution took effect, most free North Carolinians, both white and nonwhite, could vote for representatives in the House of Commons.<sup>82</sup> A tax-paying requirement existed for suffrage, but the wording was so vague that many interpreted the clause to mean that a man had to have only paid taxes at some point in his life, whether that was five days or five years before the election, in order to vote.<sup>83</sup> The requirements to vote for state senators were stricter, as the constitution called for prospective voters to own fifty acres of land in addition to paying taxes. To hold office, politicians had to own even more real estate, and the requirements grew increasingly larger to go along with the prestige of the office. To be a member of the House of Commons, a politician had to own one hundred acres of land; a senator had to own three hundred; and the governor had to possess the exceptionally large sum of one thousand pounds of taxable

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(Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* [New York: Oxford University Press, 2007], 497).

<sup>82</sup> Some North Carolinians, like Joseph Seawell Jones, were afraid that the 1835 convention would eliminate all wealth requirements for suffrage. He wrote to Cabarrus County delegate and state legislator Daniel Barringer in the fall of 1834 to try to convince Barringer to ensure that the question of universal suffrage was not part of the Convention Act (Joseph Seawell Jones to Daniel Barringer, November 3, 1834, Folder 6, Daniel Moreau Barringer Papers, SHC). For more on the question of universal suffrage, see Thomas E. Jeffrey, "'Free Suffrage' Revisited: Party Politics and Constitutional Reform in Antebellum North Carolina," *The North Carolina Historical Review* 60, no. 1 (Jan. 1982): 24-48.

<sup>83</sup> Watson, *Jacksonian Politics and Community Conflict*, 61-62. Watson also concludes that sometimes the requirements were ignored, as in the case of Fayetteville. In that city, there were more votes cast in the 1840 election than men who had previously paid taxes (Watson, *Jacksonian Politics and Community Conflict*, 62n4). The requirements to vote for congressmen in the House of Representatives were the same as the requirements to vote in the state House of Commons, but U.S. Senators were elected by the state legislature.

property.<sup>84</sup> These requirements were just the minimum, though, and most politicians possessed amounts far in excess of those required by the constitution, causing historian Harold Counihan to declare that “at all levels of the political process...there was a preference for men of property.”<sup>85</sup> Thus when convention delegates were proposing wealth requirements for free men of color, they were doing so in the context of a history where property and taxation had long dictated an individual’s political status.

With the exception of John B. Kelly of Moore County who thought it was “rank injustice” to impose additional property requirements on free men of color, wealth was important to every delegate who opposed complete disfranchisement.<sup>86</sup> Joseph Daniel proposed the first constitutional amendment relating to disfranchisement, seeking to require free men of color to “possess a freehold of 50 acres of land, or town property to the value of \$250.”<sup>87</sup> As the disfranchisement debate continued, other delegates differed on the amount of wealth that should be required of free men of color to cast a ballot. Some, like James W. Guinn of Macon County and Alfred Dockery of Richmond County, agreed with the \$250 wealth requirement, but most delegates in favor of limited disfranchisement thought it should be much lower.<sup>88</sup> Emanuel Shoher of Stokes County was the first delegate who sought to lower the wealth requirement to one hundred dollars, but John Giles of Rowan County, John M. Morehead of Guilford County,

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<sup>84</sup> Watson, *Jacksonian Democracy and Community Conflict*, 62.

<sup>85</sup> Harold Joseph Counihan, “North Carolina 1815-1836: State and Local Perspectives on the Age of Jackson” (PhD diss., University of North Carolina at Chapel Hill, 1971), 22.

<sup>86</sup> *Proceedings and Debates*, 356.

<sup>87</sup> *Charlotte Journal*, July 3, 1835. The *Proceedings and Debates* does not include Daniel’s reference to a land requirement. Later in the debate, however, delegates referenced the fifty acres requirement, which leads me to believe that the editor of the document simply neglected to include the land aspect of the amendment.

<sup>88</sup> *Proceedings and Debates*, 74, 357.

and James S. Smith of Orange County soon agreed with him.<sup>89</sup> Charles Fisher, Giles' colleague from Rowan County, believed that sum to be too high, and instead proposed "that in addition to the [taxation] qualifications required by white men, each free colored man shall possess at least fifty acres of land...of not less value than 50 dollars."<sup>90</sup> Gaston was on the other end of the spectrum and sought to set the wealth requirement at five hundred dollars, but such a high sum was likely only a desperate effort by Gaston to preserve the franchise for the wealthiest free men of color and not an indication of his true thoughts on the subject.<sup>91</sup>

Delegates emphasized the economic aspect of citizenship because of how they conceptualized political citizenship more broadly. For many delegates, wealth, and especially wealth tied to land ownership, gave men a recognized stake in society. One scholar even remarks that "land ownership brought economic and political freedom."<sup>92</sup> Historian Laura Edwards points out that property ownership, along with race, age, and gender, was an important component of an individual's position in antebellum society because it also implied that the man had character, or what she calls "credit."<sup>93</sup> Although Edwards uses the term in relation to local legal practices in North and South Carolina, wealth was also an indicator of a man's credit for the constitutional convention delegates. John Branch, for example, held this position, equating wealth with respectability. In arguing against complete disfranchisement, Branch believed that "property ought also to be considered" as a way to "keep the door [of suffrage] open to the most intelligent

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<sup>89</sup> *Ibid.*, 73, 80; *Charlotte Journal*, July 3, 1835.

<sup>90</sup> *Proceedings and Debates*, 354.

<sup>91</sup> *Ibid.*, 352.

<sup>92</sup> Terry Bouton, *Taming Democracy: "The People," the Founders, and the Troubled Ending of the American Revolution* (New York: Oxford University Press, 2007), 15.

<sup>93</sup> Edwards, *The People and Their Peace*, 112.



and deserving of the free men of color.”<sup>94</sup> Owen Holmes shared a similar sentiment that the free men of color who “possess property, and are of good standing, ought to be distinguished from those of the class who are vicious and disorderly.”<sup>95</sup> Gaston took Holmes’ and Branch’s argument a step further and clamored that a free man of color’s wealth likely meant he “was an honest man, and perhaps a christian [sic].”<sup>96</sup> Implementing a wealth requirement on those who sought the franchise would also, according to John Giles, hold “out a motive to free persons of color to become industrious and respectable, and to acquire property sufficient to qualify them to exercise the elective franchise.”<sup>97</sup> To these delegates, a free man of color’s economic citizenship, meaning possession of wealth and property, outweighed the supposed degradation of skin pigmentation and was seemingly a better indicator of a man’s citizenship than race.

The repeated references to wealth in the disfranchisement debate also reveal the differing political stances of convention delegates. Some historians argue that a correlation existed between delegates’ political affiliation and stance on disfranchisement, but the numbers are, in fact, inconclusive.<sup>98</sup> Delegates were more politically united, however, in how they defined

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<sup>94</sup> *Proceedings and Debates*, 70.

<sup>95</sup> *Ibid.*, 72.

<sup>96</sup> *Ibid.*, 79.

<sup>97</sup> *Ibid.*, 74.

<sup>98</sup> Counihan, for example, shows that a greater proportion of Democrats supported disfranchisement than did Whigs. The percentages Counihan offers, however, that forty-eight percent of Whigs and forty-five percent of Democrats favored nonwhite suffrage, are much too close to conclusively prove that Whigs, as a whole, supported limited nonwhite suffrage, while Democrats did not (Counihan, “Constitutional Convention of 1835,” 363). The percentages would be even closer if Counihan had correctly classified Asa Biggs as a Whig instead of a Democrat. Biggs identified as a Whig until 1842, seven years after the convention (Paul I. Chestnut, “Biggs, Asa,” in *Dictionary of North Carolina Biography*, ed. William S. Powell [Chapel Hill: University of North Carolina Press, 1979], 1: 151-152 ). Lacy Ford also argues that Whigs and independents opposed total disfranchisement more than Democrats, but says the “partisan difference” was “less clear-cut than the sectional divisions” (Ford, *Deliver Us from Evil*, 436). In New York and Pennsylvania, by contrast, the Whig party overwhelmingly supported the suffrage rights of free men of color as compared to Democrats. For more on the political ramifications nonwhite suffrage in New York, see Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: Norton, 2005), 193-195; Lee Benson, *The Concept of Jacksonian Democracy: New York as a Test Case* (Princeton: Princeton

economic citizenship, regardless of their stance on the issue. The language used by Whigs and Democrats in relation to property, whether the delegate supported the suffrage of free men of color or not, reveals how each party viewed citizenship and determined who constituted the body politic. Historian Daniel Walker Howe warns that “Democrats and Whigs could arrive at similar policy conclusions from entirely different premises,” and this was certainly the case on the question of economic citizenship in the disfranchisement debate.<sup>99</sup>

Democrats in the convention, for the most part, emphasized the possession of real estate because it fit with their Jeffersonian-esque, conservative emphasis on the need for a nation of yeoman agriculturalists. In North Carolina especially, as historian Harry Watson has shown in his exploration of party development in Cumberland County, Jacksonian Democrats’ primary political base was the poor rural farmers, men who owned very few to no slaves at all.<sup>100</sup> Their rhetoric in the convention proves that Democrats stressed the importance of land ownership to true American citizenship. Holmes, the New Hanover delegate in favor of limited disfranchisement, made an impassioned plea favoring nonwhites’ suffrage rights, but he differed with convention Whigs in that he believed personal property to be irrelevant.<sup>101</sup> Instead, Holmes sought to eliminate personal property from consideration in the wealth requirement and make the

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University Press, 1961), 179-185; Gellman and Quigley, *Jim Crow New York*. For Pennsylvania, see Wood, “A Sacrifice on the Altar of Slavery,” 78, 83-84; Malone, *Between Freedom and Bondage*, 57-100. Howe argues that as a whole Whigs supported nonwhites’ suffrage rights and Democrats opposed them across the United States (Howe, *What Hath God Wrought*, 498).

<sup>99</sup> Daniel Walker Howe, *The Political Culture of the American Whigs* (Chicago: University of Chicago Press, 1979), 16.

<sup>100</sup> Watson, *Jacksonian Politics and Community Conflict*, 244.

<sup>101</sup> To determine the political affiliations of the convention delegates, I have relied on Harold Counihan and the *Dictionary of North Carolina Biography*. See Harold Counihan, “Constitutional Convention of 1835,” 341; William S. Powell, ed., *Dictionary of North Carolina*, 6 vols. (Chapel Hill: University of North Carolina Press, 1979).

possession of one hundred acres the requirement for free men of color to continue voting.<sup>102</sup>

Branch was even more adamant that real estate was central to suffrage. When Gaston, a leading Whig, introduced his amendment on July 6 that would allow free men of color to vote if their total wealth was valued at five hundred dollars, Branch made a motion “to exclude personal property from the qualification,” and when his motion did not pass, Branch felt so strongly that he voted with the majority for complete disfranchisement, despite initially voting against it on June 13.<sup>103</sup>

Convention Whigs, on the other hand, were open to any type of property counting toward the proposed wealth requirement and free men of color’s economic citizenship, as it fit with their party’s emphasis on industry and mercantilism. In 1835, the Whig party was still in its developmental stages, but its leaders clearly favored economic development through investment in internal infrastructural improvements and industrialization, not the agricultural emphasis of their Democratic opponents.<sup>104</sup> They also were less comfortable with the widespread political participation that was radically transforming North Carolina at the time of the convention, with voter turnout rising from twenty-seven percent in 1824 to seventy-eight percent in 1840.<sup>105</sup> Both ideas were present in the question of free men of color’s wealth. In arguing for the \$250 property requirement, delegate Alfred Dockery believed that land was too accessible and easily procured. “There are thousands of acres of vacant land to be had in his county,” he argued, “and it would be an easy matter to get fifty acres of this land, and put a cabin on it, and declare it to be worth

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<sup>102</sup> *Proceedings and Debates*, 354.

<sup>103</sup> *Ibid.*, 357-358, 80-81.

<sup>104</sup> Howe, *The Political Culture of the American Whigs*, 21.

<sup>105</sup> Keyssar, *The Right to Vote*, 40.

100 dollars.”<sup>106</sup> Although he favored complete disfranchisement, James Bryan shared Dockery’s insistence that moderate wealth was necessary for political citizenship. Bryan thought it was irrelevant to the disfranchisement debate that free men of color paid taxes because their contribution to was so small. Emphasizing this point, he rhetorically questioned the convention as to “what burdens of the Government do they bear, and to what amount is the Public Treasury swelled by their taxes?”<sup>107</sup> Although there was neither a clear division between Whigs and Democrats on the general disfranchisement question nor more specifically on the wealth requirement, delegates approached the question of nonwhite economic citizenship through their divisive political ideals.

### ***Conclusion***

Although race separated free men of color from whites, convention delegates used their biological, contractual, statutory, social, and economic notions of citizenship in the debate on the political citizenship of free men of color. Their points and counterpoints demonstrate the complicated nature of citizenship in the antebellum period. Without formal codified suffrage requirements to fall back on, delegates were defining citizenship at the same time as they were using their rhetoric in attempts to either formally and permanently exclude all free men of color from voting in North Carolina or hopefully only exclude those free nonwhites who were degraded and therefore unworthy of suffrage. The five dimensions of citizenship, so prevalent in the debate, would not have been as evident in judicial decisions, where a solitary ruling was drafted by one individual.

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<sup>106</sup> *Proceedings and Debates*, 357.

<sup>107</sup> *Ibid.*, 67.

When the majority of delegates chose to eliminate nonwhites' suffrage rights they were not only addressing the specifics of free men of color's citizenship, but that of white men as well. For by finding free men of color incapable of voting, they appeared to be inadvertently ruling that all whites who met the necessary standards were also equal citizens. This position, however, was not the case for some delegates, like Josiah Crudup. He believed that "some intelligence and moral character were necessary to qualify a man to exercise this privilege [of suffrage], "though no government had ever made a provision of this kind."<sup>108</sup> Although he favored disfranchisement of nonwhites, Crudup's comments show that he was also struggling to accept the ongoing class and religious expansion of political citizenship. Thus delegates specifically applied the five dimensions of political citizenship to free men of color in the 1835 constitutional convention, but they were influenced by more general issues of citizenship in the Jacksonian period.

Delegates' complicated arguments also point to the difficulty in separating political citizenship from civil citizenship. The disfranchisement of free men of color in 1835 North Carolina marked the end of nonwhite political citizenship in the antebellum South. Free men of color could no longer vote in any state that protected the right of one man to enslave another, but their access to civil citizenship endured and was supported by William Gaston, the convention delegate most vehemently opposed to disfranchisement.

In 1838, William Manuel, a free man of color, was convicted of assault and battery and sentenced to pay a fine to the state, but because he did not have any money, the county sheriff hired Manuel out to someone who was willing to pay his fine. Manuel appealed on the grounds that the law was unconstitutional because it conflicted with the constitutional provision that prevented the imprisonment of insolvent debtors and that protected a "free-man" from "the deprivation of life, liberty, or property otherwise than by the law of the land." To contest his

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<sup>108</sup> Ibid., 74.

points, the state attorney general argued that the court did not even need to consider Manuel's constitutional protection "because he is not a citizen of North Carolina." The attorney general went on to declare that "persons of colour were not originally members of that political body and never since have been incorporated into it," essentially saying that free men of color were not civil citizens since their rights were not protected under state law. Gaston, a member of the North Carolina Supreme Court disagreed, however, and ruled that the state constitution did offer protections for free men of color. Gaston found that "whatever their colour or complexion...all free persons born within the State are born citizens of the state."<sup>109</sup> Though coming increasingly under attack, free men of color's civil citizenship persisted in North Carolina for many years after their political citizenship was, in the words of one delegate, "put to the sword."<sup>110</sup>

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<sup>109</sup> *The State v. William Manuel*, 20 N.C. 144 (1838). Gaston's ruling provides an excellent overview of his conceptualizations of citizenship in the antebellum period.

<sup>110</sup> Jonathan Jacocks to Charles Jacocks, June 10, 1835, 253.2, Charles Jacocks Papers, SANC.

## Conclusion

When voters ratified the new constitutional amendments in November 1835, North Carolina officially became the last southern state to disfranchise free men of color, effectively ending free nonwhites' political citizenship below the Mason-Dixon Line. There was a strong similarity between the counties that voted for a convention and those that voted for the new constitution, but it is impossible to determine how disfranchisement affected voters' decision to approve the new constitution because the entire constitution was up for ratification, not individual amendments.<sup>1</sup> Few residents of North Carolina agreed with all of the proposed constitutional revisions, but individuals still had to decide whether to accept or reject the new constitution in its entirety. Highlighting this difficulty, the editor of the *Newbern Spectator* explained that "there are features highly exceptionable in the Constitution, as amended, none will deny; nor will the most fastidious assert that there are not in it also some excellent ones. Hence the difficulty of deciding by the people."<sup>2</sup> A few months later, the same editor even criticized the convention, since it "succeeded in blending with the real amendments so much that is narrow-minded, illiberal and unjust, that the good points are merged in the dissatisfaction created by the evil [points]."<sup>3</sup>

Overall, the ratification broke down along geographical lines because of the issue of sectional representation, and most North Carolinians probably understood disfranchisement to be less significant than sectional issues. Possibly some eastern voters believed disfranchisement was a positive decision but voted against the whole constitution because of the concessions given to

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<sup>1</sup> For a chart on the relationship between county returns on the convention referendum and the constitutional ratification, see "Amended Constitution," *The North Carolina Standard* (Raleigh, NC), November 26, 1835.

<sup>2</sup> "The Amended Constitution," *Newbern Spectator*, quoted in the *Raleigh Register and North Carolina Gazette*, September 29, 1835.

<sup>3</sup> "The Amended Constitution," *Newbern Spectator*, November 13, 1835.

the West, and in the same way, some westerners opposing disfranchisement might have voted for the constitution because of the new benefits provided to their section. Even William Gaston, the most influential proponent of continuing nonwhite suffrage, put more emphasis on other constitutional issues than disfranchisement. Writing to a friend in August 1835, Gaston admitted that he “decidedly preferred” only limited disfranchisement, but would “not however oppose the plan of the Convention upon this ground.”<sup>4</sup> Disfranchisement was simply not the most important constitutional change.

Yet the disfranchisement decision would affect North Carolina politics in the immediate and distant future. In the fall of 1835, the last electoral season that free nonwhites would participate in for several decades, free men of color living in North Carolina’s 4<sup>th</sup> Congressional district sought political revenge. Jesse Speight, the incumbent Democrat, defeated his Whig challenger, but free men of color, remembering that Speight as a convention delegate had voted for complete disfranchisement, overwhelmingly voted against him, causing the election to be quite contested.<sup>5</sup> Even after nonwhites could no longer vote, the legacy of disfranchisement affected white voters; according to historian Lacy Ford, “the partisan press often used a candidate’s position on free black suffrage in 1835 as a litmus test of acceptability for office” in the years following the convention.<sup>6</sup> During the 1836 presidential campaign, North Carolina Whigs criticized Van Buren’s support for nonwhite suffrage in the New York Constitution, but in later years, Democrats would use disfranchisement to sway voters away from North Carolina Whig candidates.<sup>7</sup> Fayetteville whites were especially divided about disfranchisement. In 1836,

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<sup>4</sup> William Gaston to [?] Moore, August 16, 1835, Folder 4, Matthias Evans Manly Papers, 1717-1928, SHC.

<sup>5</sup> *The Newbern Spectator*, November 6, 1835.

<sup>6</sup> Ford, *Deliver Us from Evil*, 440.



ninety town residents petitioned the state legislature asking that it pass a law that would prohibit free men of color from voting in town elections, since the constitutional amendment only applied to state elections. Another group of seventy-two whites, however, drafted a counter petition that referenced the benefits of nonwhite suffrage.<sup>8</sup> Although the General Assembly did pass a law limiting suffrage in Fayetteville elections to white men with little opposition, the contradictory Fayetteville petitions show that whites in some locales were still undecided on the position of free men of color in southern society.<sup>9</sup>

Delegates at the 1835 North Carolina constitutional convention disfranchised free men of color for two reasons. First, the insurrection scares of 1830 and 1831 influenced many delegates to view people of color, both enslaved and free, as a danger to white society. By continuing to exercise suffrage, free men of color were purportedly demonstrating to slaves that all nonwhites were capable of exercising political rights, which might one day be the catalyst for an uprising. Second, the majority of delegates concluded that political citizenship was a right exclusive for white men only. Though most delegates seemed to agree that free men of color could exercise civil citizenship through property ownership and legal contracts, political citizenship was tied to whiteness.

The disfranchisement decision, however, was highly contested and passed by only a few votes. Thus, the convention's debate on disfranchisement is itself an extension of the antebellum

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<sup>7</sup> Ibid., 441.

<sup>8</sup> Charles T. Stuart et al., to the Honorable General Assembly of North Carolina, December 1836 and James Kyle et al., to the Honorable Members of the General Assembly, December 1836, both in Reel 7, Series I, RSPP.

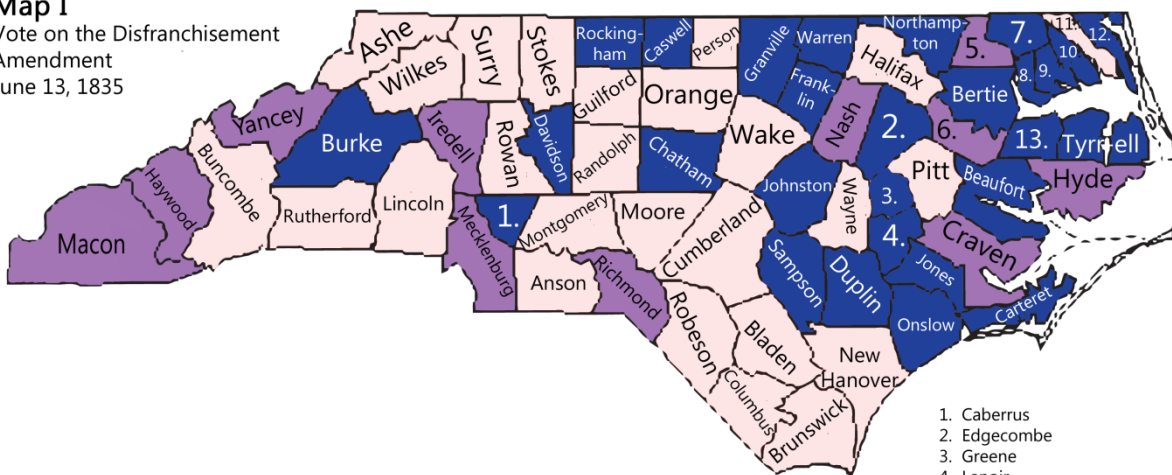
<sup>9</sup> *Laws of the State of North Carolina Passed by the General Assembly, at the Session of 1836-37* (Raleigh: Thos. J. Lemay, 1837), 331-332. For the legislature's action on the bill's passage, see *Journals of the Senate and House of Commons of the General Assembly of the State of North-Carolina, at its Session in 1836-37* (Raleigh: J. Gales & Son, 1837), 90, 105, 119, 121. James W. Bryan had a direct role in the bill's passage.

South's debate on the position of free people of color in southern society. In the 1830s, white southerners had not united in a defense of slavery, nor were they united in a notion that white skin was inherently superior over darker pigmentation. If anything, convention delegates seemed to all agree for the most part that wealth was a better indication of political citizenship than race, with anti-disfranchisement delegates' insistence that free men of color needed to own some level of personal property to prove they were worthy of political citizenship. What the disfranchisement decision reveals is the transition occurring in the first half of the nineteenth century of citizenship based on wealth slowly changing to citizenship based on race. In the early national period property ownership was more important for political participation, but by the mid-nineteenth century, all whites in nearly every southern state could vote regardless of their wealth. The Jacksonian period may have represented the apogee of white political participation, but this explosion of democracy had an ugly undercurrent, as free men of color lost their suffrage rights nearly as quickly as white men gained them. When North Carolinians ratified their amended constitution in 1835, they ended free men of color's political citizenship across the antebellum South, and it would only be restored with the coming of the Civil War.

APPENDIX

**Map I**

Vote on the Disfranchisement Amendment  
June 13, 1835



For Disfranchisement

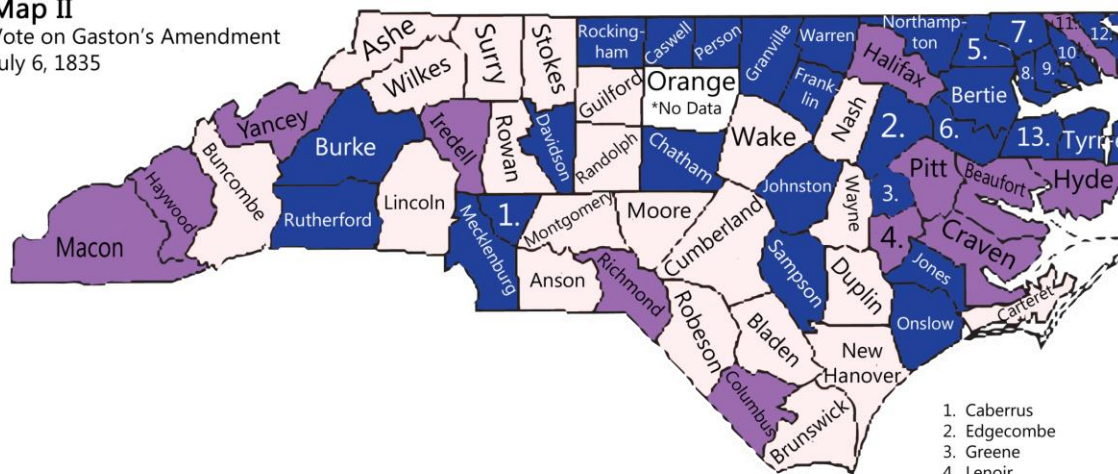
Against Disfranchisement

County Delegates Divided

1. Cabarrus
2. Edgecombe
3. Greene
4. Lenoir
5. Hertford
6. Martin
7. Gates
8. Chowan
9. Perquimans
10. Pasquotank
11. Camden
12. Currituck
13. Washington

**Map II**

Vote on Gaston's Amendment  
July 6, 1835



For Disfranchisement

Against Disfranchisement

County Delegates Divided

1. Cabarrus
2. Edgecombe
3. Greene
4. Lenoir
5. Hertford
6. Martin
7. Gates
8. Chowan
9. Perquimans
10. Pasquotank
11. Camden
12. Currituck
13. Washington

\*Maps by the author.

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