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A Painful Case: The Wright-Sanborn Incident in Norfolk, Virginia July-October, 1863

Ervin Leon Jordan Jr.
Old Dominion University

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A PAINFUL CASE: THE WRIGHT-SANBORN INCIDENT
IN NORFOLK, VIRGINIA, JULY-OCTOBER, 1863

by

Ervin Leon Jordan, Jr.
B.A. May 1977, Norfolk State College

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Approved by:

Peter C. Stewart (Director)

James L. Bugg, Jr.

James R. Sweeney

201

ABSTRACT

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Ervin Leon Jordan, Jr.
Old Dominion University, 1977
Director: Dr. Peter C. Stewart

The purpose of this paper is to study the political and legal implications of the shooting of a Union officer, 2nd Lieutenant Alanson C. Sanborn, by Dr. David Minton Wright, a Norfolk physician, on July 11, 1863 in that city. Dr. Wright, who was tried and found guilty by a military commission, appealed his conviction to President Abraham Lincoln, who denied it. The author, with the use of primary and secondary sources, raises the issue of several problems encountered by Americans during the Civil War such as civil liberties, the role of Negro troops, and the problems of administration of occupied southern cities.

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DEDICATION

This paper is respectfully dedicated to
Carrie E. Jordan, Patricia Anne Jordan, Robert E. Jordan,
Yvonne V. Halstead, Edia L. Stanford, and Randall M. Yancey.

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PREFACE

The Civil War was a violent tragedy in the United States which lasted for nearly four years. During that period Americans killed their fellow Americans in bloody encounters that left internal scars on their descendant. As the years passed Southerners would become proud but bitter in regard to their heritage as a defeated people and to this day remember their past glories. The Confederate battleflag, for example, is still proudly sold and displayed; it remains a part of the state flags of Alabama, Florida, Georgia, and Mississippi. Occupation of the defeated Confederacy particularly rankled Southerners.

When the Union forces occupied several Southern cities the problem of deciding how they were to be governed only increased the peoples' resentment. Obviously, extreme harshness would have only increased bitterness whereas lax controls would not have been suitable as far as Union commanders were concerned. In some areas, such as in Norfolk, Virginia, Federal military authorities exercised firm control while at the same time allowing the city government a limited role. It was difficult however, to remove Confederate sympathies from a people whose state capital was also the capital of the Confederate States of America.

In Norfolk Union rule caused many problems between civil and Federal authorities. The majority of white Norfolkiens were pro-Confederate and pro-slavery; the sight of Negro troops on their streets usually antagonized them, but for the most part, only to the extent of non-violent protest. Most of the incidents which did occur were quickly forgotten after they had been resolved.

As the rest of the nation was still receiving news of the battle at Gettysburg and the surrender of Vicksburg to the forces of General Ulysses S. Grant, a tragic incident took place in Norfolk which was not easily resolved and has been remembered by its citizens to this very day: a white Union officer, Second Lieutenant Alanson L. Sanborn of the First U.S. Colored Volunteers, was shot and killed by Dr. David Minton Wright, a prominent physician of the city, on July 11, 1863. The impact of that deed eventually involved not only the municipal leaders of Norfolk and Portsmouth but also Abraham Lincoln in Washington and Jefferson Davis in Richmond.

The political consequences of the incident, as far as has been known, have never been the subject of a full, objective historical study. This is perhaps due to historians' interest in larger and more important Southern cities. During the period of July to October, 1863, the incident was the concern of Norfolk citizens and their Federal overlords, but in various articles and chapters written about the city during the period in question the

case has been handled in a generalized pro-South, pro-Wright manner with the Federals depicted as devils and barbarians. It is the intention of the author to examine as completely as possible the complexities of the incident and to analyze clearly and concisely its effect on Norfolk citizens, to a lesser extent the Negro troops, and the Federals stationed in the city. The shooting of Lieutenant Sanborn and its aftermath raised serious questions as to the overall effectiveness of the Federal occupation in captured Southern areas, and the evidence presented by both sides was strongly biased and contradictory. Although, it is most difficult to make historical judgments on the facts of a case one hundred seventeen years after its occurrence the matter merits reevaluation.

CHAPTER I

THE SHOOTING OF LIEUTENANT SANBORN

In the early spring of 1862, Norfolk, Virginia was a Confederate city. The war itself seemed distant until the battle between the U.S.S. Monitor and the C.S.S. Virginia on the 8th of March. General George B. McClellan, commander of the Army of the Potomac, was eager to move his forces up the Virginia peninsula between the York and James rivers thereby advancing to Richmond. The Virginia was a threat to such a move but its home base, Gosport, was in danger of being seized when McClellan's troops were able to occupy Yorktown after its abandonment by the Confederates. President Abraham Lincoln saw that Norfolk, Portsmouth, and Gosport could be taken and the Confederate batteries at Sewell's Point were bombarded. Norfolk was abandoned by Confederate forces and the victorious Federals took possession on May 10th.¹

General Egbert C. Viele, the Military Governor of Norfolk, tried to maintain the city government, but the city council refused and Viele put martial law into

¹Bruce Catton, The Centennial History of the Civil War, vol. 2: Terrible Swift Sword (Garden City, New York: Doubleday and Company, Inc., 1963), pp. 263-279.

effect.² The city fathers of the city supposedly expressed the will of the populace by saying that they preferred to be considered "a conquered people."³ Elections were held in June, 1863 but suffrage was restricted to those males who had taken the oath of allegiance.⁴ Union control over the city remained, however, and Captain John A. Bolles became provost judge by order of Major General John A. Dix. Bolles was given the authority to try all cases civil and criminal except those relating to the military. His authority was later expanded to include all military offenses not within the jurisdiction of courts-martial. At the same time (June 16, 1863) civil and judicial officers of Norfolk and Portsmouth were permitted to perform their duties as long as they were "compatible with martial law."⁵

Both sides strove to maintain peace and order. Although some Norfolkkians made it quite clear where their

²U.S. War Department, The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies (Washington: Government Printing Office, 1880-1901), Series I, vol. 6, part 1, p. 634. Hereafter cited as Official Records with corresponding series, volumes, parts and paged.

³Kenneth H. Schwartz, "Ben Butler And The Occupation of Norfolk: 1862-1865 A Reappraisal" (Master's Thesis, Old Dominion University, 1972), p. 39.

⁴Ibid., p. 40.

⁵U.S. War Department, Records of the Office of the Judge Advocate General (Army), Court-Martial Case Files, MM-631, Dr. David M. Wright, National Archives Microfilm, General Orders Nos. 6 and 41, p. 32. Hereafter cited as Court-Martial Case Files. Bolles was the brother-in-law of General Dix.

sympathies lay there was neither increased harshness nor overzealous use of force on the part of the Federal authorities. The announcement of the Emancipation Proclamation on January 1, 1863 was cause for celebrations by the city's Negroes⁶ even though Norfolk had been exempted from its provisions; Negroes later appeared in the city as soldiers much to the disgust of its residents, who considered their very presence an insult.⁷

Congress had authorized the use of black troops in July, 1862 because of heavy Northern losses, increasing desertions, dwindling white enlistments, and continued Confederate victories on the battlefield. By war's end some 500,000 blacks had served in the Union Army.⁸ Lincoln himself, in a private letter to Andrew Johnson, claimed that Negroes were a great potential force in helping to restore the Union. He added that the sight of

⁶Thomas J. Wertenbaker, Norfolk: Historic Southern Port, 2nd. ed. Edited by Marvin W. Schlegel. (Durham: North Carolina: Duke University Press, 1962), pp. 220-221.

⁷Diary of Chloe Whittle, July 12, 1863, Whittle-Green Papers, Swem Library, College of William and Mary. Hereafter cited as Whittle Diary.

⁸Robert Mullen, Blacks in America's Wars (New York: Monad Press, 1973), pp. 22-23. In Louis Gerteis's From Contraband to Freedom: Federal Policy Toward Southern Blacks, 1861-1865 (Westport, Connecticut: Greenwood Press, Inc., 1973), pp. 22. It is pointed out that some 10,000 Negroes were within Federal lines after the capture of Norfolk. This figure later increased to about 15,000.

fifty thousand armed black soldiers "on the banks of the Mississippi" could end the rebellion.⁹

In 1860 Norfolk's population consisted of nearly 15,000 persons of which 10,290 were whites, 1,026 were free Negroes, and 3,284 were slaves.¹⁰ According to Claudia Dale Goldin in her work Urban Slavery In The American South 1820-1860: A Quantitative History, the city was comparable to Savannah, Georgia, and Charleston, South Carolina as being a small port with shops catering to the upper class members of Southern society. One hundred per cent of its white citizens used or owned slaves; the Customs Inspector owned or used forty slaves, the Norfolk Draw Bridge Company, twenty-two slaves.¹¹ Frederick Law Olmstead, who visited the city during the 1850's, described it as ". . .a dirty, low ill-arranged town, nearly divided by a morass." He went on to say that

⁹Abraham Lincoln, The Collected Works of Abraham Lincoln, ed. Roy P. Basler, vol. VI (New Brunswick, New Jersey: Rutgers University Press, 1953), pp. 149-150. Lincoln said much of the same to General Grant in a letter, August 9, 1863, p. 374. Hereafter cited as Lincoln, Collected Works.

¹⁰Joseph C. G. Kennedy, Superintendent of Census, Population of the United States In 1860 Compiled From The Original Returns of the Eighth Census (Washington: Government Printing Office, 1864), p. 519.

¹¹Claudia Dale Goldin, Urban Slavery In The American South 1820-1860: A Quantitative History (Chicago: University of Chicago Press, 1976), pp. 13, 20-22. Norfolk slaves were freed by the passage of the Confiscation Act of 1862 which had been created at the insistence of Secretary of War Edwin M. Stanton. The Act declared that slaves belonging to those persons in rebellion were to be set free.

Norfolk was "a. . .miserable, sorry little seaport town. . . [with] streets extremely filthy. . .[and with]. . .a most noisome stench."¹²

Another writer, William S. Forrest, saw the city differently, with "many beautiful public buildings, elegant family residences, large and splendid stores. . . well-paved streets." He went on to add that its spring and fall seasons were pleasant, its winters mild, and summers comfortably warm; the climate was described as being suitable for the raising of such crops as "corn, peas, oats, clover, potatoes, cabbages, tomatoes, melons, and grapes."¹³ Forrest depicted Norfolk as being refreshed by sea breezes, seldom visted by storms, and its evenings highly suitable for viewing heavenly bodies; Norfolkkians were "superior in morals, well-dressed, hospitable, and well-mannered."¹⁴

Although the citizens of Norfolk opposed Federal rule, albeit peaceably, they were allowed to continue unhindered their own affairs. One such Norfolkkian was Dr. David Minton Wright.

¹²Frederick Law Olmstead, A Journey in the Seaboard Slave States, 2 vols. (New York: G. P. Putnam's Sons, The Knickerbocker Press, 1904), vol. 1, pp. 150-153.

¹³William S. Forrest, Historical and Descriptive Sketches of Norfolk and Vicinity (Philadelphia: Lindsay and Blakiston, 1853), pp. 314-318, 331-332.

¹⁴Ibid., pp. 323-330, 340, and 419. Negroes, free and slave, were described as "happy and contented."

Born in Nansemond County, Virginia in 1809 David M. Wright attended Captain Patrick Military Academy in Middleton, Connecticut and later studied medicine under Dr. William Warren of Edenton, North Carolina. Wright received his medical degree from the University of Pennsylvania in 1833 and returned to Edenton to practice. In 1835 he married Penepole Creecy and moved his family to Norfolk in 1854.¹⁵ About a year after his arrival a yellow fever epidemic struck Norfolk; Wright was one of the few physicians to remain in the city to combat the disease and was stricken himself but recovered.¹⁶ His concern and dedication to his fellow citizens endeared him to them; his practice grew prosperous and he was able to support a large family which included eight children: Penelope, Minton, Elizabeth, Mary, John, Sallie, William, and Viola. His eldest son, Minton, became a civil engineer, and four of the doctors' children attended public schools in Norfolk. Dr. Wright's net worth in 1860 totalled some \$9,000 with \$4,000 in real estate and \$5,000 in personal real estate properties.¹⁷ His

¹⁵L. B. Anderson, "The Execution of Dr. David Minton Wright by the Federal Authorities at Norfolk, Virginia, October 23, 1862," Southern Historical Society Papers 21 (1893): 330. This author consistently dated the Wright-Sanborn incident one year prior to its actual occurrence.

¹⁶William S. Forrest, The Great Pestilence In Virginia (New York: Derby and Jackson, 1856), p. 231.

¹⁷U.S. Department of Interior, Eighth Census of the United States, 1860 Census Population Schedules,

combination home and office was located on 20 West Main Street, near the Atlantic Hotel.¹⁸ Wright was an owner of six slaves; three females age sixty, forty-four, and sixteen; two males age sixty and one male age forty-six.¹⁹

A "man of high social standing, an upright, amiable and peaceable citizen; in his domestic affairs, an affectionate husband and father," Wright was tall, erect, dignified and wore his gray long hair with full beard and moustache. He was kind and humane towards his slaves, a man of temperate habits inclined to practice self-control. He described himself as a Whig but admitted to never having made much of politics.²⁰ On July 10,

Virginia: City of Norfolk, Free Inhabitants, Microfilm, Roll 298, p. 67. Of Wright's children only Penelope, Minton, William and Viola were not attending public schools. He and his daughter Viola were the only members of the family born in Virginia. The ages of the Wright family at the time of the census of 1860 were: Wright, fifty-one, Mrs. Wright, forty-three; the children, twenty, eighteen, sixteen, fourteen, twelve, nine, seven, and four, respectively.

¹⁸Norfolk, Virginia, Norfolk City Directory, 1860, p. 121.

¹⁹U.S. Department of Interior, Eighth Census of the United States, 1860 Census Population Schedules, Virginia: City of Norfolk, Slave Inhabitants, Microfilm, Roll 304, p. 10. It is my opinion that the six slaves owned by Wright formed two families with perhaps one offspring each or with one couple having two children. The sixteen year old female was listed as a mulatto in the census returns.

²⁰John P. Gray [?], "The Case of Dr. David M. Wright," American Journal of Insanity 20 (January 1864): 288, 291-292. There is an oil painting of Dr. Wright included with Lenoir Chambers' article "Notes On Life In Occupied Norfolk, 1862-1865," Virginia Magazine of History and Biography 73 (April 1965): 131-144.

1863, he was perhaps a typical Norfolk citizen minding his own affairs. Successful, respected, and loved, he was in the prime of life but events of the following day would disrupt his normal activities and ultimately require all the friends and resources he could muster in order to save his life.

The Federal authorities took advantage of the large number of blacks in the area and attempted to recruit them. Several idealistic young Northerners volunteered their services to meet those goals. Among them was Alanson L. Sanborn.

Sanborn, born in Springfield, New Hampshire, was a resident of Whitford Centre, Orange County, Vermont before joining the Union Army in May, 1863. His civilian occupation, that of a school teacher, made him suitable in recruiting efforts and he assisted in the recruiting of blacks into the service of the armed forces of the United States during the months of June to July of the same year. As a consequence, he was appointed to the rank of second lieutenant on June 12, 1863, Company B, First Regiment, United States Colored Troops.²¹

²¹U.S. War Department, Records of the Adjutant General's Office, Compiled Military Service Records, Colored Troops Division, Letters Received, S22 (CT), Record Group 94, National Archives Microfilm. There were several variations of Sanborn's first name but he signed his oath of allegiance "Alanson L. Sanborn" and "Alanson" is what I have chosen to use. Hereafter cited as Compiled Military Service Records.

The regiment had been organized in Washington, D.C. from May 17 to June 30, 1863 and consisted of eighty-three men. They were ordered to the Department of Virginia and North Carolina and served at Norfolk, Portsmouth, and Yorktown from July to October of the same year. They were a part of the Seventh Army Corps, which had been organized with troops from Fort Monroe, Camp Hamilton, Norfolk, Suffolk, Portsmouth, and Yorktown.²²

Sanborn had never met Wright during the time of his service in the Norfolk area but events of July 11, 1863 would lead to an encounter with fatal and tragic results for both of them.

In the early weeks of July, 1863 Norfolk remained calm under union rule with the exception of two notable incidents. The first occurred on July 2nd when a Mr. Tyler was arrested by a Federal officer and physically assaulted by the provost guard. Mayor William H. Brooks sent Cornelius Murden to "command place" but he was told not to interfere. When Lieutenant Colonel Bozer of the 173rd Pennsylvania Volunteers told the mayor that he had no right to interfere, the Norfolk City Council unanimously passed a resolution to petition the President of the United States, the Secretary of War, and the Commander-in-Chief of the departments. At Vieles' direction Bozer

²²Frederick H. Dyer, A Compendium of the War of the Rebellion, 3 vols., with an Introduction by Bell Irvin Wiley (New York: Thomas Yoseloff, 1959), vol. I, pp. 379 and 390; vol. III, p. 1,723. North Carolina had been added to the Department of Virginia after August, 1863. Company B later participated in the Battle of the Crater, Petersburg, Virginia, 1864.

apologized to Mayor Brooks in a letter, July 20, 1863. This ended the entire matter.²³

The second incident, which had more far reaching consequences, took place on July 11, 1863, at about four o'clock in the afternoon when Second Lieutenant Alanson L. Sanborn marched a column of Negro soldiers through the streets of Norfolk. Earlier that day Mrs. Wright had had a premonition of danger and begged her husband, Dr. David Wright, to remain at home; failing to accomplish this she had made him promise to "keep out of any fuss."²⁴ As the column passed Foster and Moore's Dry Good Store on 25 East Main and 17 Hill Streets Sanborn was shot and killed by Dr. Wright who was near or in the store when the troops approached.

Accounts vary as to what happened. Wright's niece, Mrs. Stark A. W. Peighton, in a letter sent to Confederate President Jefferson Davis, claimed that her uncle deplored orally the idea that armed Negroes could march on the streets of Norfolk. She added that Sanborn, hearing the remark, attempted to slap the doctor on the cheek with his sword, and Wright, defending himself, shot the lieutenant dead.²⁵ Judge Advocate General Joseph Holt, in a report to Lincoln, stated that the word "cowardly"

²³Schwartz, pp. 40-42.

²⁴Whittle Diary, July 12, 1863.

²⁵Official Records, Series II, vol. 6, p. 188. For other accounts of the shooting see Appendix A.

was heard, words were exchanged, whereupon Wright drew a pistol and killed Sanborn.²⁶ In his book Norfolk: Historic Southern Port Thomas J. Wertenbaker claimed that the doctor approached Sanborn and called him a coward; "maddened" at the thought of being arrested by Negroes, the doctor shot Sanborn.²⁷

Another account related that while on his way to the stables for his horse in order to visit his patients Wright "procured" a loaded revolver and stood in the doorway of a store [Foster and Moore's] "apparently awaiting the passage of the Negro troops, and holding the pistol behind him and concealed under his coat." As Sanborn and his column passed Wright used "offensive language" and the lieutenant informed him that he was under arrest. As Sanborn turned towards his men to give the order Wright shot. The lieutenant then pushed the doctor backwards into the store and died while struggling with him.²⁸

A memorial to Dr. Wright stated that at the sight of Negro troops Wright had uttered an "exclamation of disgust" and was threatened with arrest. A friend handed him a pistol which Wright kept behind him while ordering

²⁶Ibid., pp. 216-218.

²⁷Wertenbaker, p. 221. This author erroneously placed the date of the incident as June 17, 1863.

²⁸Gray [?], pp. 281-285.

Sanborn to "stand off;" when the officer continued to advance he was shot.²⁹

After killing Sanborn, Wright was immediately arrested, imprisoned, and heavily ironed in the Customs House and Provost Marshall Major Alexander E. Bovay of the Nineteenth Wisconsin Volunteers informed his superiors.³⁰ Wright's wife and daughter arrived soon after as Bovay questioned him; according to one resident:

. . . Miss Pencie [Penelope, Wright's eldest daughter] stood up by him for about an hour while a Yankee guard occupied a comfortable chair behind her she not having a veil to protect her from the insolent stares of the rabble [sic] around her--but she is firm enough and true enough to endure anything where duty required it.³¹

Two days after the shooting the Portsmouth City Council unanimously adopted a resolution offered by R. G. Staples, member of council and Secretary of the Republican Union Association of Portsmouth and Norfolk County denouncing Wright as a "disloyal man." The resolution also called for the council to attend Sanborn's funeral and demanded that the military authorities

²⁹Expunged From The Record: David Minton Wright, M.D. 1809-1863. A Reprint from The Richmond News, Richmond, Virginia, Friday, May 10, 1901 (Mexico: Privately Printed, 1925), pp. 2-4. Hereafter cited as Expunged From the Record.

³⁰Official Records, Series II, vol. 6, p. 106. The Provost Marshall's last name was variously spelled "Bovay" and "Bovey," I shall use the former. He resigned in October, 1863.

³¹Whittle Diary, July 12, 1863.

speedily punish Wright.³² A day later the Norfolk City Council, on a motion by H. M. Bowden, ordered all places of business closed and for all church bells to be tolled during Sanborn's funeral procession; the city police were authorized to serve the notices announcing the council's decision.³³

On July 15th General Dix, by special order, established a military commission "for the trial of such persons as may be brought before it," at Norfolk, to meet on the 17th. The court consisted of Major General E. D. Keyes, U.S. Volunteers Service, Brigadier General R. S. Foster, also of the U.S. Volunteers Service (he was appointed as the Commission's presiding officer), Colonel Arthur H. Dutton, Twenty-first Connecticut Volunteers, Colonel Michael T. Donohoe, Tenth New Hampshire Volunteers, and as prosecutor, Major John A. Bolles, Judge Advocate, Seventh Army Corps and Provost Judge for the county of Norfolk as well as the cities of Norfolk and Portsmouth.³⁴

³²Portsmouth, Virginia, Portsmouth City Council Records, 1858-1863, pp. 553-554. The Council had taken the oath of allegiance on the same day. Staples later served in the Union Army and eventually became Postmaster of Portsmouth. The resolution was expunged from the records, May 8, 1901, on a resolution offered by Dr. Joseph Grice and was unanimously adopted.

³³Norfolk, Virginia, Norfolk City Council, Record of Common Council, No. 9, January 18, 1861 to June 21, 1868, p. 91.

³⁴Court-Martial Case Files, pp. 3-9. Colonel Donohoe replaced Colonel G. A. Stedman, Eleventh Connecticut Volunteers, whose illness had forced a delay in the proceedings. "Commission" was used interchangeably with "Court" in the trial records.

At Wright's hearing on July 18th, Bolles first read aloud the orders establishing the Commission. The accused did not object to any of its members but did express a desire for a jury trial. After the Commission was sworn in by the Judge Advocate, who was in turn sworn in by Foster, the doctor was arraigned on the charge of murder, specifying that he "willfully. . .with malice aforethought" murdered Sanborn. The charge and specification were read to Wright and he pleaded Not Guilty. He was then granted permission to employ Lucius H. Chandler and Lemuel Jackson Bowden as his attorneys.³⁵

Chandler, a native of Maine, arrived in Norfolk in 1850 and served as a lawyer and politician. He was a Unionist and as a reward had been appointed U.S. District Attorney for the Eastern District of Virginia.³⁶ Bowden had been born in Williamsburg, Virginia; after graduating from the College of William and Mary he was admitted to the bar in 1838. He later served as a member of the Virginia House of Delegates between 1841 and 1846 and was a delegate to the Virginia constitutional convention of 1850-1851. A presidential elector for the Constitutional

³⁵Ibid., pp. 10-13. Chambers' article on Norfolk life during the Federal occupation stated that Joseph Eggleston Segar was also among Wright's lawyers. The official trial records show no evidence of such.

³⁶Wertenbaker, pp. 239, 245-247. Chandler later committed suicide on April 6, 1876; during the time he served as Wright's attorney he had been recently elected to Congress.

Union ticket of John Bell and Edward Everett in 1860, Bowden was later elected to the United States Senate, March, 1863, representing Virginia.³⁷

Since Chandler was absent, Bowden requested that the Court be adjourned until the following Monday (when he was scheduled to return to Norfolk) to allow him time to return and for them to prepare their client's plea challenging and denying the jurisdiction of the Court. The request was granted and the resumption of the trial was set for 11:00 A.M., July 20, 1863.³⁸

³⁷U.S. Congress, Joint Committee On Printing, Biographical Directory of the American Congress: 1774-1961 House Document 442, 85th Congress, 2d Session (Washington: Government Printing Office, 1961), p. 578. Bowden died in office on January 2, 1864 and Joseph Segar attempted to fill the vacancy but was denied his seat. Hereafter cited as Biographical Directory.

³⁸Court-Martial Case Files, pp. 13-14.

CHAPTER II

THE TRIAL OF DOCTOR WRIGHT

The trial began on July 20 in the Customs House with Bowden and Chandler entering a plea in abatement as to the jurisdiction of the Commission. They argued that their client could not be tried by the military because Norfolk was under civil government; therefore, only the Circuit or Superior City Court had jurisdiction to hear the case. The attorneys also added that the alleged murder involved a violation of Virginia not Federal law, and that Wright could not be tried because no indictment had been brought against him by a grand jury as specified in Article V of the United States Constitution. The Commission informed Wright's attorneys that they were to be prepared with their evidence and arguments in support of the plea on the following day and warned that, if it was overruled, the trial would then proceed upon the merits of the case under the plea of not guilty. Court was then adjourned until Tuesday.¹

On the next day Bowden formally presented the defense's arguments against the jurisdiction of the

¹Court-Martial Case Files, pp. 15-16 and Document 'A'. On each day that the trial was held the previous day's proceedings were read aloud in court. The annexed documents were not given page numbers.

Commission in a four page document. He argued that his claim for civil jurisdiction be upheld by Bolles; therefore, Bowden said, his client's claims should be considered valid. He added that a crime committed by a civilian could be decided only by a civil court and cited an act of Congress enacted March 3, 1863 which ordained that only persons in the military service of the United States and subject to the articles of war could be tried by a military tribunal. Bowden concluded by saying that the military could not violate the Constitution and try Wright while civil courts existed and that the defense had additional views but wanted to hear Bolle's arguments before making any further statements. Bolles responded that the counsel for the accused was to have "all facts alleged in the plea of abatement" in order for a decision to be made, and implied that since they did not have them the trial would proceed. Bowden then reminded the Judge Advocate of General Dix's General Order No. 41 of June 16, 1863 in which civil and judicial officers of Norfolk and Portsmouth were allowed to perform their duties but with the military still in control. A copy of the order was annexed to the record and the trial began.

Bowden called Mr. Henry M. Bowden, Clerk of the Corporation Court of Norfolk and recently elected clerk of the Superior Circuit Court, First Circuit, as witness for the defense. In response to questions asked by Chandler, Mr. Bowden testified that he was "a qualified clerk only [*italics mine*] for the Corporation Court," which he said

had been organized June 8, 1863 and had transacted business including lawsuits and the issuance of marriage licenses. Mr. Bowden also testified that the Norfolk City Council had been organized and had done "much business"; his testimony also established the fact that all city officers including sergeants and constables but not the Commonwealth's Attorney had been elected and taxes collected. The Court asked him no further questions and adjourned until the following day.²

The Commission met on Wednesday, July 22, and the attorneys offered evidence in the form of a writ of habeas corpus that had been issued two days previously at the request of William Almond. Constable Cornelius Preston had attempted to serve the warrant but Provost Marshall Bovay refused to surrender Wright. Deeming it "expedient" not to use force, Preston returned the warrant.³

Failing in this effort, the defense proved and Bolles admitted as being proved that Edward P. Pitts of Accomac County was at that time Judge of the Circuit Court of Virginia, Fifth Circuit (which included the counties of Accomac and Northampton). Bowden then referred to a section of the Code of Virginia which allowed judges to exchange circuits for a period of time not longer than one year, if they agreed, or if any judge of a circuit court was unable to perform his duties another could "hold said

²Ibid., pp. 18-23 and Document 'B'.

³Ibid., Document 'C'.

Court for the whole term or any part thereof." Bowden offered to prove, and again Bolles admitted as being valid, that according to the laws of Virginia any person arrested for a felony had to be carried before a justice of the peace and if reasonable grounds of suspicion existed the justice would send that person to the city or county court for further examination. If either of the two agreed, Bowden pointed out, only then could the accused be sent to county or corporation court for trial. Bowden then informed the Commission that the next regular term for Norfolk had been set by law for November 15th. Wright's trial, he declared, could not be held until then, and he added that Virginia law prohibited the holding of judicial election within thirty days of an political one, and since elections for Virginia's representatives to Congress had taken place during the previous May, no court could be held nor any trial conducted until November. He then contended that Mr. W. W. Wing, Postmaster of Norfolk, had received a letter from Francis H. Pierpont, Governor of Virginia, from which Wing had learned that fiscal and other related matters, including the judiciary, had yet to be finally resolved by the two Virginias. The Commission, however, refused to accept the letter as evidence, over Bowden's objections.⁴

⁴Ibid., pp. 23-28. According to J. G. Randall and David Herbert Donald in The Civil War And Reconstruction, 2nd edition, revised, (Lexington, Massachusetts: D. C. Heath and Company, 1969), pp. 241-242, West Virginia had become a state on June 20, 1863; Pierpont was acting as if he were governor of Virginia but Arthur I. Boreman was later elected governor of West Virginia. Pierpont was governor of the "Restored Government of Virginia."

The following day saw Provost Marshall Bovay being called as a witness by Bolles who asked him to examine the writ of habeas corpus and to tell the Commission whether the statements in it were true. Bowden objected to the question but Bovay was allowed to answer that Preston had charged him with failure to surrender the accused. Chandler then asked Bovay if Preston had formally demanded Wright; Bolles objected to the question, which was sustained. Bovay was then asked if he would have surrendered Wright to Norfolk civil authorities if the warrant had been presented to him before the convening of the Commission. Again Bolles objected and the Court excluded the question. Chandler then asked Bovay if he had ever been shown the warrant previously by any person and if that person had said anything in relation to Dr. Wright. The Provost Marshall replied in the affirmative, saying that a man came to him and said: "This has been put into my hand [and] I know [not] what else to do with it but bring it to you." Bovay testified that he didn't read the paper for about fifteen minutes, had no idea what it was, and that the man left after presenting it to him. After reading it Bovay claimed that he searched for the man in the halls of the Customs House, found and told him that the paper made no demands on him (Bovay) and so he would have nothing to do with it. Bovay did admit that if it had been a writ of habeas corpus issued by a "competent court" he would have been required to make "an answer to it." He himself considered Wright to be in the custody of

the Judge Advocate General and had not even been aware that the man (Preston) was a constable. When asked who had custody of Wright at the time he replied that Bolles did; Chandler then asked in whose custody was the defendant when not in court and Bovay admitted "I suppose. . .in the custody of myself as. . .Provost Marshall." No further questions were asked and Bolles then read a thirty-three page argument in support of the jurisdiction and legality of the Court.

In his arguments the Judge Advocate derided Wright's pleas as "a waste of time" and said they had been tolerated as a "matter of professional courtesy." He cited General Order No. 100, issued by the War Department, in which martial law was considered to be in effect in any place formerly occupied by Confederate forces whether such a declaration had been made or not. Furthermore, it considered martial law the immediate and direct effect of occupation or conquest and remained so unless overruled by special proclamation. As far as Bolles was concerned, military jurisdiction was derived either by statute or from the common law of war. He also cited an act of Congress passed July 17, 1863 which recognized the legality of the military commissions to try capital crimes; he argued that martial law could not be established or dissolved by Congress and any act passed in relation to such was "an expression of opinion." He then refuted the testimony given by Mr. Bowden by pointing out that the only

court officers chosen was a clerk who had failed to qualify and that the section of the Code of Virginia Bowden had cited as evidence referred only to a Circuit Court which actually had a circuit judge. Since no one had been elected as judge for the area including Norfolk, Pitts could not serve in his place.

Bolles then described how the civil magistrates of the city had failed to take any steps to arrest Wright ten days after the shooting and wondered aloud why the writ of habeas corpus had been issued only after the Federals announced their intention to try Wright. General Dix's orders were still in effect, Bolles said, even though the department was then under the command of Major General John G. Foster; Norfolk and Portsmouth only had local courts, the Judge Advocate claimed, nor was a Circuit Court recognized in Dix's General Order No. 41. Since the orders establishing the Commission had been issued from the commanding officer of the department it had the authority to try Wright. Bolles concluded his arguments by asking if murder was to go unpunished:

May malignant secessionist [and] traitors. . . shoot down. . . any and every soldier or citizen . . .? Thank God. . . there is. . . a tribunal like this, competent to try [and] swift to punish. . . that can [and] will patriots like the learned counsel for the accused, or gallant soldiers like Lieut. Sanborn or, if not protect, at least avenge.⁵

⁵Court-Martial Case Files, pp. 29-31 and Document 'C'. Foster had assumed command on July 18th; in his General Order No. 1 not only was North Carolina placed under his jurisdiction but all orders and regulations established by General Dix were to remain in force until further notice.

Bowden read his reply to Bolles' arguments on the next day of the trial (July 24th); he began his counter-arguments by saying that he did not believe martial law could deprive any citizen of a jury trial and denied that Virginia was a conquered territory. Bowden cited Article 4 of the United States Constitution, which guaranteed each state a republican form of government; he admitted though that due to the lack of a civil tribune the military could establish its own courts. He expressed amazement at Bolles' statement to the effect that Congress could not interfere with martial law and pointed out that a crime committed by a private citizen did not make him a soldier subject to court-martial. Bowden also denied the authority of West Virginia (Pierpont) over Norfolk and stated that officials had been elected who could try Wright; as he expressed it "the absence of a Judge does not abolish a court." He responded to Bolles' charge that Norfolk civil authorities had not attempted to try Wright by saying they had been thwarted in their attempts because the Federals had hurriedly seized, examined, and confined him. Not only did Bowden charge Bolles with prejudging his client but also claimed that Norfolk's city officials would perform their duties if the Federal authorities allowed them to do so. As far as the Commission was concerned, it could not try Wright, just those charges under its jurisdiction. Bowden ended his remarks with another demand for the case to be turned over to Norfolk officials for adjudication.⁶

⁶Ibid., Document 'D'.

After deliberating the Commission decided that Wright was to be rearraigned and asked him to make his plea; again the accused answered "Not Guilty." Bolles then called Lieutenant Colonel Hugh C. Flood of the 155th New York Volunteers as a witness. Flood testified that he had been present when the shooting occurred and that he himself had moved aside from the sidewalk to allow Sanborn and his troops to pass when he heard the word "cowardly." According to the witness, Sanborn ordered his men to halt and sent one of them to the Customs House (the headquarters of the provost guards). He then commanded his men to "order arms" and eight of his troops turned and faced Wright, who was standing in a doorway. Sanborn and Wright exchanged words, Flood said, but he could not hear them. When the lieutenant turned as if to move away Wright fired a pistol; as the wounded man "stooped down" Wright fired again. After the second shot Sanborn rushed at Wright forcing him backwards into the store; the Negroes of the company made a shout which Flood remembered as "let's kill him," and they charged after the pair with fixed bayonets. Flood said that he rushed in after them; as he ordered the troops back he saw Wright and Sanborn struggling with a pistol. The colonel testified that the doctor held the weapon by the butt and the lieutenant held it by the barrel; as he grabbed the piston Flood also seized Wright while Sanborn said "hold him-hold him." The lieutenant then slid along the store's counter and fell to the floor, blood gushing out of his mouth and nostrils. Wright offered to help Sanborn as the Negroes threatened to

hang or bayonet him. When Bolles asked Flood what he did next the latter replied that he identified himself to the troops, the crowd which had gathered, and to the accused, who was then taken to the Customs House. Flood also stated that prior to the shooting a man came up to Wright and spoke to him but he (Flood) could not understand what was said. Flood marked his initials on the murder weapon (a five chamber Colt revolver) and upon examining it after the shooting found three loaded and two empty chambers.

The witness was then questioned by Chandler who asked him what Wright's manner had been while Sanborn laid upon the floor; Flood answered that the doctor had wanted to help the victim. In response to a question from the Court the witness stated that the first shot had been fired before Wright and Sanborn collided against one another. The testimony of the next witness, 2nd Lieutenant Charles H. Parker, Company H, 155th New York Volunteers agreed with Flood's.⁷

The next witness Bolles called on, Stephen Bo_____, a citizen of Norfolk, testified that he was in Campbell's store when he heard a drumbeat. Upon leaving the store Bo_____ saw Sanborn and his troops; he also observed Wright standing in the doorway of Foster and Moore's. As the company passed, Wright made a comment that the witness could not hear; after Sanborn halted his troops Wright "pulled a pistol out of his right hand coat pantaloon's pocket."

⁷Ibid., pp. 35-45. The testimony of all witnesses was read to them before being entered into the record. The names of most of the witnesses were unintelligible.

As Sanborn sent an orderly for the provost guard he approached Wright and said something inaudible to the witness. Wrights' reply was also inaudible--but as Sanborn turned away he was shot by the defendant; as he rushed towards him the doctor fired again. Bo _____ added that before Wright had drawn the pistol he had kept it behind him until the shooting.⁸ Dr. W. E. Mc _____, Acting Assistant Surgeon of Constables in Norfolk then testified as to the findings of the post mortem he performed on Sanborn. His testimony showed that the victim had been wounded in the left hand, right arm, and left shoulder--the fatal bullet was the one which had entered the shoulder behind the left collar bone. He added that Dr. J. B. Alexander afterwards made a more careful examination which had caused him to modify his findings.⁹ The final witness called that day, Lieutenant Colonel _____ of the 148th New York Volunteers, merely testified that he had been acquainted with Sanborn.¹⁰

The Court reconvened on Monday, July 27th, and Judge Advocate Bolles called upon Dr. Joseph B. Alexander, a civilian physician, to testify. Alexander states that he had performed a post mortem on Sanborn and found similar

⁸Ibid., pp. 49-51.

⁹Ibid., pp. 51-53. Dr. Alexander testified on the following Monday, July 27th and later repeated his findings in testimony given before a Norfolk justice of the peace, W. Todd, on August 10th.

¹⁰Ibid., pp. 53-55.

wounds as had been described by Dr. Mc_____ but added that the victims' spinal column had been injured by a bullet which would have led to death within fifteen minutes; Alexander also said that the shots had been fired so rapidly that the victim could not have altered his position as the bullets struck his body. When asked as to Sanborn's position when shot Alexander replied "right arm raised high, left hand raised to a horizontal position crossing the breast." According to him, Sanborn was standing with his left side facing the person who shot him.¹¹

At this point the prosecution rested its case and Wright's lawyers were so informed. Bowden then called Provost Marshall Bovay back to the stand and the latter testified in response to questions that Wright had been examined before him on the evening of the shooting. But when Bowden asked Bovay to describe the conduct of Wright on that occasion Bolles objected to the question and the courtroom was cleared of all persons. The Court deliberated and ruled the question to be excluded and that no further evidence would be admitted as to the defendants' conduct after his arrest. Court was reopened and the decision of the Commission announced to Wright and his attorneys, who immediately requested an half-hour to consult which was granted. When the allotted time expired Bowden and Chandler, much to the surprise of nearly everyone present, announced their withdrawal from the case and left the courtroom!

¹¹Ibid., pp. 55-58.

Bovay was dismissed and Wright was asked if he wished time to obtain other counsel or would prefer that his trial proceed. The doctor asked for a day to consider; the Court agreed and adjourned.¹² On the next day Wright presented to the Court a paper stating that he could not and did not wish to obtain further counsel, nor did he wish to introduce any new evidence on his own behalf. When asked if he wished to make any further remarks to the Court he answered that he would not at present but perhaps would do so the following day at which time he would "probably" make an address. Court was then adjourned to allow him time to prepare his statement.¹³

During this time (July 28th), William Porter Ray, editor of The Virginian, wrote a letter to Colonel William Birney of the 2nd United States Colored Troops, Recruiting Office in which he warned that Wright's lawyers would attempt to forward evidence to Washington as to his insanity along with testimony taken by the Commission. Ray described Bowden and Chandler as being very influential and having received money from the "secessionists" in the city; he was certain that the sentence would (and should) be death. According to him, Chandler would arrive in Washington soon (July 29th) to convince President Lincoln to commute the sentence to life; Birney was urged to forward the letter to the Federal authorities there to prevent Chandler from

¹²Ibid., pp. 59-61.

¹³Ibid., pp. 62-63.

succeeding. Ray supported Wright's public execution and feared that all "loyal Union citizens" would be in danger unless Wright were executed. He reminded Birney that Lincoln was noted for his kindness in similar cases.¹⁴ A petition was also sent to Lincoln on that same day (July 28th) in which over one hundred and twenty Norfolk citizens asked for Wright's release:

The undersigned respectfully request that Doctor David M. Wright of this city charged with the murder of Lieutenant Sanborn, be restored to his home and family, or he be delivered over to the civil authorities or some other tribune where he can have the privilege of a fair and impartial trial, which right belong to every Human Being.¹⁵

Wednesday, July 29, 1863 was the last day of Dr. Wright's trial; in his address to the Court he denied its jurisdiction, denounced the testimony of witnesses called against him as erroneous, and stated that his actions were based on self-defense. He argued that Sanborn should have known that his holding a pistol behind his back meant that he intended to defend himself and demanded that the Court define his motive and cause for the shooting. Furthermore, Wright said, facts stated by witnesses may lead to false conclusions and he questioned the "logic" behind "that colored company" being brought over from Portsmouth; he suggested that their purpose had been to provoke and harass white citizens. Wright reminded his listeners of the

¹⁴Compiled Military Service Records, July 28, 1863. Ray also referred to Wright as "a cowardly murdered." The letter was forwarded to Secretary of War Stanton.

¹⁵Court-Martial Case Files, July 28, 1863.

"Southampton menace" (Nat Turner's Rebellion) and claimed that Negroes became ungovernable savages when excited. He also charged that no one had mentioned Sanborn's motives nor had been willing to believe that the lieutenant had directed offensive comments towards him. The defendant continued:

. . .[I]s it to be supposed that a citizen of Norfolk, himself an owner of slaves, not knowing but what even one of my slaves was in that company, would submit to be arrested by Negroes [and] marched off to the guardhouse? No sir, I could not submit to that.¹⁶

Wright then criticized the testimony given by Flood, Parker and Bo_____ as being inaccurate and pointed out to the Court that he could have just as easily killed Sanborn while they were struggling and had immediately offered assistance to him after he was wounded. He concluded his address by saying that he had meant to leave his case just where it had been left by his counsel and did not want his address to become part of the proceedings of the Court.¹⁷

Judge Advocate Bolles read his final arguments to the Commission. He stated that the Commission had been rightfully established by the commanding officer of the department; murder was an offense against the laws of war in places under martial law. He pointed out to the Commission that murder was punishable by death and reminded them that they were soldiers and therefore knew what "the good of the

¹⁶Ibid., Document 'E'.

¹⁷Ibid.

service demanded." However, he did urge Wrights' acquittal if the Commission had any remaining doubts and insisted that if Wright were insane he should be confined in an insane asylum until cured. Bolles then responded to Wright's demands for the Court to prove his guilt; the Judge Advocate showed that the defendant's motives had been clear since he had admitted being a slaveholder and a secessionist who became upset at the sight of black troops. He argued that there was room enough on the sidewalks for "peaceful, union-loving citizens and soldiers," and mentioned how Sanborn's first act in the face of an hostile crowd had been to halt his troops and send for the provost guard. In addition, according to Bolles, Sanborn ordered his men to "order arms" and spoke so quietly to Wright that others nearby could not even hear what he said. The doctor's response--murder--was not necessary, said Bolles, even though he did not wish to be arrested; Wright was the provoker because he drew and concealed a gun behind his back. Sanborn, as far as Bolles was concerned, had shown respect for the doctor by not even allowing his troops to seize him.

Bolles then attacked Wrights' contention that he did not mean to wound; the Judge Advocate explained that to injure is as unlawful as it is to kill, and Wrights' offer to assist Sanborn as he lay dying meant nothing--the crime had been accomplished. In conclusion, Bolles reminded the Court that Lieutenant Parker had testified that he heard the word "cowardly"; it was his (Bolles) belief that the

shooting of Lieutenant Sanborn was deliberate and unprovoked.¹⁸

The courtroom was cleared to allow the Commission to consider all the evidence and Bolles read to it the entire transcript of the trial. Upon reaching a verdict, the Court summoned the accused and announced its unanimous decision: Guilty of both the charge and the specification. Dr. Wright was then sentenced to be hanged at such time and place as would be selected by General Foster or by the president of the United States.¹⁹

¹⁸Ibid., Document 'F'.

¹⁹Ibid., p. 65.

CHAPTER III

FINAL APPEALS AND EXECUTION

Two days after Wright's trial had ended one of his "former" attorneys, Lemuel Bowden, wrote a letter to Abraham Lincoln in which he presented the facts of the case; he argued that the Commission had wrongly tried and sentenced Wright because the accused did not have the assistance of counsel during the latter part of his trial. Bowden added that he and Chandler could have proven their client's insanity and requested the President to examine the proceedings of the Commission himself. He also promised to submit affidavits to support his allegations. On the next day Chandler also wrote to Lincoln and reminded him of his promise to suspend judgement on the case until the record could be studied further; he also promised to provide more information on the matter with the assistance of Bowden and his son, Thomas R. Bowden. Chandler, interestingly enough referred to Bowden and himself as "the council of Dr. Wright."¹

¹Presidential Papers Microfil, Abraham Lincoln Papers. Washington, D.C.: Library of Congress, 1959, Bowden to Lincoln, July 31, 1863; Chandler to Lincoln, August 1, 1863. Chandler had met with Lincoln on the previous Friday. Hereafter cited as Presidential Papers.

Brigadier General Henry M. Naglee, commander of the Department of Virginia, Seventh Army Corps Headquarters (quartered in Norfolk) sent to Lincoln the records of the Commission which included a petition of the citizens of Edenton, North Carolina, in which they testified as to Wrights' professional and personal character as "first and untarnished." Lincoln, keeping his promise to Chandler, then ordered General Foster to send him a transcript of the trial and not to carry out the sentence passed on Wright.² As Chandler continued to urge Lincoln to allow Bowden and himself to make a personal defense in Washington on their client's behalf Wright's niece, Mrs. Stark Peighton, urged Jefferson Davis to take any steps to effect her uncle's release. The Confederate Secretary of War, James A. Seddon, expressed his government's sympathy to the Wright family and praised the doctor's "prompt vindication of his honor" but could not see how his government could aid him. In fact, Seddon believed that any interference by his government would only make matters worse.³ Naglee later informed Foster that the citizens of Norfolk were complaining that the only other physician available in their area had been prohibited from practicing because he had yet to take the

²Court-Martial Case Files, Naglee to Lincoln, August 1, 1863; Official Records, Series II, vol. 6, p. 169; Series I, vol. 27, part 3, p. 845; Presidential Papers, Lincoln to Foster, August 3, 1863; Foster to Lincoln, August 3, 1863; Lincoln Collected Works, p. 362. By order of General Foster Naglee assumed command of the Department of Virginia on July 25th. The petition, signed by forty-eight citizens of Edenton was dated December 20, 1833.

³Official Records, Series II, vol. 6, pp. 187-188.

oath of allegiance to the United States Government of Virginia. This was so because no person in the Department either minister, lawyer, or doctor could practice his profession nor collect rent or debts unless he took the oath.

Meanwhile, the situation for Norfolk and Portsmouth citizens had worsened, and the oath was the direct cause. The policy of the Federals had caused some 3,000 Norfolk families to become destitute while at the same time enriching 1,000 others who had come to the area from the North "for business purposes." Portsmouth residents, according to its mayor, Daniel Collins, had 1,200 poor persons and their numbers were increasing. Collins told Naglee that his city could provide for its poor if the Federals would allow city officials to collect taxes.⁴ Their request was denied and the military rulees extended the policy.

During this period Judge Advocate General Joseph Holt, having considered the record of Wright's case, submitted his report to Lincoln. A highly respected officer, Holt, born in Breckenridge County, Kentucky in 1807, was educated at St. Joseph's and Centre College; after reading law in a law office he began to practice in 1831. During

⁴Presidential Papers, Naglee to Foster, August 16, 1863; Official Records, Series I, vol. 27, part 3, pp. 851-852. Naglee's statements regarding the physician is puzzling; Norfolk had at least eleven other physicians and it is inconceivable that none of them would have taken the oath as to deny aid to their fellow citizens. The remarks concerning Northerners coming to the area "for business purposes" implies that carpetbaggers were taking advantage of Southerners long before the war ended.

the administration of President James Buchanan he served as Commissioner of Patents, Postmaster General, and Secretary of War. A close friend of Lincoln, Holt was appointed Judge Advocate General on May 2, 1863 and assisted the President in implementing his policy of military control over civilian political prisoners and others accused of non-military crimes. His efforts established the jurisdiction of military commissions to try those persons ordinarily not subject to court-martial, thus allowing Union military authorities to arrest and try civilians who had been subject to civil courts during peacetime.⁵

In his report Holt reviewed the shooting incident itself and the subsequent trial and claimed that Wright's attorneys had not offered a defense nor had they attempted to produce any evidence respecting his insanity. Wright's final address to the Commission, said Holt, not only explained his motives (self-defense and the determination not to be arrested by Negroes) but proved his sanity. As the Judge Advocate General pointed out Wright's intelligent recollections concerning the details of the incident and his disclaimers of insanity were ample proofs of his guilt.

⁵U.S. Army, Judge Advocate General's Department, The Army Lawyer: A History of The Judge Advocate General's Corps, 1775-1975 (Washington, D.C.: Government Printing Office, 1976 [?]), pp. 52-53; U.S. War Department, Records of the Adjutant General's Office, Commission Branch, Letters Received H 834 (CB) 1864; Records Group 94, National Archives Microfilm, Holt to General L. Thomas, May 2, 1863. Holt played a major role in the prosecution of the Lincoln Conspirators and that of Major Henry Wirz, Commander of Andersonville Prison. Holt died on August 1, 1894 from injuries caused by a broken leg.

Holt concluded that the crime was " a homicide committed without just cause or provocation. . .an undefended assassination," that those considerations justified the sentence of the Commission.⁶

As Lincoln considered the issue other appeals were sent to him by Wright's supporters. A letter written by N. B. Webster implored clemency for the doctor and described him as a "worthy and christian gentleman. . .incapable of murder," and mentioned that Wright had treated Union soldiers and sailors without charge during the summer of 1862. Webster concluded his letter by saying that he was ignorant of the facts and evidence submitted against the doctor but was certain that Lincoln's pardoning of Wright would be appreciated by Norfolkians and "his helpless family."⁷ The President decided to hear further arguments on Wright's behalf and requested that Bowden, Chandler, and Joseph Eggleston Segar, a local Unionist attorney and former member of Congress, come to Washington to present the doctor's case. During the same period Jefferson Davis wrote a letter to Thomas Bragg, former Confederate Attorney General, in which he stated that he would gladly do anything

⁶Official Records, Series II, vol. 6, pp. 216-218.

⁷Court-Martial Case Files, Webster to Lincoln, August 21, 1863. Webster, a native of New Hampshire, had resided in Virginia for several years.

in his power to rescue Wright but had been unable to "devise any methods" which might save him.⁸

Despite the efforts of Bowden, Chandler, and Segar, Lincoln remained indecisive; Francis Pierpont, however, urged support of Wright's sentence and criticized the Presidents' exclusion of Norfolk and Portsmouth from the provisions of the Emancipation Proclamation. Not only did Pierpont request the continuance of military rule in the area, but he also claimed that the execution of Wright would aid in the recruitment of blacks. He added that the military administration would become more efficient and Union operations safer if the exceptions were revoked on the ground of military necessity. Seemingly besieged on all sides, Lincoln decided to seek the professional services of Dr. John P. Gray, Superintendent of the New York State Asylum at Utica, to determine Wright's sanity or insanity.⁹ Gray, also the editor of the American Journal of Insanity, was described as "a man of strong opinions, with violent likes and dislikes. . . frequently involved in several major controversies." It was his opinion that the plea of insanity was used far too often in American criminal

⁸Lincoln, Collected Works, p. 419: Biographical Directory, 1,579; Official Records, Series II, vol. 6, p. 245. Segar, born in 1804 had also served as a member of the Virginia House of Delegates, 1836-1838, 1848-1852, and 1855-1861. He also served in the thirty-seventh Congress. He died on the steamer George Leary, April 30, 1880, while en route to Washington from Norfolk, Virginia.

⁹Presidential Papers, Pierpont to Lincoln, September 3, 1863; Lincoln, Collected Works, p. 429.

cases and he claimed that juries were unfit to solve the questions of insanity in such instances. He contended that grief, jealousy, or excitement due to business, politics, or religion were insufficient grounds to produce insanity which he defined as "a physical disease of the brain with mental phenomena as symptoms." Gray also opposed the principle of "irresistible impulse" (which Wright's supporters claimed he had suffered from) which held a person was not responsible for this actions when he became incapable of preventing the consequences.¹⁰

Lincoln instructed Gray to gather all evidence to be offered on the behalf of Wright as well as against him regarding his sanity and no other questions [italics mine]. Gray was to preside over any and all hearings as Special Commissioner with the power to exclude evidence not pertinent to the issue. The President wanted evidence as to Wright's sanity between the time of the homicide and the period of Gray's commission; he was to notify Bowden and Chandler of his mission. General Foster was to designate a person under his command to act as Judge Advocate for the government, provide for the attendance of any and all witness, furnish a suitable place for conducting the examinations and any other related services. Gray was also given permission to examine Wright personally and, at his

¹⁰J. K. Hall, gen. ed., One Hundred Years of American Psychiatry (New York: Columbia University Press, 1944), pp. 205-211, 330, 342-349, 366, 551-564. Gray served as editor of the journal from 1854 to 1884 and was chief prosecution witness of the trial of Charles Guiteau, the assassin of President James A. Garfield.

discretion, allow him to be present during the hearings or as not. Once he completed his assignment Gray was to report his conclusions to Lincoln as soon as possible.¹¹

Upon his arrival the Special Commissioner proceeded to organize the Commission and Foster appointed Major J. L. Stackpole, Judge Advocate, as counsel for the Federal government. Gray then decided that the proof of Wright's insanity would rest with Chandler and Bowden, and at their request decided to hear only evidence as to whether the murder of Sanborn had been a sane or insane act. After obtaining the affidavits which had been filed with Lincoln as to Wright's insanity Gray decided to interview Wright personally.

In the first interview, which lasted two hours, Wright stated that he did not wish to see Gray with his attorneys present and the two men talked of professional matters, recent remedies and their application. The accused expressed an interest in Gray's asylum management and a fatherly concern over his eldest son, Minton, who was in service with Confederate forces. He regarded his confinement as unpleasant, and his emotions were aroused once or twice when their conversation turned to his present situation. Wright described various aspects of his practice; he prescribed and gave out medicine to his patients himself and judged doses by eye but was careful always to examine his

¹¹Lincoln, Collected Works, pp. 437-438. The military was also ordered to prevent Wright's escape. Gray arrived in Norfolk on or about September 11, 1863.

patients further before prescribing additional medicines. Wright admitted to an increasing failure of memory and stated that he often carried a visiting book to make sure he had completed his rounds; his wife was in the habit of asking him in the evenings if he had made all his visits. Oftentimes he was compelled to apologize or explain his seeming neglect to his friends and patients. He also mentioned that he was often read to sleep by his family but had had no trouble sleeping since the war had begun. Gray's impressions of Wright after this interview were that he was "pale, composed, and gentlemanly."¹²

During Gray's next visit Wright spoke about his childhood and how his family had feared he would die of consumption. He claimed a "horror of blood" yet mentioned that he rarely used a pistol and had practiced with one at a club. He saw himself as a kind master to his slaves and believed slavery to be "in accordance to the Scriptures and the true welfare of the Negro"; abolition of slavery, he said, would be a great wrong to both races. Wright said that he was fair in health but in the past had suffered from gastric, venal and heart trouble. When asked about his feelings towards black troops he said that when the Federals seized Norfolk he practiced "dignified non-intercourse and abstention from all violence," he had continued

¹²Gray [?], pp. 286-290; Court-Martial Case Files, Gray to Stanton, September 13, 1863; Gray to Lincoln, September 21, 1863; Lincoln, Collected Works, p. 443. Minton Wright had been missing in action since the Battle of Gettysburg; his body was never found and Wright was never told of his son's fate.

his medical and private affairs and avoided participating in any discussion of politics. Wright claimed that he felt no hatred towards black soldiers but believed the arming of slaves a great wrong. Gray then asked him about his activities and feelings on the day the lieutenant was shot. Wright replied that he had felt calm as he went about his usual affairs but at the sight of the black troops had felt an "unconquerable and desperate" impulse to shoot the officer leading them. He refused to say how he had obtained the pistol because he was unwilling to involve anyone else in his problems but did admit that he did not have the weapon for more than ten minutes before the shooting. After Sanborn was dead he felt "the most awful agony of mind" and suffering intensely for a few days, would have welcomed death but tears had relieved him. While confined Wright had joined a church [Christ Episcopal] and managed to gain twenty pounds. According to Gray, he wept frequently during their conversation but when composed wished to know if Gray's opinion would determine his sanity. When the Commissioner responded in the affirmative the doctor pointed out to him that his lack of premeditation was the strong point in his case.¹³

Thirteen witnesses gave testimony on Wright's behalf and the same number gave testimony against him. Gray eventually dismissed the testimony of witnesses in favor of the accused because they were persons outside his

¹³Gray [?], pp. 290-294.

social sphere and their statements were "too few, too disconnected, too insignificant." One of those witnesses, Dr. Robert B. Tunstall, testified that Wright had exhibited indications of insanity but could not remember the time that the change had begun; Gray pointed out that Tunstall and Wright had differed on professional questions so his testimony was unsatisfactory. Another witness, Dr. E. D. Granier, testified that he never saw Wright commit an irresponsible act.

The Commission was more inclined to agree with the testimony given by prosecution witnesses, one of which, Charles A. Santos, a chemist, was described as "important and intelligent." Santos testified that Wrights' prescriptions had been unusual but Wright himself was not insane; Gray strongly favored the testimony of the chemist because it agreed with his own observations.

At first Gray found it difficult to determine if Wright's uncontrollable impulse was an insane one, but after carefully reconsidering the testimony given by witnesses and based on his own interviews with Wright he decided that the doctor had not suffered from delusions. The Commissioner found it hard to believe that without insanity could exist over long periods of time without being detected by his colleagues and proper steps taken; Gray also believed that such a form of insanity could not suddenly appear and then instantly disappear with the accomplishment of the violent act. The work of his commission was concluded on September 26 and in his report

to Lincoln he pointed out that Wright had enjoyed the confidence and respect of his fellow citizens, was in full charge of his duties and responsibilities, and was conducting a large medical practice during and before the period of all his alleged insanity. Gray also claimed that no member of a family treated by Dr. Wright who was on the same level of social standing with his family gave any testimony in support of the allegations of insanity. Dr. Gray concluded his report by saying that he did not believe Wright to have been insane prior to or on July 11, 1863 nor since that time ". . .and is not insane now."¹⁴

General Foster took it upon himself to allow Lincoln the benefit of his opinions as well; he viewed the killing of Sanborn as "cold-blooded murder" and reminded him of the type of troops which the lieutenant had commanded. Foster deemed it essential to the discipline and feelings of pride and self-respect among the officers of the black troops that Wright be made to suffer the penalty decreed by the first commission. Although some of Wright's supporters insisted that his actions had been those of any true Southern gentleman forced to defend his honor,¹⁵ the incidents' impact on the area's Negroes, especially

¹⁴ Ibid., pp. 289, 294-300.

¹⁵ John Hope Franklin, The Militant South, 1800-1861 (Cambridge: Belknap Press of Harvard University Press, 1956), pp. 33-35. Robert E. Mays' article "Dixies' Martial Image: A Continuing Historiographical Enigma," The Historian 40 (February 1978): 213-334, argues against Franklin's contentions.

possible future soldiers, was considerable in that if Wright were freed they could never be assured of Federal protection. At best, the shooting can be viewed as a testing ground with regards to Negro soldiers in occupied Southern cities; to them, the thought of the murder of officers openly in the streets meant that eventually the populace would grow bold and begin shooting at them. Foster and other Union authorities in Norfolk were aware of the complications of the case and believed that Wrights' execution would be an effective means of demonstrating Federal authority in the area; thus intimidated, Norfolkkians' resistance would weaken and the morale of Negroes raised to levels which would help to increase enlistments.

On the basis of the report submitted by Dr. Gray, Lincoln, on October 7, 1863, issued a proclamation in the case of Dr. Wright. In it, he declared that he had reviewed all the records and reports dealing with the matter, and had had the doctor examined to determine his sanity. Lincoln proclaimed that Wright, on the basis of the examination, was not insane and approved of the findings and sentence of the court-martial; the military authorities were directed to appoint a time and place in order to carry out the sentence of death. Foster ordered Brigadier General James Barnes, commanding the Union forces at Norfolk to carry out the sentence on Friday, October 16, 1863 at ten o'clock in the morning.¹⁶

¹⁶Lincoln, Collected Works, p. 505; Official Records, Series II, vol. 6, pp. 360-361; Series I, vol. 9, part 2, p. 322.

One of Wright's lawyers, Bowden, successfully appealed to Lincoln for a respite to allow the doctor time to settle his private affairs; a period of one week was granted.¹⁷ This pause thus allowed supporters of the condemned man to increase their efforts to secure his release or a change in the sentence of life imprisonment.

October 17th was a day of much activity involving Wright and his family. His daughter, Elizabeth, was married to William H. Talbot, a local Norfolk farmer; Wright had successfully petitioned the Federal authorities to allow the ceremony to be held in the office of his prison. Thirty guests were present as the couple were wed by Mark L. Chevers, a U.S. chaplain from Fort Monroe. Some five hundred and seventy Norfolk citizens signed three petitions on the same day requesting President Lincoln to pardon or confine their fellow citizen for life.¹⁸ Talbot and Mrs. Wright later made an application for permission to see Lincoln in order to plead in person on Wrights' behalf. Foster agreed to forward their

¹⁷ Official Records, Series II, vol. 6, p. 380; Lincoln, Collected Works, p. 514. Bowden's request was granted one day prior to the scheduled execution date.

¹⁸ Anderson, p. 333; Norfolk, Virginia, Corporation Court, Marriage Register, December 7, 1835 to April 29, 1879, pp. 39-40; Richmond Enquire, October 22, 1863; Presidential Papers, Norfolk, Virginia Citizens to Lincoln, October 17, 1862. The ages of the bride and groom were nineteen and thirty-nine, respectively. Some Norfolkians signed all three of the petitions; the first one contained the signature of nine ministers; eleven physicians, five lawyers, and consul and vice-consul of Portugal, and the vice-consul of Austria.

application but informed the President in a telegram that the Wright family had refused to take the oath of allegiance and reminded him that "as you have postponed the execution one week I feel it my duty to forward the application. . ." The telegram was received in Washington at two forty-five that afternoon; Lincoln's reply was matter-of-fact and constrained:

It would be useless for Mrs. Dr. Wright to come here. The subject is a very painful one, but the case is settled.

A. Lincoln¹⁹

Wright's family had probably rejected the idea of taking the oath and even then did not offer to do so; Foster himself had written earlier to Lincoln expressing the opinion that Wrights' execution would be essential to the self-respect of the officers and men of the Negro troops.

Bowden and Chandler continued their efforts to save their client; in a letter to Lincoln dated October 21st, they repeated their contention that Wright was "of unsound mind" and urged that he be confined for life. They even suggested that he be exchanged for a Dr. Drucker who was confined in Richmond.²⁰ Lincoln did not answer them.

As the execution date drew near rumors circulated throughout the city suggested that Wright might be rescued.

¹⁹Presidential Papers, Foster to Lincoln, October 17, 1863; Lincoln, Collected Works, p. 552; also see Appendix B.

²⁰Presidential Papers, Bowden and Chandler to Lincoln, October 21, 1863.

with the probable assistance of Confederate guerrilla bands who not being uniformed were nearly impossible to distinguish from farmers residing in the county. Often, they would fire upon Union soldiers from concealment and escape before actual hand-to-hand fighting. To avoid ambushes the Federals forced local influential secessionists, placed in advance of them, to serve as their guides whenever they ventured into the less populated sections of the county. On the evening of October 21st, Wright was visited in his cell by his eldest daughter, Penelope. Having shaved himself he exchanged clothes with her and extinguished the light he generally used whenever he had visitors. This aroused the suspicions of Lieutenant Cook, who had charge of him, and the cell was watched. His face covered by a veil, the doctor attempted to leave but was hampered by leg irons. He was discovered and returned to his cell saying, "desperate means were pardoned under desperate circumstances"; at the time of the attempt "numerous fires" broke out in different parts of Norfolk, probably as a diversion.²¹ It is entirely possible that a conspiracy of his supporters had planned his escape (he was often allowed visitors) in combination with appeals and requests for delay of his execution. If he had been successful it would have been rather easy for his friends to

²¹Anderson, pp. 332-333; New York Herald, October 25, 1863, Lynchburg Daily Virginian, November 4, 1863; Wertenbaker, p. 221; Official Records, Series I, vol. 27, part 3, p. 846. Penelope Wright was not held for her role in her fathers' attempted escape.

smuggle him out of the city to be hidden in the countryside until he could travel to Confederate lines.

Lemuel Bowden refused to give up; on the day following the attempted escape he wrote to Lincoln again and claimed to have received secret information from his son concerning the trial. According to Thomas Bowden, Attorney General of Virginia, an officer of the Union Army had signed a certificate attesting to the fact that a member of the military commission had made unfavorable remarks about Wright before he had been arraigned or had heard any of the testimony against him. Again, Lincoln did not reply, and on that same afternoon the execution was set for the next morning at ten o'clock. In a letter to his wife Wright said:

My dear wife, all things must have an end, so to our happiness. Oh! how blest we have been! . . . It was too bright to last, and I have always felt it would terminate by some accident to myself.²²

Friday, October 23, 1863 was described by one writer as a day of "dark clouds obscuring the heavens [with] the city of Norfolk enshrouded in gloom." The condemned man had spent the night with his family, a few friends, and the spiritual consolation of E. M. Rodman and M. A. Okeson, rectors of Christ Episcopal and St. Paul's Church, respectively. After bidding his fellow prisoners farewell he left the Customs House and asked permission to look into his

²²Official Records, Series II, vol. 6, p. 409; Series I, vol. 29, part 2, p. 370; Anderson, p. 331. The two officers were never identified and the certificate has not been found.

coffin (which he had built himself) to look upon the daguerreotypes of his family which he had requested be placed around the inside of it. Composed and apparently unafraid he entered the carriage which was to convey him to the execution site and listened to Scriptures recited by Reverend Rodman.²³ As the carriage and its armed escort moved towards the Fair Grounds (located about a mile north of the city) its route was patrolled by mounted scouts and the streets were filled with women and children waiting and crying bitterly; according to one witness the thousands of spectators consisted mostly of Federals, "white riff-raff," and Negroes.²⁴

The gallows, erected in the center of the race-track, was surrounded by a hollow square of Federal troops consisting of the Twenty-first Connecticut Volunteers (commanded by Colonel Dutton); 118th New York Volunteers (commanded by Colonel Keese); the Second North Carolina (a regiment of Negroes commanded by Colonel Draper); Regans' Seventh Battery, the Eighth and Fifteenth Connecticut Regiments, and the Fourth Rhode Island Regiment. Before the black hood was adjusted over his head by the executioner, John Armstrong, Company B, Twenty-first Connecticut Regiment, and Captain Shepard, Rodman offered a short prayer and Wright knelt and repeated portions of the Litany and the Lord's Prayer. Dressed in a dark coat, pants, buff vest

²³Anderson, pp. 333-334; Tucker, p. 97.

²⁴Ibid., p. 334; Expunged From The Record, p. 6.

and white necktie the doctor presented a neat and dignified appearance before the crowd. His final address consisted of a single statement: "The deed I committed was done without malice." He himself gave the signal for the trap to be sprung.²⁵

Wright's funeral was held the following evening at six o'clock in pouring rain; the streets were so crowded with Negroes, spectators and mourners that Federal troops had to clear a path for the hearse with drawn sabres; Foster reported Wright's death to his superiors saying that "everything passed off very orderly."²⁶ The doctor was buried in Elmwood Cemetery²⁷ (See Map 1).

Dr. John Gray later published an article concerning his role in the case of Dr. Wright in the American Journal of Insanity after having received the permission of Secretary of War Edwin Stanton; Holt considered its publication to be in the interests of science and public justice, but friends of Wright continued to claim that he had been the victim of "legal murder."²⁸

²⁵New York Herald, October 25, 1863; Lynchburg Daily Virginian, November 4, 1863; Official Records, Series I, vol. 29, part 2, p. 322; Anderson, pp. 334-335.

²⁶Ibid., pp. 335-336; Official Records, Series I, vol. 29, part 2, p. 370.

²⁷Anna Mae Rowe, "Records of Cedar Grove and Elmwood Cemeteries" (Norfolk, Virginia: Typed and Bound by The Church of Jesus Christ of Latter-Day Saints, 1957), p. 439. This source wrongly listed Wright's age as sixty-four instead of fifty-four. See also Appendix C.

²⁸Official Records, Series II, vol. 6, pp. 603-604; American Journal of Insanity (January 1864): 284-300;

Mrs. Wright and her family, after receiving permission from General Barnes, moved to Petersburg; upon their arrival Richard H. Baker, Jr., then representing Norfolk in the General Assembly, offered a resolution which was adopted by that body on March 10, 1864. Wright was declared a martyr for the Confederacy and the Assembly expressed its sympathies to his family.²⁹

Penelope Wright later married Alexander Weddell, Rector of St. John's Church, Richmond. Their son, Alexander Wilbourne Weddell, became president of the Virginia Historical Society and served as United States Ambassador to Argentina and Spain. Mrs. Wright died at age seventy-three, May 13, 1889, and was buried beside her husband in Norfolk.³⁰

An ironic epilogue to this incident appeared in the form of a letter addressed to a Major Crosby and signed by George H. Johnson, Assistant Adjutant General, by command of General Barnes. Written twenty-four hours after the execution it ordered Wright's release upon his giving bond for the amount of one thousand dollars to Edward Warren, A Doctor's Experiences In Three Continents (Baltimore: Cushings and Bailey, Publishers, 1885), p. 193.

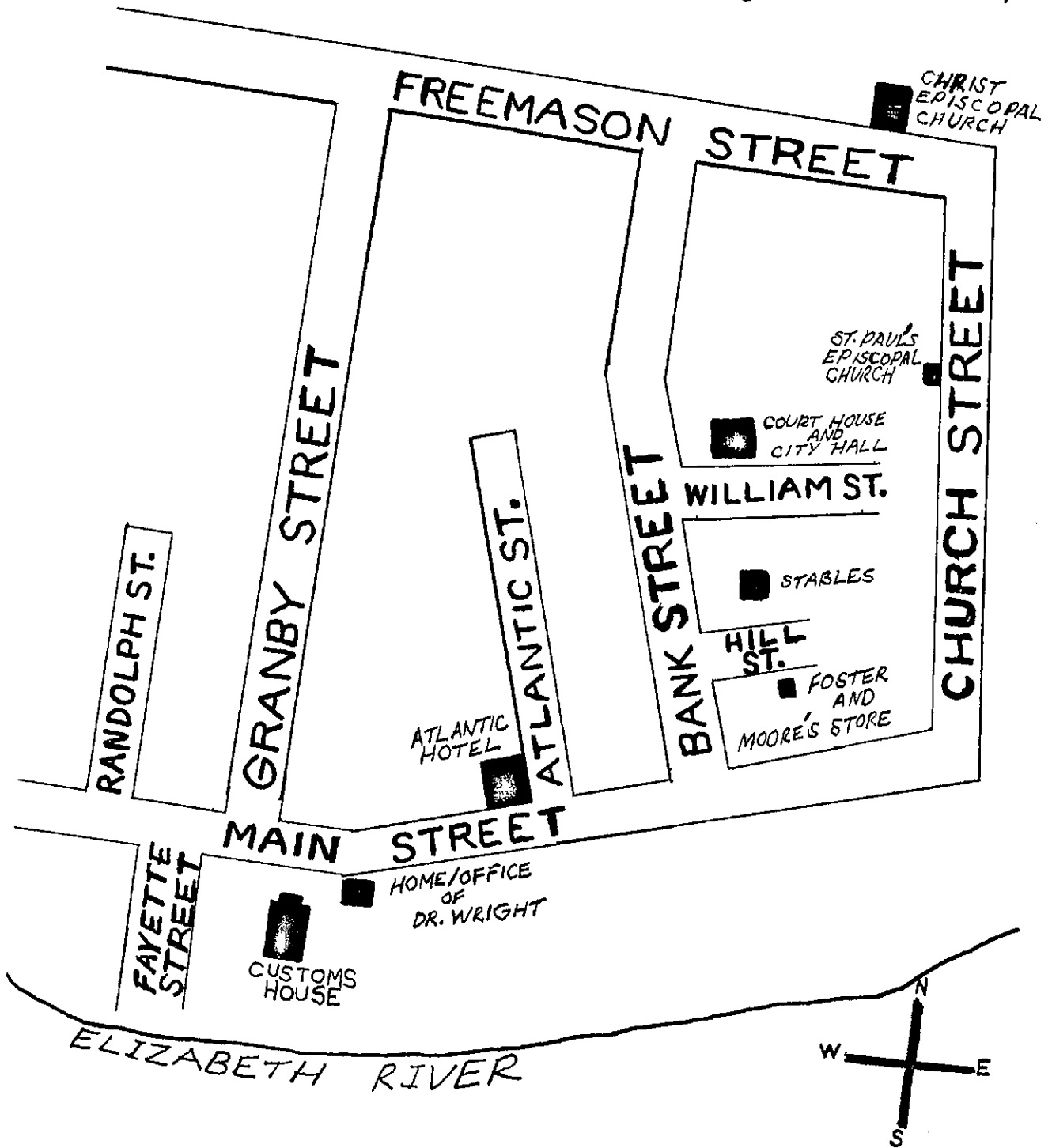
²⁹Expunged From The Record, p. 7; Virginia, General Assembly, Acts Passed At Session, 1863-4 (Richmond: William F. Ritchie, Public Printer, 1864), pp. 85-86; Anderson, pp. 336-337. For the full text of the resolution see Appendix D.

guarantee that he would present himself to Federal authorities whenever required.³¹

³¹Compiled Military Service Records, Johnston to Crosby, October 24, 1863. This is the most puzzling document in the entire case; I suspect that it was created in the belief that Wright would be released under some special provision of General Foster's or Lincoln's until he could be tried a second time.

FAIR
GROUNDS

ELMWOOD
CEMETERY



NORFOLK, 1863

CHAPTER IV

THE WRIGHT-SANBORN INCIDENT IN RETROSPECT

At no other time in American history were civil liberties so widely threatened than during the Civil War. Lincoln's use (or misuse) of his presidential powers have been the subject of debate and conclusions have been reached but nothing definite has been agreed upon, as is with the case of other historical problems. Although the source of his power was supposedly sanctioned by the Constitution, Lincoln sought to justify his actions. His proclamation that a state insurrection existed (April 15, 1861), was not exercised by Congress until three months later; Lincoln exercised his war powers which he felt included the right to declare that a rebellion existed, to increase the armed forces by calling for volunteers, to suspend the writ of habeas corpus, to proclaim martial law, to arrest persons without warrant, to seize private property, to spend money without congressional approval, and to free the slaves of those in rebellion. His powers of war also included that of pardon and prosecution of law-breakers.¹

¹J. G. Randall, Constitutional Problems Under Lincoln, rev. ed. (Gloucester: Peter Smith, 1963), pp. 31-39.

Many of his fellow citizens believed that only Congress could declare war but since it was not called into session until actual warfare had commenced, Lincoln, under his authority as Commander-in-Chief, took measures which he considered necessary to pressure both the Constitution and public safety; Congress, disturbed of what had been done, concurred,² but Lincoln was careful at least to seek congressional support of his later measures.

One of the issues of the war was the question as to whether the writ of habeas corpus could be suspended by the President or the Congress. In Ex parte Merryman (1861) this question brought Lincoln and Chief Justice Roger B. Taney into a critical confrontation. Merryman, a member of a Maryland secessionist organization, was arrested by Union soldiers, and he petitioned for a writ of habeas corpus. Taney, serving in his capacity as circuit judge, approved the writ but the military refused to obey it and instead replied with an explanation for the arrest. Failing in his efforts to have Merryman brought to court, Taney read an opinion denying Lincoln's authority to suspend habeas corpus writs and declared that only Congress could do so. Merryman was indicted for treason and later was released. By September, 1862, Lincoln could proclaim that any persons interfering with enlistments, resisting the

²Clinton Rossiter, The Supreme Court and the Commander-in-Chief, expanded ed., with a Introductory Note and Additional Text by Richard P. Longaker (Ithaca and London: Cornell University Press, 1976), pp. 76-77.

draft or other disloyal practices would be subject to martial law, thereby courts-martial or military commissions; the habeas corpus privilege would be suspended for such persons as well. In March of 1863 Lincoln was authorized by Congress to suspend the writ, thus his bold actions were again supported though somewhat belatedly. The writ suspension did not immediately produce martial law; they were still issued but could and often were ignored.³

Another problem was the question of loyalty and the trying of citizens by the military. Definitions of disloyalty varied from place to place; some Northerners were arrested for merely having been friends of those who had been arrested previously or for even having been a resident of Atlanta, Georgia. By swearing loyalty to the Federal Government a citizen could theoretically avoid arrest; this was an idea to consider because many Northerners took it upon themselves to deal with those they suspected of secessionist sympathies. The lack of a general oath and test made matters worse;⁴ the Constitution required all national and state officials to take an oath to uphold it [Article VI, section 3]; many of those arrested were often released upon taking an oath of allegiance.⁵

³Randall, pp. 161-162, 130, 152-153; Rossiter and Longaker, p. 24.

⁴Harold M. Hyman, To Try Men's Souls: Loyalty Tests in American History (Berkeley and Los Angeles: University of California Press, 1959), pp. 140-144, 168.

⁵Harold M. Hyman, A More Perfect Union, The Civil War Centennial Commission Series (New York: Alfred A. Knopf, 1973), p. 175. Hereafter cited as A More Perfect Union.

Still another problem was that of the military's role, which was twofold: to defeat and occupy the South and to maintain internal security within the Union. Civilians who engaged in activities against Union forces or the government were liable to trial before military commissions but death sentences were usually postponed pending Lincoln's approval. Military authorities attempted to maintain order by the use of such methods; later the Supreme Court would rule that military tribunals established to try civilians in areas not threatened by invasion were illegal.⁶ The situation in the occupied South was different; most Southerners were considered to be citizens of the United States and of a foreign nation. This meant that the defeated were subject to the laws of war, and military commanders in those areas tried to maintain order and security. Loyalty tests and oaths were applied to the populace; those who submitted benefitted while those who did not suffered hardships. If the conquered local officials agreed, civilian rule was maintained (with the military still present); if they refused, as Norfolk officials did, firm military rule was instituted. Union commanders had the power to create courts and try civil and criminal cases under the authority of the President who alone had the power of final review in those areas.⁷ Lincoln was often sensitive to the requests of influential persons on behalf

⁶Randall, pp. 169, 175-176.

⁷Ibid., pp. 40, 217, 224-225; Hyman, pp. 168-170.

of those condemned by military trials and he would frequently issue pardons or commute sentences. There were many examples of his leniency such as in the cases of William G. Welch and Sergeant Robert Sutton. Welch had joined the Confederate Army but decided to take the oath of allegiance to the United States and return to Kentucky where he was under indictment for treason; Sutton had been sentenced to hang for mutiny. Both men were pardoned.⁸

It is clear that the basic rights of some Americans became subordinate to their governments' desire to prevent defeatist or secessionist sentiments from hampering its war efforts. Since the President enforced the laws instead of Congress Lincoln acted within what he considered to be his sphere of authority. Regardless of claims that he was a dictator, Lincoln did not attempt to restrain Congress nor were elections cancelled for the duration of the war (he strongly believed McClellan would defeat him in the 1864 election). The Constitution was not abolished nor was the Supreme Court outlawed. As long as Lincoln had public support, which increased as the war progressed, he could ignore the complaints and accusations vocalized by a minority and successfully conduct the Union war effort.⁹

The Confederate government also saw a need to restrain those who would oppose its prosecution of the war. After martial law was invoked by Jefferson Davis in 1862,

⁸A More Perfect Union, p. 153; Lincoln, Collected Works, pp. 118, 340.

⁹Rossiter and Longaker, p. 25.

sixty-year old John Minor Botts, former United States congressman, was arrested for suspected disloyalty and continued for two months until he agreed to reside outside urban areas and to say nothing publicly or otherwise against the Confederacy. And in 1864 the Confederate Congress passed its own Habeas Corpus Act which allowed arbitrary arrests of those opposing "the cause."¹⁰

It should be kept in mind that Norfolk was an occupied city during the period in question and therefore subject to martial law sanctioned by both the War Department and President Lincoln. Consequently, any judicial authority maintained by Virginia depended on the will of the military authorities. The Federals exercised strict control over the area and at the time of the shooting all judicial power was in their hands. Military commissions, already legal in the North, were established only in response to specific cases but this did not prevent arbitrary arrests. George Thomas Wallace, a resident of Norfolk County, was arrested in May, 1863, on the charge of "entertaining blockade runners"; a month later he was sentenced to pay a fine of fifteen hundred dollars and in July was released for a parole period of ninety days. Eight months later Wallace was again arrested, this time for illegal firearms possession, but was released within twenty-four hours.¹¹ In all, the situation in the

¹⁰Emory M. Thomas, The Confederacy As A Revolutionary Experience (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1971), pp. 62-63, 74-75.

¹¹Elizabeth Curtis Wallace, Glencoe Diary: The Wartime Journal of Elizabeth Curtis Wallace, edited by

Norfolk area demonstrated both the ineffectiveness of the Pierpont government and the irregularities of Federal rule in occupied territories.

As to the shooting of Alanson Sanborn, this writer, who has already stated that various accounts have been given as to why it happened, believes that a clearer version should be provided. In my opinion this is what happened on that July afternoon: An acquaintance of Wright's, seeing the approach of the armed Negroes, went to warn him of their coming probably because he was familiar with the doctor's opinions regarding slaves. This person, anticipating trouble, provided Wright with a pistol for "self-defense" and moved aside. At the sight of the troops and Sanborn, Wright, angered, called the lieutenant a coward, and that word was often used in those times (and today) as an unpardonable insult. Realizing this, Sanborn halted his men and sent two of them for the provost guard; he probably planned to arrest Wright, who perhaps would have been released after paying a fine, on the grounds of attempting to prevent an officer of the United States from carrying out his duties. At any rate, the officer approached the doctor and asked him to repeat what he had uttered. Wright did so, and was informed that he was under arrest. The doctor's response was to retreat backwards slowly, the pistol hidden behind him, and warning Sanborn to "stand off." His sword already drawn, the young officer moved forward and as he did

Eleanor P. Cross and Charles B. Cross, Jr. (Chesapeake, Virginia: Norfolk County Historical Society, 1968), pp. 35-47, 98.

so turned to his men to order their assistance. Wright then fired twice and the lieutenant, charging, collided into him and the two were forced into Foster and Moore's; as they struggled, other Union officers rushed in to assist Sanborn and to prevent the Negroes from killing the doctor. Wright was then seized and escorted to the Customs House under arrest. The identity of the man who handed the weapon to the doctor was never revealed by him and his loyalty to a friend led indirectly to his death.

During the trial Bowden and Chandler attempted to use the Code of Virginia in an effort to secure a civilian trial for their client; the Federals refused to agree to this request because Norfolk was under martial law and they knew that if Wright were tried by civilians he would have been acquitted. Since he had the services of competent attorneys and a public trial the military felt that his case had been handled fairly and objectively. Bovay rightfully denied the writ of Habeas Corpus Act of 1863. When Bowden and Chandler became aware that they were unable to keep Wright from the gallows they withdrew from the case and hoped that the trial would be postponed. Wright supported their actions by not seeking further counsel. Judge Advocate Bolles was well aware of this tactic and urged the Commission to proceed, which it did. The two attorneys then redoubled their efforts and sought Lincoln's intervention.

Lincoln's role in the case was one of final review. He tried to be objective by allowing further pleas to be

made before him on Wright's behalf and by ordering Dr. Gray to examine the evidence. The fact remained, however, that the doctor was tried and judged by Northerners. Letters from the President's military subordinates had the effect of convincing him of the doctor's guilt and his final decision demonstrated his support not only of the sentence, but of the military's rule of the city and the establishment of military commissions to try Confederate "citizens." A trial by Southerners would have produced a foregone conclusion, but the military authorities were willing to forward appeals to Lincoln knowing full well that he would support them if an obvious attempt had been made to conduct the trial as fairly as possible. Once settling the matter to his satisfaction, Lincoln turned his attentions elsewhere except to deny Mrs. Wright's request. This entire case was unique and it is easy to conjecture that if the Confederates had occupied such areas as Providence, Rhode Island, Cleveland, Ohio, and other Northern cities similar incidents of this kind might have taken place.

A minor question could be raised as to whether Wright could have been spared if he or his family had taken an oath of allegiance before or after the incident. Matters might have been just as bad for he would have been in the position of a loyal citizen violating laws he was sworn to accept and his fate would not have changed. Nor did he or any of his family offer to take such an oath even with the remotest possibility that it would save his life.

The role of Negro troops in this incident was passive even though they indirectly caused it; indeed, when General Foster expressed his belief to Lincoln that Wright should die, he mentioned that his death would benefit the morale of the officers, who were white, and secondly, increase enlistments. Negroes were outcasts in both North and South; Northerners feared emancipation because it would lead to increased labor competition because Negroes worked for lower wages; Southerners feared it because they believed Negroes would destroy the white race and threaten its womanhood. Blacks were used by Northern governors to meet their state quotas and were recruited from the occupied South. They became justly or unjustly, the pawns of the war. Everyone wanted them "in their place" but none could say with certainty where that place was; their bodies were sought after to fill the gaps in Northern armies but they eagerly accepted the challenge of freedom. They helped win the war but were abandoned in a troubled peace. The decision to recruit them remains one of the war's turning points.¹²

This event need not have occurred but Wright's allegedly unintentional slaying of Sanborn did not and cannot excuse the deed itself. Despite the sympathies of Jefferson Davis and his government and the charge of legal murder, proper procedure was followed by the Federal

¹²Bruce Catton, The Army of the Potomac, vol. 2: Glory Road (Garden City, New York: Doubleday and Company, Inc., 1952), pp. 138-139, 226, 212.

authorities even though they were prejudiced against the doctor. President Lincoln's handling of this case was clear and impartial; the charge of judicial murder does not stand true although one hundred sixteen years have passed since that time. The motto of Wright's family, "A mind conscious of right,"¹³ applies not only to himself but to all Southerners who, when apparently threatened, took steps to protect and defend their honor. The South formed the Confederacy and Wright killed a Union officer; the former was tried and tested for four years until Appomattox, and the later was tried, convicted, allowed appeal, and executed; no amount of bias for or against him can change that fact. The shooting was an unnecessary and unfortunate event which, nevertheless, should be remembered.

One of the principal reasons why so few people understand history is that historians tend to teach mankind about the "past" and its impact. History is also made by people, and their hates, fears, desires, and goals are just as important to its understanding and application to future generations as are facts. In this study, I have tried to deal with all the facts of the case, regarding Dr. Wright's civil liberties. I emphatically submit that they were not violated.

¹³Wright Family Biography, Sargent Memorial Room, Kirn Memorial Library, Norfolk, Virginia, p. 3.

APPENDIX A

OTHER ACCOUNTS OF THE SHOOTING OF LIEUTENANT SANBORN

A Richmond newspaper claimed that Wright called Sanborn "a dastardly coward," and when an arrest was attempted the doctor shot Sanborn. Richmond Daily Despatch, July 22, 1863.

According to another account, Sanborn "grossly insulted" Wright who killed him before the lieutenant could kill the doctor. Harrison W. Burton, History of Norfolk, Virginia (Norfolk: Norfolk, Virginia Job Print, 1877), p. 87.

An unidentified newspaper article related that Wright was returning from a celebration of his wife's birthday party when he saw Negro troops pushing citizens into the gutters. He then made a comment to Sanborn who advanced upon him. A friend handed Wright a pistol and the doctor told the lieutenant to "stand off." Sanborn continued to advance and was shot. Wright Family Biography, Sargent Memorial Room, Kirn Memorial Library, Norfolk, Virginia, pp. 1-3.

Another writer said that a column of Negro troops "jostled" men, women, and children into the gutters as they

marched. Wright stepped aside and uttered a sharp declaration of defiant disgust. As Sanborn advanced towards him with drawn sword, a friend thrust a pistol in Wright's hand. He ordered Sanborn to keep back but the lieutenant ignored the command and was shot. Wyndham B. Blanton, Medicine In Virginia In The Nineteenth Century (Richmond: Garrett and Massie, Inc., 1933), p. 310.

"David M. Wright, a prominent physician and respected citizen of Norfolk with proud spirit, resenting an insult by an insolent officer of a Negro company, shot him down in hot blood, and was executed under Butler's rule." (Italics mine.) William H. Stewart, ed. and comp., History of Norfolk County, Virginia and Representative Citizens (Chicago: Biographical Publishing Company, 1902), p. 99.

Wright was returning from a celebration of his wedding anniversary. Upon seeing Negro troops marching he approached Sanborn with clenched fists saying: "Oh! You coward!" When threatened with arrest Wright pulled a pistol or was handed one by a spectator and shot Sanborn dead. George Holbert Tucker, Norfolk Highlights: 1584-1881, with a Foreword by Roy B. Martin, Jr., Mayor of Norfolk (Norfolk, Virginia: The Norfolk Historical Society, 1972), p. 96.

Sanborn, while leading a squad of Negro soldiers down the sidewalks in Norfolk, drove pedestrians into the gutter. Wright, forced into the door of a grocery store became "exasperated beyond measure" and swore at the lieutenant who advanced upon him with a drawn sword. After

warning him not to advance any further, "in self-defense" the doctor killed him. [Author unknown], "Armistad Family," William and Mary College Quarterly Historical Magazine 8 (July 1899): 66.

Still another account described Wright as the father of "a noble young captain in the Confederate army." It went on to say that "Captain" Sanborn, while leading Negro troops, had provoked the doctor who "ripped out a pistol" and killed the officer. W. H. T. Squires, ed., Through The Years In Norfolk, Book I: Historical Norfolk: 1636 to 1936 (Norfolk: Norfolk Advertising Board, 1936), pp. 50-52.

APPENDIX B

PETITION OF NORFOLK CITIZENS TO ABRAHAM LINCOLN,
OCTOBER 17, 1863*

The undersigned citizens of Norfolk most earnestly solicit his Excellency the President of the United States to pardon Dr. D. M. Wright of this city, charged with the murder of Lieutenant Sanborn, or to commute the sentence that has been passed upon him.

They beg leave most respectfully to represent to his Excellency that Dr. Wright is a gentleman, high-minded and honorable; that they believe no malice aforethought whatever was connected with the unfortunate homicide of Lieutenant Sanborn; that Dr. Wright has borne a character in this community remarkable for its leniency, benevolence and magnanimity; that he is loved and honored by all who knew him. In addition to these facts Dr. Wright has a large and interesting family that would be rendered miserable and _____ for life should the sentence of death be executed on him.

Under these circumstances, without distinction of party, we, believing the case of Dr. Wright to be one in every respect demanding Executive Clemency, most cordially present this petition, and prayfully hope it may meet a kind and humane consideration. We are, very respectfully, your obedient servants:

340 Signatures

* Presidential Papers Microfilm, Abraham Lincoln Papers. (Washington, D.C.: Library of Congress), 1959.

APPENDIX C

INSCRIPTIONS ON THE GRAVES OF DR. AND MRS. WRIGHT

The Wright couple was buried side by side, Dr. Wright's inscription reads:

DR. DAVID MINTON WRIGHT

Born April 21st 1809
Died October 23rd 1863

IN THE FIRM HOPE OF A BLISSFUL
IMMORTALITY.

Not for the dead in Christ we weep,
Their sorrows now are o'er,
The sea is calm, the tempest past
On that eternal shore.

Their peace is sealed, their best is sure
Within that better home,
A while we weep and linger here
Then follow to the tomb.

Mrs. Wright's inscription reads:

PENELOPE CREECY
Wife of
DR. DAVID M. WRIGHT
1816-1889

APPENDIX D

RESOLUTION OF THE GENERAL ASSEMBLY OF VIRGINIA*

Preamble and Joint Resolution in relation to the death of
Dr. D. M. Wright of the City of Norfolk.
Adopted March 10, 1864

Whereas the arrival within confederate lines of the distressed family of the deceased establishes beyond question the newspaper announcement of the execution by the federal authorities in obedience to the sentence of a military commission, of Dr. David M. Wright in the City of Norfolk, on the twenty-third day of October eighteen hundred and sixty-three: And whereas it is fit and proper that Virginia shall place upon permanent record her high appreciation of a son, whose courage, zeal and devotion marked with blood the first effort to establish upon her soil an equality of races, and introduce into our midst the leveling dogmas of a false and pretended civilization:

1. Be it resolved by the general assembly of Virginia, that in the death of Dr. Wright this commonwealth recognizes another addition to the long and illustrious catalogue of martyrs, whose stern, inflexible devotion to liberty have rendered heroic the history of her people in the present struggle.

2. That as the proudest tribute which Virginia can offer to his memory, she would earnestly invoke her children, whether within or beyond the enemy's lines, to imitate his example and emulate his high resolves.

3. That the governor of the state be requested to transmit a copy of the preamble and these resolutions to the family of Dr. Wright—together with assurances of the sincere sympathy of the general assembly.

* Virginia, General Assembly, Acts Passed At Session, 1863-4 (Richmond: William F. Ritchie, Public Printer, 1864), pp. 85-86.

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