

The Patent Office of the Confederacy

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When the U.S. Patent Office was moved recently from downtown Washington to its new home in "Crystal Plaza" in South Arlington, it made the third time that a patent office had a home in the Commonwealth of Virginia.

In 1942 the U.S. Patent Office was moved to Richmond and remained there until the fall of 1946, a period of nearly four years, and then was moved back to Washington.

But, for four other historical years Virginia, and Richmond, had been the home of a short-lived but unique patent office. With the birth of the Confederacy, May 21, 1861, its patent office flourished, and with the Confederacy it died.

Nothing better indicates the determination of the founders of the Confederate States of America to build for posterity than their vision of and provision for a patent office. In determination they wrote in the preamble to the Constitution of the Confederate States of America:

We the people of the Confederate States, each state acting in its Sovereign and Independent character, in order to form a Permanent Federal Government, establish justice, insure domestic tranquility, and secure the blessings of liberty to our-selves and our posterity—invoking the favor and guidance of Almighty God—do ordain and establish this Constitution for the Confederate States of America.

The Confederate Constitution, in Article One, Section 8, and Clause 8 thereof, empowered its Congress

To promote the progress of science and useful arts, by securing for limited time to authors and inventors the exclusive right to their respective writings and discoveries.

This power granted to the Confederate Congress is identical to that power granted by the United States in Article one, Section 8, clause 8, empowering the Congress of the United States to establish the Patent Office, now located in "Crystal Plaza," Arlington, Virginia.

First, a bit of background. The six major causes of the war between the States were:

(1) A different construction was put upon the Constitution of the United States by the people of the South, the Confederacy; and the people of the North, the National Government. The South maintained the States-Rights Theory—that the Union, which the original states created, was one of

* Based on a talk before the Arlington Historical Society, March 8, 1968.

limited power—all powers not named in the Constitution as specially surrendered to the Federal government were reserved to the states. The Union-Theory advocates held that the states, in ratifying the Constitution, had surrendered their statehood and had formed a nation. According to this view, the Union was indissoluble and no state had a right to withdraw from the Union without the consent of the other states.

(2) There existed two totally different labor systems in the country—the labor system in the North differing from the labor system in the South.

(3) The lack of real communication between the people sectionally divided by North and South. The North was commercial and industrial, the South was mainly agricultural.

(4) The publication of sectional literature—sources of agitation and propaganda.

(5) The influence of demagogues, and the evil demagoguery that made the color of a human-being's skin a political issue—(then, as now)

(6) The invention of the cotton gin and its use.

History reveals that by 1790 slavery was a declining institution in America. Apart from tobacco, rice, and a special strain of cotton that could be grown only in a few places, the South really had no money-crop for export—and the South was dependent mainly on its agricultural resources. There was general concurrence that slaves were costly, not only to buy but to maintain. The southern planters felt that conditions had reached a point where a slave's labor no longer paid his maintenance. Some slaves were freed. And many masters planned on MANUMISSION, the voluntary legal liberation of a slave upon the death of the master.

Into a desperate South in 1793, came an inventive genius, causing the most fateful revolution in regional economy that the world had ever known. Eli Whitney's invention of the cotton gin was cataclysmic. The entire South was never to be the same again. In 1793 ten hours of hand work was needed to separate one pound of lint from three pounds of small tough seeds. In 1803, ten years later, the cotton crop earned for the South close to \$10 million. In ten years, the price of slaves had doubled—and MANUMISSION—the voluntary legal liberation of a slave upon its master's death—was a forgotten word. The invention of the cotton gin for the first time made slave-labor really profitable. By 1850, a man purchased in Africa might bring as much as \$1,500, retail. Cotton was King!

That's the background in which the Confederate Patent Office must be set. The patents issued by that office reflected the needs of the times.

In history, the "War between the States" has no equal as to the number of words that have been written about it. It was a modern war in every respect. In its battle-theatres military strategy and tactics were de-

veloped which have since become standard practice. (Military genius' like Eisenhower, Montgomery, and Rommel have studied its campaigns and battles carefully.)

This war between our states, used modern weapons: the iron-clads—the armored battle boats that were the forerunners of our present day battleships, whose counterparts were the iron-clad “Virginia”—also popularly known as the “Merrimac” and the “cheese-box on a raft”—the “Monitor,” the invention of John Ericson.

It is interesting to note that the original design for an iron-clad battle-boat was rejected by the Federal Government some twenty years before on the ground that it was too radical. (This was a modern war in every respect!)

The Confederacy, however was forced to accept radicalism, knowing that it could not match the North, vessel for vessel. The South's only chance was to design vessels of enormous power whose armor would be impervious to the cannon fire of the enemy and to be manned by small crews.

In this modern war of 1861-1865 were developed, used and improved, such modern weapons as the multiple and repeating guns; breech-loading cannon; submarines, torpedoes of countless kinds; mines and mine-sweepers; torpedo nets; balloons for observation; rockets as weapons, calcium flares for reconnoitering and defense. You name it; this war had it.

The history of the Patent Office of the Confederacy is contained in the few fragments saved when the records of that office perished in the burning of the government-controlled buildings when the Confederate government evacuated the City of Richmond. So today, all that we know of the Confederate Patent Office is that small portion contained in the several reports of its first and only Patent Commissioner, Rufus R. Rhodes.

History is silent as to the steps leading to the appointment of Rufus R. Rhodes, Commissioner of Patents for the Confederacy. A booklet published by the U.S. Patent Office states that he was a former examiner in the Patent Office at Washington, received a salary of \$2,500 a year, and that he resigned from the Office in 1860. In that period of our history the Southerner believed that he, as a citizen of his respective State, owed no allegiance to any other government. It may be called to your attention that neither Jefferson Davis, Abraham Lincoln, Robert E. Lee, or Ulysses S. Grant were citizens of the United States, for it was the 14th amendment to our Constitution that provided such citizenship. This is why Jefferson Davis, though arrested and imprisoned for treason, was never tried, because no one can be guilty of treason against a country of which he is not a citizen. Jefferson Davis was a citizen of the State of Mississippi; Robert E. Lee thought of himself as being a citizen of the Commonwealth of Virginia. Rufus R. Rhodes, I suppose, considered himself a citizen of Louisiana.

The Confederate Archives purportedly show that Rufus R. Rhodes was appointed from Mississippi as Commissioner of Patents for the Confederate States on May 21, 1861, and was serving as such in the month of January 1865. There is no later recordation. The appointment is mentioned in the Journal of the Confederate States Congress, Volume 1, page 268.

It is of record that Rufus R. Rhodes was born in Louisiana, later moving to Mississippi. He may have known Jefferson Davis and Judah P. Benjamin who took the office of Attorney General on February 25, 1861; was sworn in as Secretary of War on November 21, 1861; and was the Secretary of State from March 18, 1862, to the fall of the Confederacy. Judah P. Benjamin was considered a brilliant man. He and Jefferson Davis served as United States Senators from their respective states. Both resigned to further the cause of States-Rights.

Rufus R. Rhodes, the newly appointed Commissioner of Patents for the Confederacy faced many difficulties as he started to build his patent office. He took over the entire third floor of the Mechanics' Institute Building in Richmond for this purpose. This building, located on Ninth Street between Main and Franklin Streets, also housed the Confederate War and Navy Departments. The Commissioner set aside space for the exhibition of models of patented articles, duplicating the custom then prevailing in the United States Patent Office.

While examiner in the United States Patent Office, Rufus R. Rhodes was afforded an intimate knowledge of the workings of an established patent system. No doubt the training he got there accounted for his strong support of an examination system over one of merely registering a patent grant. It appears doubtful that Commissioner Rhodes had copies of United States or foreign patents available for his examiners. It was not known just how he did it, but he did insist on examinations of inventions for the purpose of determining if prior patents had been granted for the invention claimed. With no archives of prior patents to start with—or seemingly none—the rugged Commissioner must have had a hard time of it. But he organized for a search system, similar to that which is used by the U.S. Patent Office today.

From May 21, 1861, to December 31, 1861, the first year the Confederate Patent Office was organized—it received 304 patent applications. Of the applications filed, 57 were issued as patent grants.

Patent No. 1 was issued to inventor Van Houten of Savannah, Georgia, August 1, 1861, for a "Breech Loading Gun."

About one third of the patents issued related to firearms, which is not surprising, for a war was going on, and any invention that could greatly reduce the effectiveness of the enemy was certainly welcome. With evident pride, Commissioner Rhodes reported to his Congress several inventions

in firearms which were considered superior to devices of like nature produced in foreign countries. But the people of the South were optimistic too. The war would soon be over, and peaceful occupations would be pursued once more. It is not surprising that many of the inventions for which patents were issued pertained to agriculture, since the South was fundamentally agricultural. "COTTON IS KING!" was a familiar slogan in those days.

Patent No. 13 was granted to P. R. Clements, of Eufala, Alabama, on August 23, 1861, for an "Improvement in Water Wheels."



Patent No. 50, Class No. 11—"Grinding Mills and Mill Gearing, for Invention or Discovery of Horse Power"—was issued to John Schley of Savannah, Georgia, November 1, 1861.

Patent No. 6 was issued to James W. Frazier, of Frazierville, S.C., August 8, 1861, for a "Wheel for Steamboats."

Patent No. 10, for a "Plough," issued to patentee John D. Evans, of Pleasant Hill, Georgia, August 13, 1861.

Part of the report of Commissioner Rhodes to his Congress, January 1862 reads:

STATEMENT NO. 2

Expenditures from Patent Fund, from May 22, 1861, to December 31, 1861, inclusive

For salaries	\$4,788.34
Temporary Clerks	119.72
Books for library	94.00
(Books by law were limited to \$500)	
Excess of fees refunded	40.00
Contingent expenses.	
Stationery	\$375.00
For furniture	309.00
For printing	236.52
For postage	146.95
For seal of office	78.00
A grand total of	\$1,146.22

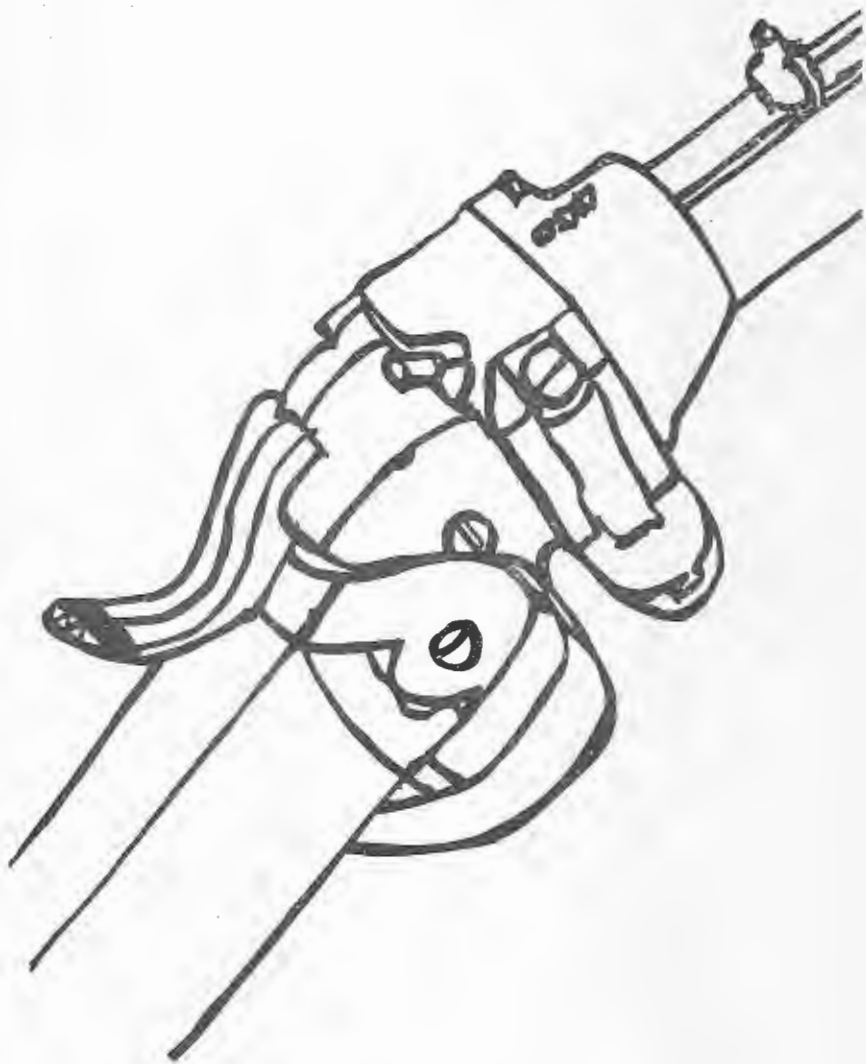
Patent No. 100 was issued to Lt. John M. Brooke of Richmond, Virginia, for a "Ship of War. The lieutenant was the designer of the ironclad "CSS Virginia" popularly known as the "Merrimac." This patent was issued July 29, 1862.

Patent No. 148, for a "BREECH-LOADING FIRE ARM" was issued to J. H. Tarpley, of Greensboro, N.C., February 14, 1863. This model is on exhibit at the Smithsonian Institution in Washington.

On Sunday morning, April 2, 1865, while attending service at St. Paul's Church, President Jefferson Davis received this message from General Robert E. Lee:

"It is absolutely necessary that we should abandon our position to-night or run the risk of being cut off in the morning."

Hastily reading the message, Jefferson Davis left the church, quickly followed by others, and the Sunday's service was abruptly concluded. Rumors that Richmond was to be evacuated were shortly succeeded by the definite announcement of the fact. The night when Confederate government left swiftly was a fearful one for the inhabitants of the city. All day after receipt of General Lee's dispatch—"My lines are broken in three places; Richmond



This .52 caliber Tarpley percussion breech-loading carbine in the Smithsonian Institution, was invented, patented and manufactured in the Confederacy. Jere H. Tarpley obtained his patent no. 148 from the Confederate Patent Office, Feb. 14, 1863. The carbine measures 39½" overall, has a brass receiver frame, no forestock, and a 23" rifled barrel. The spring catch lifter on the right side of the brass frame is pressed upwards to release the breechblock, which swings over to the left side to permit loading with a paper cartridge.

must be evacuated tonight.”—the people were kept in the most painful suspense. It was revealed to the people that the Confederates had ordered all the cotton, tobacco, and other property stored in four warehouses be burned to prevent it from falling into the hands of the Union forces.

From midnight until dawn there was pandemonium in the city. By noon of April 3, 1865, a greater portion of the principal part of Richmond was like a blazing furnace; by noon of the following day seven hundred buildings in the business section of the city were in ruins.

Early in the morning the whole of Major General Godfrey Weitzel's force were in the suburbs of the city. At seven o'clock, Joseph Mayo, the Mayor of the city of Richmond, handed the keys of the public buildings to the General's messenger, who had presented the summons of surrender. General Weitzel and his staff rode into Richmond at eight o'clock at the head of Ripley's brigade of colored troops.

A Nation was born, flourished a moment, and died, and with it the Patent Office of the Confederacy.