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# Gettysburg College Journal of the Civil War Era 2016

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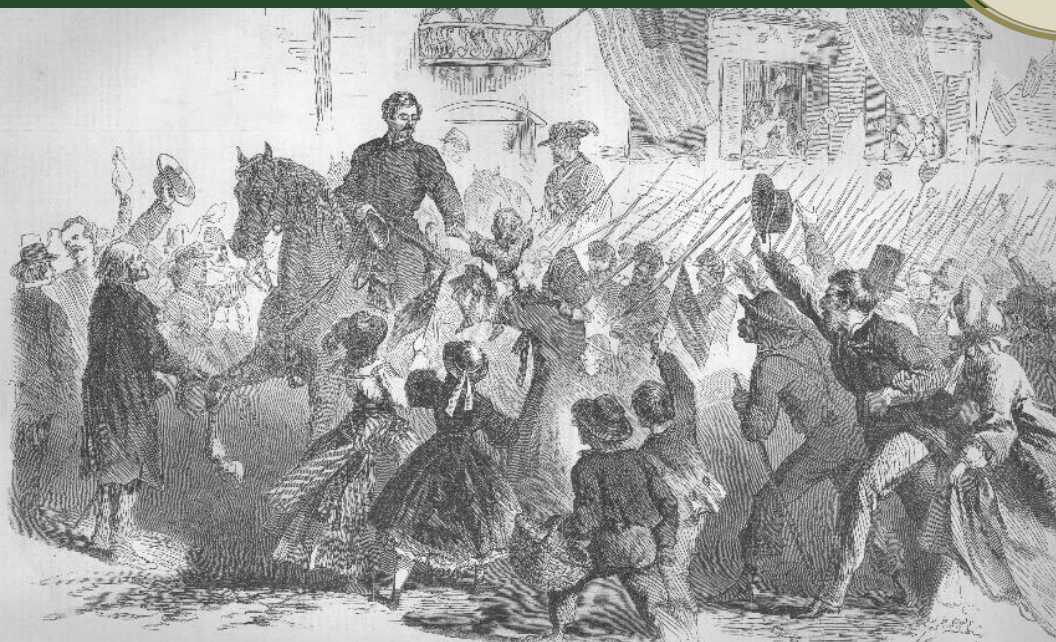
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GETTYSBURG COLLEGE



# JOURNAL OF THE CIVIL WAR ERA

*VOLUME 6, SPRING 2016*



GETTYSBURG COLLEGE



# JOURNAL OF THE CIVIL WAR ERA

**Volume 6, Spring 2016**

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**Cover Image:** “General McClellan Riding through Frederick, Maryland, September 12, 1862, just before the Battle of Antietam,” from *Frank Leslie’s Illustrated Newspaper*.



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## A Letter from the Editors

We are honored to present the sixth volume of the *Gettysburg College Journal of the Civil War Era* after long and serious consideration of our submissions. The editorial process presented us with great opportunities for exploring history and literature, and though we were unable to accept all submissions, the diversity and scholarship presented in each was of tremendous value to our editorial team. It was difficult to narrow twelve submissions down to four, but we were delighted to see the level of commitment and enthusiasm evident in each entry.

It is necessary to extend our gratitude to our dedicated editors whose hard work was imperative to the success of this journal: Thomas Nank ('16), Steven Semmel ('16), Ryan Nadeau ('16), Gregory Dachille ('17), Matthew LaRoche ('17), Julia Sippel ('18), and Cameron Kinard ('18). We would also like to thank our faculty advisor, Dr. Ian Isherwood, for his perpetual guidance and support, without which this journal would not have been possible. We would also like to thank him for his puns and his dog.

This volume contains four academic essays that cover topics ranging from Unionist sentiment in Frederick, Maryland to family histories in Gettysburg. The journal opens with “‘The Honor of Manhood’: Joshua Lawrence Chamberlain and Notions of Martial Masculinity.” In it, Bryan Caswell presents a compelling argument deconstructing the Maine officer’s determined expression of his masculinity during and after the war. This is followed by “Cotton, Clemency, and Control: *United States v. Klein* and



the Juridical Legacy of Executive Pardon” by Heather Clancy, in which she examines a legal dispute from the aftermath of the Civil War that deals with attitudes toward Confederate sympathizers and Congress’s attempt to restrict presidential pardons. In “‘For Safety and For Liberty’: The Devan Family of Gettysburg” Andrew Dalton offers insight into the history of one black family’s experience with slavery and warfare in Civil War-era Gettysburg. The final piece, “‘Spare Your Country’s Flag’: Unionist Sentiment in Frederick, Maryland 1860-1865” by Megan McNish, is a comprehensive study of changing sympathies in the city of Frederick over the course of the war.

It is our hope that this journal will offer not only insight for our readers but enjoyment and fulfillment. We are immensely proud of the accomplishments of our editorial team as well as our writers who all displayed creativity and great historical understanding; we have no doubt that these individuals will have a great impact in the field of Civil War study. Please enjoy this volume of the Gettysburg College Journal of the Civil War Era.

Sincerely,

Kevin P. Lavery, Gettysburg College Class of 2016  
Anika N. Jensen, Gettysburg College Class of 2018  
Jeffrey L. Lauck, Gettysburg College Class of 2018

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**“THE HONOR OF MANHOOD”:  
JOSHUA LAWRENCE CHAMBERLAIN AND  
NOTIONS OF MARTIAL MASCULINITY**

Bryan Caswell

Few veterans of the American Civil War were as prolific in their post-war writing as Joshua Lawrence Chamberlain, the so-called “Hero of Little Round Top.” Indeed, Chamberlain’s accounts of his service, in particular his role in the Battle of Gettysburg, are so numerous that his importance has at times been quite overestimated by historians and the general public alike. He has been hailed alternately as one of the saviors of the Union at Gettysburg and as an egotistical, washed-up old soldier seeking only to promote himself, oft-times at the expense of other officers. Though Chamberlain’s writings do show him to be unusually adept at self-promotion, his detractors fail to recognize the deeper motives that lurked behind Chamberlain’s post-war behavior. Deprived of what might have been considered the basis of his masculinity, Chamberlain instead had sought to reaffirm and relive the manhood he had earned through his exemplary service in the Civil War.

Chamberlain finished the war a brevet major general of volunteers. Chosen to accept the Confederate surrender at Appomattox in April of 1865, Chamberlain returned to Maine a celebrated war hero and was soon elected governor, a post for which he still holds the record for most consecutive terms. After his stint in the public sphere, Chamberlain returned to his beloved alma mater Bowdoin

College, this time as its president.<sup>1</sup> Yet, despite his myriad successes after the war, Chamberlain looked for opportunities to recreate his wartime experiences and accomplishments with increasing regularity, the most obvious manifestation of which was his preoccupation with writing the history of the war. This preoccupation would continue until his death on February 24, 1914.

Before examining Chamberlain's re-creation of martial masculinity, however, that manhood itself must first be defined and explored. Chamberlain's notions of proper masculine behavior are evident from the very inception of his intent to enlist in the Union Army. Among radical antislavery circles, the very fact that Chamberlain held abolitionist sympathies lent him a level of masculinity.<sup>2</sup> Of far greater effect was the importance Chamberlain placed on each man's patriotic duty. As he prepared to volunteer in 1862, Chamberlain maintained a steady stream of correspondence with Governor Israel Washburn, two letters of which are particularly revealing. In the first, dated July 18, Chamberlain wrote that "every man ought to come forward and ask to be placed at his proper post." On a more personal note, he continued, "I do not want to be the last in the field. . . . I know I can be of service to my Country in this hour of her peril."<sup>3</sup> This sentiment is repeated in a much

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<sup>1</sup> John J. Pullen, *Joshua Chamberlain: A Hero's Life and Legacy* (Mechanicsburg: Stackpole Books, 1999), 20, 57; Golay, *To Gettysburg and Beyond*, 304.

<sup>2</sup> Abolitionism, especially of the militant variety, was seen as a mark of manliness among certain circles in New England. See Stephen Kantrowitz, "Fighting Like Men: Civil War Dilemmas of Abolitionist Manhood," *Battle Scars: Gender and Sexuality in the American Civil War*, Catherine Clinton & Nina Silber, eds. (New York: Oxford University Press, 2006), 21.

<sup>3</sup> Joshua Chamberlain to Israel Washburn, 14 July 1862.

more succinct fashion in the second letter, dated August 8: “I feel it to be my duty to serve my country.”<sup>4</sup>

Though a wonderful and manly sentiment, to be sure, Chamberlain’s sense of duty may not have earned quite as much support from Chamberlain’s loved ones as it did from the governor of Maine. Though his father had encouraged martial virtue in Chamberlain from an early age, Joshua Chamberlain the elder seems to have undergone a change of heart in 1862 and no longer wished for his son to join the military, most likely due to the recent death of Chamberlain’s younger brother, Horace.<sup>5</sup> Some biographers of Chamberlain additionally claim that his wife Francis, or “Fanny,” did not approve of her husband’s intention to enlist. Diane Smith argues, however, that Fanny was actually supportive of Chamberlain, encouraging him to do his duty as he saw fit.<sup>6</sup> It is entirely possible, however, that this support did not come from her own sympathies but was a result of the expectation that Northern women should prove their own patriotism by willingly sacrificing their menfolk.<sup>7</sup> If this was in fact the case, Chamberlain left behind him a household uneasy about his going and uncertain of the value of his possible sacrifice. He would have to prove them wrong.

Once an officer of the Union army, Chamberlain displayed behavior that landed him squarely in the category

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<sup>4</sup> Joshua Chamberlain to Israel Washburn, 8 August 1862

<sup>5</sup> Smith, *Fanny & Joshua*, 116.

<sup>6</sup> Jeremiah E. Goulka, *The Grand Old Man of Maine: Selected Letters of Joshua Lawrence Chamberlain, 1865-1914* (Chapel Hill: University of North Carolina Press, 2004), xxxvii; Smith, *Fanny & Joshua*, 116.

<sup>7</sup> Nina Silber, *Daughters of the Union* (Cambridge, MA: Harvard University Press, 2005), 18-19; Frances Clarke, *War Stories: Suffering and Sacrifice in the Civil War North* (Chicago: University of Chicago Press, 2011), 43.

of Union soldiers historian Lorien Foote labels as “Gentlemen.” Gentlemen within the Union armed forces valued self-restraint above all else and believed that manhood could only be gained and kept through the avoidance of uncouth behavior.<sup>8</sup> Frances Clarke agrees and argues in *War Stories: Suffering and Sacrifice in the Civil War North* that self-control, particularly when enduring suffering, granted moral superiority in Victorian society.<sup>9</sup> One of the most integral aspects of the self-restrained manhood of a Victorian gentleman was temperance. Not to be confused with complete abstinence from drinking alcohol, temperance only required one not to drink in excess and to bear all in moderation.<sup>10</sup> Though he was no stranger to having a drink or two, Chamberlain himself was the soul of temperance, going so far as to temporarily block the promotion of a Lt. Nichols on the grounds of “drinking intoxicating liquor to excess.”<sup>11</sup> Chamberlain’s self-restraint also manifested itself in his purportedly humble reaction to any praise directed towards him, as he explained to Fanny in a letter just after the Battle of Gettysburg: “I am receiving all sorts of praise, but bear it meekly.”<sup>12</sup>

Despite this emphasis on restraint, tender emotions were also valued as a basic tenet of manhood among gentlemen. Indeed, historian Reid Mitchell states in *The Vacant Chair: The Northern Soldier Leaves Home* that “true

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<sup>8</sup> Lorien Foote, *The Gentlemen and the Roughs: Violence, Honor, and Manhood in the Union Army* (New York: New York University Press, 2010), 56.

<sup>9</sup> Clarke, *War Stories*, 18, 22, 73.

<sup>10</sup> Foote, *Gentlemen*, 25.

<sup>11</sup> Joshua Chamberlain to Israel Washburn, 28 October 1863.

<sup>12</sup> Joshua Chamberlain to Fanny Chamberlain, 4 July 1863.

men recognized the role of emotions.”<sup>13</sup> Here, Chamberlain was no exception, writing often to his wife and children of how much he cared for and missed them. In a letter written only months after enlisting, Chamberlain told Fanny that he was “thinking of you and the darlings whenever my thoughts are not absorbed in military affairs, & dreaming of you every night.”<sup>14</sup> Six months later, in April of 1863, Chamberlain continued to write lovingly to his family, ensuring Fanny that “I am always thinking first of you.”<sup>15</sup>

An officer’s masculinity was, of course, not limited to his behavior in camp and with his family but was also crucially defined by his conduct on the battlefield. In his seminal work *Embattled Courage: The Experience of Combat in the American Civil War*, Gerald Linderman points to the centrality of courage in considerations of the manhood of volunteer soldiers, writing that the two were often used interchangeably by men on both sides of the Civil War.<sup>16</sup> In *Meanings for Manhood*, Clyde Griffin elaborates further, describing Victorian martial masculinity as a combination of “murderous male conflict” and “male camaraderie.”<sup>17</sup> Chamberlain’s own perception of the battlefield was very much in keeping with these notions of what could be called glorious combat, and despite his participation in and exposure to the brutal realities of combat, Chamberlain seems to have fully embraced the

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<sup>13</sup> Reid Mitchell, *The Vacant Chair: The Northern Soldier Leaves Home* (New York: Oxford University Press, 1993), 12.

<sup>14</sup> Joshua Chamberlain to Fanny Chamberlain, 26 October 1862.

<sup>15</sup> Joshua Chamberlain to Fanny Chamberlain, 24 April 1863.

<sup>16</sup> Gerald Linderman, *Embattled Courage: The Experience of Combat in the American Civil War* (New York: The Free Press, 1987), 8.

<sup>17</sup> Clyde Griffin, “Reconstructing Masculinity from the Evangelical Revival to the Waning of Progressivism: A Speculative Synthesis,” in *Meanings for Manhood*, Mark Carnes & Clyde Griffin, eds. (Chicago: University of Chicago Press, 1990), 191.



Victorian culture of martial courage and glory. In a notebook entry made while still in the range of enemy fire at Fredericksburg in December of 1862, Chamberlain praised the valor of the men who had given their lives in futile charges against the prepared Confederate positions on the northern end of the field and thought it fitting that such brave souls should be given the honor of being laid to rest beneath the aurora borealis as it illuminated the night sky.<sup>18</sup> The following July, as the Army of the Potomac recovered from the Battle of Gettysburg, Chamberlain wrote to his wife exclaiming the virtues of his men and the army at large, saying “We are fighting gloriously” and that his regiment, the 20<sup>th</sup> Maine Volunteer Infantry, had held “the post of honor.”<sup>19</sup> Two days later, when giving his report of the regiment’s performance in the battle, Chamberlain went on to write that “Our roll of Honor is the three hundred eighty officers and men who fought at Gettysburg.”<sup>20</sup> Valor in the face of danger could even mitigate otherwise undesirable characteristics, as in the case of Lt. Nichols who, five months after Chamberlain’s initial misgivings concerning alcohol, was supported in his promotion due to his “earnest and brave” behavior.<sup>21</sup>

Chamberlain’s belief in the honor and glory of combat was not simply contained within notebooks and letters, but manifested itself in his own actions throughout the war. He was praised multiple times for his courageous service at Gettysburg, where he led a bayonet charge into the teeth of a Confederate regiment, and, in what may have been a shining example of Victorian self-control and modesty in the face of suffering, Chamberlain did not even mention that

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<sup>18</sup> Joshua Chamberlain, Notebook Entry 13-14 December 1862.

<sup>19</sup> Joshua Chamberlain to Fanny Chamberlain, 4 July 1863.

<sup>20</sup> Joshua Chamberlain to Lt. George B. Herendeen, 6 July 1863.

<sup>21</sup> Joshua Chamberlain, Testimonial, 10 March 1864.

he was wounded in his official report of the battle.<sup>22</sup> Almost a year later, as Chamberlain was recovering from his Petersburg wound, he received possibly the highest praise conceivable: that of Ulysses S Grant, Commanding General of the United States Army. Upon hearing of Chamberlain’s fall in the process of leading an assault, Grant promoted him to brigadier general on the spot, the first field promotion the lieutenant general had ever given.<sup>23</sup> If this were not enough, Grant wrote in his memoirs that “[Chamberlain] was gallantly leading his brigade at the time, as he had been in the habit of doing in all the engagements in which he had previously been engaged.”<sup>24</sup>

Aside from notable heroics on the field of battle, Chamberlain’s sense of manhood also sustained a deep and abiding courage that impelled him never to shy away from combat. In no fewer than six letters to various family and loved ones, Chamberlain wrote either of his reluctance to leave the army on leave or his anxiety to return to the fight once on leave, even after being wounded multiple times.<sup>25</sup> Some of these letters were written in the context of

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<sup>22</sup> Joshua Chamberlain, “Report of Col. Joshua L. Chamberlain, Twentieth Maine Infantry, July 6, 1863,” In *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 1985 reprint (Harrisburg, PA: Historical Times, 1985), 622-626 .

<sup>23</sup> Alice Rains Trulock, *In the Hands of Providence: Joshua L. Chamberlain and the American Civil War* (Chapel Hill, NC: University of North Carolina Press, 1992), 215.

<sup>24</sup> Ulysses S Grant, *Personal Memoirs of U. S. Grant*, Vol. II (New York: Library of America, 1990), 601.

<sup>25</sup> Joshua Chamberlain to Fanny Chamberlain, 24 April 1863; Joshua Chamberlain to Lt. F. T. Locke, 27 July 1863; Joshua Chamberlain to Col. E. D. Townsend, 9 May 1864; Joshua Chamberlain to Samuel Cony, 31 August 1864; Joshua Chamberlain to Joshua Chamberlain, Sr., 12 February 1865; Joshua Chamberlain to Sarah Brastow, 9 March 1865.

Chamberlain's concern for his men, for as he wrote in a letter to Governor Coburn in 1863, "I consider it an officer's first duty to look after the welfare of his men."<sup>26</sup> Yet in others, Chamberlain uses distinct phrasing that makes clear that his desires are fueled by considerations of masculinity, the most notable being in a letter to Fanny of March, 1865, when "honor and manliness" prompted Chamberlain's final return to active duty.<sup>27</sup> It was just such a combination of coolness under fire, disregard for personal safety, and concern for subordinates that marked Chamberlain and others like him a strong man and, by extension, a model officer.<sup>28</sup>

Yet while he had admirably lived up to the standards of Victorian martial masculinity in his service to the Union, Chamberlain's life would be forever altered on June 18, 1864. Ordered to capture a formidable Confederate system of works, Chamberlain led his brigade in charging the Rebel positions. Struck in the hip by a Confederate minie ball, Chamberlain collapsed, bidding his men to continue on without him. Chamberlain was carried from the field on a stretcher to a makeshift hospital tent, where his wound was initially pronounced fatal and inoperable. His younger brother Tom, a junior officer in the 20<sup>th</sup> Maine, would not accept this state of affairs, however, and brought two surgeons from Chamberlain's brigade to save his older brother's life.<sup>29</sup> As the two men set to work, the full extent of Chamberlain's ghastly injury became known. The ball had passed obliquely upward through his right hip into his left, rupturing the bladder and urethra before fracturing the pelvic bone. After extracting the bullet, Chamberlain's surgeons were able to reconnect his urinary passageways,

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<sup>26</sup> Joshua Chamberlain to Abner Coburn, 21 July 1863.

<sup>27</sup> Joshua Chamberlain to Sarah Brastow, 9 March 1865.

<sup>28</sup> Linderman, *Embattled Courage*, 45; Foote, *Gentlemen*, 57.

<sup>29</sup> Trulock, *Hands of Providence*, 213-214.

and a metal catheter was inserted to prevent urine from draining through the wound itself. Though a valid fix when used for a short period of time, this catheter was allowed to remain in place for too long and as a result formed a fistula, or small opening, in the flesh of Chamberlain’s pelvis. This fistula would later be the cause of recurring pain that required four additional surgeries over the course of Chamberlain’s life, rendering him incontinent and impotent.<sup>30</sup> The now-general’s life had been saved, but at great cost.

Chamberlain’s wound had sufficiently healed by March of 1865 to allow him to take part in the final campaigns of the war, as the Army of the Potomac broke the Army of Northern Virginia and forced its surrender at Appomattox Court House in April. None of Chamberlain’s courage or gallantry seemed to have been lost, and he ended the war with distinction. This is not unusual for, as Frances Clarke argues in her study of Civil War amputees, most wounded veterans of the American Civil War were not disillusioned but were rather confirmed in their own religion and patriotism, and graphic injuries portrayed not the horrid nature of war but the commitment of the injured to his country’s cause. Indeed, though he was not missing any limb or other part of his body, Chamberlain’s reaction to his wound and his post-war persona are consistent with the conclusions of Clarke’s study. This should come as no surprise, as the loss of one’s biological basis for manhood could well be considered psychological trauma akin to amputation. Chamberlain’s wound may even have been more traumatic, for if an amputation could be considered

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<sup>30</sup> Charles K. McAllister, “The Lion of the Union: The Pelvic Wound of Joshua Lawrence Chamberlain,” *Journal of Urology* 163, no. 3 (March 2000), 713-716.

effeminate, what then might people have thought of being rendered impotent?<sup>31</sup>

Clarke identifies three sources of value amputees placed on their own bodily sacrifice, especially if they wrote of their experiences after the war: civic commitment, religious insight, and strengthening of character.<sup>32</sup> The second, religious insight, is apparent in Chamberlain's behavior from the moment he was wounded. Having briefly attended Bangor Theological Seminary as a young man in consideration of entering the clergy, Chamberlain possessed a deep and abiding faith that is evident throughout his wartime correspondence, no more so than on June 19, 1864, as he lay suffering from what he believed to be a mortal wound. Scribbling a hasty letter to his wife, Chamberlain wrote,

My darling wife,

I am lying mortally wounded the doctors think, but my mind & heart are at peace Jesus Christ is my all-sufficient savior. I go to him. God bless & keep & comfort you precious one, you have been a precious wife to me. To know & love you makes life & death beautiful.<sup>33</sup>

Chamberlain's civic commitment was also above reproach and was both defined and grew in strength as a result of his service. Four years after the war, in a letter to the Maine Republican Nominating Committee, Chamberlain avowed that he was "still strong in the faith of her [the Union's]

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<sup>31</sup> Clarke, *War Stories*, 4, 57-58, 159.

<sup>32</sup> *Ibid.*, 146, 164.

<sup>33</sup> Joshua Chamberlain to Fanny Chamberlain, 19 June 1864.

cause.”<sup>34</sup> Finally, as brevet major general, governor of Maine, and president of Bowdoin College, Chamberlain’s strength of character was above reproach, and he was held in such high regard by his superiors in the army that he had been chosen to receive the Confederate surrender at Appomattox.

Paradoxically, Chamberlain’s very survival may have been the most damaging aspect of his wounding. While amputees and other wounded veterans sought to confirm the justifications of their own sacrifices, the commitment of those who sacrificed their lives in the line of duty was never questioned. Men, particularly officers, who perished in inspiring fashion with little regard for their own mortality were often transformed into martyrs, with friends and family nearly obligated to hold their deceased as an example of the highest devotion.<sup>35</sup> The events of Chamberlain’s wounding conform to the conventions of patriotic martyrdom extremely well. Ordered to take an enemy position in an impossible assault, Chamberlain not only led his men with unquestioning bravery but at one point received the colors from a falling flag bearer and personally bore them onwards. Struck down for his courage, Chamberlain encouraged his men to proceed without him as he attempted to rise despite excruciating pain.<sup>36</sup> Carried to the rear and told his wound was mortal, Chamberlain put all faith in God and faced death unafraid, confident in his faith and his affection for his loved ones.<sup>37</sup> Yet instead of being granted a martyr’s death and joining all those men on the Union’s Roll of Honor,

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<sup>34</sup> Joshua Chamberlain to the Maine Republican Nominating Committee, 27 April 1869.

<sup>35</sup> Clarke, *War Stories*, 43.

<sup>36</sup> Trulock, *Hands of Providence*, 206-210; Longacre, *The Solder and the Man*, 193-197.

<sup>37</sup> Joshua Chamberlain to Fanny Chamberlain, 19 June 1864.

Chamberlain found his life restored to him, the very basis of his manhood in agonizing ruin. Thus would Joshua Chamberlain be forced to reenter civilian life, the martyr who survived.

Chamberlain's return to life outside the army proved to be an intensely trying affair. Absorbed in the affairs of state as governor of Maine and then with the business of running Bowdoin College as its President, Chamberlain's grip on domestic tranquility loosened considerably. Fanny, who had always sought attention, began to grow distant, acting out and traveling extensively to live with various relatives. Though there exists no concrete proof, one cannot help but wonder how great a role her husband's incontinence and impotence played in Fanny's restless behavior. Events came to a head in the fall of 1868, when Fanny supposedly spread allegations of being physically abused by her husband.<sup>38</sup> Chamberlain moved quickly to quash such talk and, while there is scant evidence of whether such abuse actually occurred, the two would live in legal separation for over a decade before reconciling.<sup>39</sup> As his failure as male head of household was added to the pains of his pelvic injury, Chamberlain's writings begin to show a distinct pattern. Though he wrote in 1865 that "Soldiering in time of peace is almost as much against my grain as being a peace man in time of war," Chamberlain appears to have increasingly associated martial service with essential qualities of masculinity.<sup>40</sup> Terms such as "manhood" or "manly" rarely refer to subjects outside the realm of war, and even as governor of Maine, Chamberlain was willing to accept a criminal's "solemn word of honor as a man" as a

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<sup>38</sup> Joshua Chamberlain to Fanny Chamberlain, 20 November 1868.

<sup>39</sup> Smith, *Fanny & Joshua*, 196.

<sup>40</sup> Joshua Chamberlain to Charleton Lewis, 26 June 1865.

direct result of his good service in the Union army.<sup>41</sup> Even more telling were the men Chamberlain chose to admire. After attending the funeral of Ulysses S. Grant in 1885, Chamberlain wrote to Fanny that “The great men of the nation were there.”<sup>42</sup> Yet in that age of towering industrial pursuits and larger-than-life figures, the men to whom Chamberlain referred were not dashing captains of industry or powerful politicians; they instead went by the names of Sherman, Sheridan, and Hancock.<sup>43</sup>

It would seem that Chamberlain was able to hold notions of martial masculinity so dear because he still considered the war itself to have been a glorious affair, even after all he had personally suffered during and after the conflict. None of the “hardening” or disillusionment argued by Gerald Linderman in *Embattled Courage* seems to have taken root, and instead, Chamberlain would have aligned himself more with future Supreme Court Justice Oliver Wendell Holmes, Jr., who wrote of the war as the crucible in which great men were forged. As Holmes stated in a speech given on Memorial Day 1884, “The generation that carried on the war has been set apart by its experience. Through our great good fortune, in our youth our hearts were touched with fire.”<sup>44</sup> Chamberlain whole-heartedly agreed, and wrote in 1912 that “in the privations and sufferings endured as well as in the strenuous action of battle, some of the highest

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<sup>41</sup> Joshua Chamberlain to Joseph Pottard, 27 December 1867.

<sup>42</sup> Joshua Chamberlain to Fanny Chamberlain, 8 August 1885.

<sup>43</sup> Ibid.

<sup>44</sup> Linderman, *Embattled Courage*, 240; Oliver Wendell Holmes, Address delivered May 30, 1884 before John Sedgewick Post no. 4, Grand Army of the Republic, *The Essential Holmes: Selections From the Letters, Speeches, Judicial Opinions, and Other Writings of Oliver Wendell Holmes, Jr.*, Richard A. Posner, ed. (Chicago, IL: University of Chicago Press, 1992), 87.



qualities of manhood are called forth.”<sup>45</sup> In his numerous articles written around the turn of the century, Chamberlain wrote of his and his men’s past exploits in terms so glowing one could mistake them for the musings of a volunteer of 1862 who had yet to see combat. “Stirred by the pulse of manhood and the contagion of comradeship;” “hearts swelling with manly courage;” these are the phrases Chamberlain uses to describe the “sublime scene” of his men engaged in some of the most desperate battles of the war.<sup>46</sup> “Superb courage” is often on display as no man wishes to be left out of the line for fear of being known as a coward; “the instinct to seek safety is overcome by the instinct of honor.”<sup>47</sup>

As Chamberlain praised the performance of his men, so too did he look back upon his own actions. In writing of his brigade’s fateful assault at Petersburg, Chamberlain takes care to note that he and his staff not only led the charge but did so mounted, and that he himself bore the flag forward until he was shot.<sup>48</sup> Chamberlain’s performance at the Battles of White Oak Road and Five Forks in March of 1865

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<sup>45</sup> Joshua Chamberlain, *The Passing of the Armies: The Last Campaign of the Armies* (Gettysburg, PA: Stan Clark Military Books, 1994), 385-386.

<sup>46</sup> Joshua Chamberlain, “My Story of Fredericksburg,” in “*Bayonet! Forward!*” *My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 4; Chamberlain, *The Passing of the Armies* 3; Joshua Chamberlain, “Through Blood and Fire at Gettysburg,” in “*Bayonet! Forward!*” *My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 29.

<sup>47</sup> Joshua Chamberlain, “Reminiscences of Petersburg and Appomattox,” in “*Bayonet! Forward!*” *My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 42; Chamberlain, “Through Blood and Fire at Gettysburg,” 24, 31; Chamberlain, *Passing of the Armies*, 20.

<sup>48</sup> Chamberlain, “Reminiscences of Petersburg and Appomattox,” 48.

was also by his account exemplary, as he was both called upon to “save the honor of the V Corps” in the former battle and complimented by General Sheridan for leading from the front in the latter.<sup>49</sup> Both these accounts concern events either directly related to Chamberlain’s pelvic wound or occurring afterward, and while it is tempting to read in them a possible attempt to broadcast and reaffirm his continuing manhood, it must also be considered that that period of time had offered Chamberlain the greatest opportunity to perform such heroics in reality, having just been promoted to brigadier general and holding the command of a brigade.

Chamberlain’s respect for the performance of his and all other men during the war appears at times to go so far as to ignore the ugly realities of the conflict that he himself witnessed. In “My Story of Fredericksburg,” originally published in 1912, Chamberlain writes of lines of men advancing against the Confederate positions “in perfect order and array, the flag high-poised and leading...bright bayonets fixed, ready at the final reach to sweep over the enemy’s rock-like barrier.”<sup>50</sup> Yet Chamberlain was not writing in December of 1862; he knew full well the carnage that took place immediately afterward, having experienced it firsthand. Eight years earlier in “Reminiscences of Petersburg and Appomattox,” Chamberlain had the temerity to admire the very orders of attack that led to his pelvic injury. Knowing the impossibility of any such assault, he wrote that the orders were “certainly a compliment to my six

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<sup>49</sup> Joshua Chamberlain, “Military Operations on the White Oak Road,” in *“Bayonet! Forward:” My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 72; Joshua Chamberlain, “Five Forks,” in *“Bayonet! Forward:” My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 110; Chamberlain, *Passing of the Armies*, 72, 130.

<sup>50</sup> Chamberlain, “My Story of Fredericksburg,” 4.

splendid regiments.”<sup>51</sup> This mindset was not born of blind optimism and nostalgia, however. The price of the war can be seen to weigh on Chamberlain at times, particularly in the article “Through Blood and Fire at Gettysburg,” first published in 1913, in which he laments that he and his regiment “had more to learn about the costs” of their valor, and that “We kill only to resist killing.”<sup>52</sup> Though seemingly at odds, these two approaches to Chamberlain’s subject matter are reconciled by the man himself in “Reminiscences of Petersburg and Appomattox.” As he gazed out across the fields before Petersburg, Chamberlain realized that only the consecration of the blood of the fallen could prevent him from beholding a desolate vision.<sup>53</sup> Chamberlain’s praise of courage and honor therefore does not reject the horrible reality of the Civil War but embraces it, for only through a reaffirmation of their valor could the sacrifice of the war’s dead and wounded be given meaning.

As the value of the war waxed in Chamberlain’s perception, so did civilian life wane. This was not an uncommon occurrence amongst veterans of the Civil War. In *Sing Not War: The Lives of Union & Confederate Veterans in Gilded Age America*, James Marten explains that society at large during the decades following the Civil War began to place less emphasis on the martial values held so dear to former soldiers, raising up new heroes of ambition and industry to replace the old. There were also fewer chances for the fulfillment found through dramatic leadership so prevalent during the conflict.<sup>54</sup> It was this last

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<sup>51</sup> Chamberlain, “Reminiscences of Petersburg and Appomattox,” 48.

<sup>52</sup> Chamberlain, “Through Blood and Fire at Gettysburg,” 23, 34.

<sup>53</sup> Chamberlain, “Reminiscences of Petersburg and Appomattox,” 43.

<sup>54</sup> James Marten, *Sing Not War: The Lives of Union & Confederate Veterans in Gilded Age America* (Chapel Hill, NC: University of North Carolina Press, 2011), 21, 25.

that concerned Chamberlain the most, for especially after his terms as governor of Maine and tenure as President of Bowdoin, civilian life held little excitement or even success for him. In order to reclaim the supremely masculine identity that Chamberlain had held as a result of the Civil War, the only remaining course of action was to seek solace in a recreation of the conditions of that very conflict.

The simplest manner of recreating such an environment may have been to surround oneself with those who held similar values, namely Chamberlain's fellow veterans and officers. Such a strategy seems to never have been far from Chamberlain's mind, and in his writings a mythic brotherhood seems to form, the only requirement for which was having served in the Army of the Potomac. Remembering the Grand Review of the Army of the Potomac after the cessation of hostilities, Chamberlain wrote of the worn and weary men that had passed before the reviewing stand: “Their devotion was sublime,” and “They belonged to me, and I to them by bonds birth cannot create nor death sever.”<sup>55</sup> Chamberlain was indeed highly active among Union veterans' groups, taking a hand in the proposal and dedication of regimental monuments, the compiling of records, and the planning of reunions. In 1888, while in attendance of a reunion celebrating the twenty-fifth anniversary of the Battle of Gettysburg, Chamberlain was even elected President of the Society of the Army of the Potomac, an achievement that left him both humbled and inordinately pleased.<sup>56</sup>

Chamberlain's fraternization with fellow veterans of the Civil War was not confined solely to men who had

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<sup>55</sup> Joshua Chamberlain, “The Grand Review of the Army of the Potomac,” in *“Bayonet! Forward:” My Civil War Reminiscences*, 2d. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 160, 170.

<sup>56</sup> Joshua Chamberlain to Grace Allen, 13 July 1888.

fought for the Union. Surprisingly, for a man self-described as “still strong in the faith of her [the Union’s] cause,” Chamberlain bore great respect for men who had fought not in blue but in gray.<sup>57</sup> The foundation of this respect was based in recognition of mutual suffering and courage, writing that the Confederates were also “grounded in the instincts of manhood,” and that “we had a certain pride in their manliness, and a strong fellow-feeling.”<sup>58</sup> Chamberlain was hosted many times after the war by Confederate veterans either in organized groups or in informal gatherings, and their hospitality and fellowship were paid in kind.<sup>59</sup> Writing to a North Carolinian, Chamberlain even went so far as to state that “There was no body of men so brave and in all ways manly than those she [North Carolina] sent to that great ordeal.”<sup>60</sup> Though this was no doubt flattery to some extent, one can read in it the height of Chamberlain’s admiration for his opponents.

Though a source of joyful fulfillment, Chamberlain’s fellowship with veterans of both sides of the Civil War was also fraught with heartache. Both blessed and cursed with a long life, despite the recurring complications from his pelvic wound, Chamberlain was forced to watch as one by one, his brothers-in-arms passed away. Even as early as 1893, he lamented to fellow veteran Alexander Webb that “as to Gettysburg, my comrades there are pretty well gone.”<sup>61</sup> Every dedication, every reunion saw increasingly fewer men of both the blue and the gray as the strapping veterans of

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<sup>57</sup> Joshua Chamberlain to the Maine Republican Nominating Committee, 27 April 1869.

<sup>58</sup> Chamberlain, *Passing of the Armies*, 15, 197.

<sup>59</sup> Chamberlain, “Reminiscences of Petersburg and Appomattox,” 52.

<sup>60</sup> Joshua Chamberlain to L. B. Eaton, 1 August 1901.

<sup>61</sup> Joshua Chamberlain to Alexander Webb, 18 May 1893.

1865 turned into the old soldiers of 1913. The warmth of manly camaraderie had ultimately proved to be only fleeting.

While associating with comrades could possibly recreate the atmosphere of the war, it could not truly match Chamberlain’s martial experiences. In order to do so, Chamberlain would spend nearly his entire post-war career in endless pursuit of tangible situations that might offer him the chance to showcase his daring leadership and masculinity. While his roles as governor and college president seem to have been somewhat fulfilling, they do not appear to have peaked his excitement either. His shining moment came in 1880, when a disputed Maine gubernatorial election threatened to unleash partisan unrest and possibly violence throughout the state. Wanting to ensure a peaceful transition, the incumbent governor raised the state militia and asked Chamberlain to take charge. Writing, “I cannot bear to think of our fair and orderly state plunged into the horror of a civil war” in a letter to Maine Senator James G. Blaine, Chamberlain raced to Augusta.<sup>62</sup> Though ordered only to safeguard “institutions of the state,” Chamberlain instead decided to interpret his orders figuratively, using his men to defend not only the physical institutions of Maine’s government but the people who ran them as well. As the debate raged over which of three claimants to the governorship had been legally elected, Chamberlain held executive power once more, this time as the *de facto* military governor of Maine. In the course of twelve days in January of 1880 Chamberlain defended all candidates from riots and assassination attempts while he impartially urged that the Maine Supreme Court settle the matter. This they did, and on January 17 the dispute had been settled, a new governor had been legally elected, and Chamberlain had stepped down

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<sup>62</sup> Joshua Chamberlain to James G. Blaine, 29 December 1879.

from his post.<sup>63</sup> The former general had been in rare form and wrote to Fanny at one point in the crisis that “Yesterday was another Round Top.”<sup>64</sup> The successful resolution of the conflict brought with it praise from many corners including the Republican press, which wrote an homage “to Joshua Chamberlain, the heroic holder of the fort, the noble soul that stepped into the gap, assumed responsibility, and saved the state from anarchy and bloodshed.”<sup>65</sup>

Yet with this one fortunate and successful endeavor came many other situations that would prove to be decidedly less so. Possibly the greatest of Chamberlain’s post-war failures occurred while he was President of Bowdoin and has since come to be known as the “Rebellion of the Bowdoin Cadets.” The 1870s saw many institutions of higher learning across the United States install some kind of military program as an effort to prepare the young men of the nation for war as the young men of 1861 had not been. Bowdoin was no exception, and Chamberlain spearheaded the effort to institute mandatory drill for all students in 1872. Not only would the new system of drill provide practical instruction for use in the increasingly “manly, aggressive imperialism” of the newly reunited nation; it would also instill such indispensable values as discipline and courage in the young men under Chamberlain’s aegis of authority. At first, the new system of military drill was accepted by the students of Bowdoin, seen as an amusing diversion and an opportunity to fire the college’s 4-pound artillery piece. Soon, the strict physical and financial requirements began to chafe, however, and widespread mutiny erupted in 1873, with

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<sup>63</sup> Pullen, *A Hero’s Life and Legacy*, 89-100.

<sup>64</sup> Joshua Chamberlain to Fanny Chamberlain, 15 January 1880.

<sup>65</sup> *Kennebec Journal*, 21 January 1880.

three-quarters of the student body refusing to attend drill.<sup>66</sup> Seizing this chance to show his leadership, Chamberlain leapt into action. Taking a hard-line approach filled with military discipline and what some called “Prussian severity,” Chamberlain sent home every student who refused to drill, which included the freshman and sophomore classes in their entirety.<sup>67</sup> In letters sent to their parents, the rebellious students were given an opportunity to return to Bowdoin, provided they reaffirmed their commitment to the drill.<sup>68</sup> Though possibly effective for a similar situation in the military, Chamberlain’s actions nearly spelled ruin for the college, and though the Board of Trustees stood behind him in principle, it declared drill no longer mandatory, in effect destroying the program Chamberlain had fought so fiercely to defend.<sup>69</sup>

The success or failure of these civilian endeavors mattered little to Chamberlain if only he could prove his valor in fighting another war. The second half of the nineteenth century was far from quiet, both in North America and in Europe, and Chamberlain wasted no opportunity to reenter the military and taste the fruits of leadership and masculinity one more time. Chamberlain did not require that these opportunities be confined to the United States or even North America. His only desire apparently was to serve as an officer in an international conflict with a Western enemy, as he never sought to remain in the United States Regular Army to combat Native Americans on the

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<sup>66</sup> “Regulations for the Interior Police and Discipline of the Bowdoin Cadets;” Pullen, *A Hero’s Life and Legacy*, 70; Golay, *Parallel Lives*, 305.

<sup>67</sup> Pullen, *A Hero’s Life and Legacy*, 73.

<sup>68</sup> Joshua Chamberlain to Fathers of Drill Rebels, 28 May 1874.

<sup>69</sup> Pullen, *A Hero’s Life and Legacy*, 74-75; Golay, *Parallel Lives*, 305-306.



frontier. Chamberlain's first chance came in 1870 with the outbreak of the Franco-Prussian War, upon which he promptly wrote to Kaiser Wilhelm I offering his services as an officer. In his letter, Chamberlain described his extensive field experience during the American Civil War, and offered to resign as governor of Maine if accepted into Prussian service. Chamberlain was forthright concerning his motives for fighting, admitting that he bore no interest in the outcome of the conflict, but that "the honor of manhood is a point on which a soldier may well be sensitive."<sup>70</sup> It would do him no good.

Though that first attempt ended in failure, and indeed the war may have been concluded faster than any reply could reach Chamberlain, it did not dissuade him from trying again nearly thirty years later as the United States entered its own war, this time with Spain over control of Cuba and the Philippines. Taking no chances, Chamberlain wrote two letters on the same day in April of 1898. One, in which he again offered his services as an officer, was sent to the Secretary of War; the second, in which he offered to raise the New England Militia and lead it through the "present crisis," was sent to one of Maine's US senators.<sup>71</sup> Not only were both of Chamberlain's proposals refused, but he was forced to stand by as William Oates, who as colonel of the 15<sup>th</sup> Alabama led his men against Chamberlain and the 20<sup>th</sup> Maine on Little Round Top at Gettysburg, was given a brigadier general's star and command of a brigade of Alabama volunteers.<sup>72</sup> His final opportunity had passed with disappointment; Chamberlain would not live to see the next great conflict explode in the summer of 1914.

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<sup>70</sup> Joshua Chamberlain to Wilhelm I, 20 July 1870.

<sup>71</sup> Joshua Chamberlain to Major General Russel A. Alger, 22 April 1898; Joshua Chamberlain to William P. Frye, 22 April 1898.

<sup>72</sup> Pullen, *A Hero's Life and Legacy*, 152; Golay, *Parallel Lives*, 335.

Unable to successfully recreate the conditions of his wartime valor in any way other than sporadic, fleeting moments and slowly watching his beloved brothers-in-arms pass away, Chamberlain took renewed interest not in continuing his pursuit of masculinity but in reliving his old escapades. His involvement with veterans’ organizations had previously necessitated some level of interaction with the keeping of historical records of the Civil War and had even led to a spirited argument with Oates in the 1890s over whose story of July 2 at Gettysburg rang the truest.<sup>73</sup> Possibly sparked by that very argument, Chamberlain devoted the last decade and a half of his life to writing and publishing his accounts of the war. In *War Stories* Frances Clarke observes that Victorian war stories seeking to justify sacrifice to society ebb around the turn of the century, yet all of Chamberlain’s various reminiscences and articles concerning his experiences in the Civil War date to the period between 1897 and his death in 1914, with all but one published in the twentieth century.<sup>74</sup>

As a former professor of rhetoric, Chamberlain proved adept at committing his memories to writing, and his appointment as Surveyor of Customs for the Port of Portland ensured that he need not worry about supporting his family.<sup>75</sup> Fanny died in 1905, and as complications from his old pelvic wound began acting up again, Chamberlain became

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<sup>73</sup> Joshua Chamberlain to Ellis Spear, 27 November 1896; Joshua Chamberlain to William C. Oates, 27 February 1897; Joshua Chamberlain to John P. Nicholson, 14 August 1903; Joshua Chamberlain to John P. Nicholson, 16 March 1905; Joshua Chamberlain to William C. Oates, 18 May 1905.

<sup>74</sup> “Bibliography,” in “*Bayonet! Forward: My Civil War Reminiscences*, 2nd. ed. (Gettysburg, PA: Stan Clark Military Books, 1994), 277.

<sup>75</sup> Pullen, *A Hero’s Life and Legacy*, 159.

increasingly engrossed in his subject matter. As he had written to his wife twenty years before her death, “You know I have had great and deep experiences- and some of my life has gone into the history of the days that are past.”<sup>76</sup> Where recreating opportunities for glory had failed, reliving past deeds succeeded, and an increasing amount of Chamberlain’s life seems to have been spent in “the history of the days that are past.” Many passages written only years before Chamberlain’s death in 1914 and intended as part of his unfinished memoirs seem surreal. The notion of veteran camaraderie and the eternal existence of the Army of the Potomac are recurring themes, with Chamberlain writing in *The Passing of the Armies* that “This army will live, and live on.”<sup>77</sup> In “The Grand Review of the Army of the Potomac” his memories appear to momentarily gain the upper hand over reality, for in remembering the disbandment of that organization he held so dear Chamberlain asks, “Who shall tell what is past and what survives?”<sup>78</sup>

Courage and masculinity burned as strong in the waning years of Chamberlain’s life as ever they did during the Civil War, and only two years before his death Chamberlain composed a poem entitled “The Trooper’s Last Charge.” Filled throughout with striking martial and religious imagery, it is here, in this poem, that Chamberlain stands triumphant. Certain poignant phrases yearn for attention: “Ranks death cannot sunder;” “Manhood whose deeds for man / Waken for wonder;” “Man’s measureless ideal;” “Manhood’s worth redeemed anew.”<sup>79</sup> Plagued by incontinence and impotence, rocked by unexpected failures in civilian life, sorrowed at the loss of his wife and comrades,

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<sup>76</sup> Joshua Chamberlain to Fanny Chamberlain, 8 August 1885.

<sup>77</sup> Chamberlain, *The Passing of the Armies*, 391

<sup>78</sup> Chamberlain, “The Grand Review of the Army of the Potomac,” 183.

<sup>79</sup> Joshua Chamberlain to Henry Johnson, 8 January 1912.

## “The Honor of Manhood”

Joshua Chamberlain had at last found in writing his relief, his expression and reaffirmation of self and masculinity ascendant.

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## **COTTON, CLEMENCY, AND CONTROL: *UNITED STATES V. KLEIN* AND THE JURIDICAL LEGACY OF EXECUTIVE PARDON**

Heather Clancy

On January 29, 1872, Chief Justice Salmon Portland Chase rose from the bench to deliver one of his final Supreme Court majority opinions.<sup>1</sup> Flanked by the white columns and red backdrop of the court chamber on that January day, Chase peered out from under bushy white brows to solemnly address his audience. For several tense minutes he intoned the court's ruling until finally concluding tersely that sometimes brevity is the most appropriate rhetorical choice and coming to a concise close. By the time that Chase took his seat again, the aging justice had played his part in deciding one of the most charged moments in American legal history. Despite its humble origins as a wartime compensation claim dispute over cotton, this 7-2 Supreme Court decision of *United States v. Klein* would come to strongly reinforce the separation of powers, crippling a congressional statute intended to limit presidential pardoning clout and reaffirming the supremacy

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<sup>1</sup> Chase would spend his last day as Supreme Court Justice hardly more than a year later, dying suddenly in New York on May 7, 1873 at the age of 65. A writer for the San Francisco *Daily Evening Bulletin* sang Chase's praises on the evening of his passing, remarking that although the Chief Justice had been plagued by "broken health" in his later years, he nonetheless stood as "an upright Judge, and a statesman who has become illustrious in the history of his country."

of the executive in judicial matters. Thus was offered one of the most overlooked but critical legal verdicts of the American Civil War era.

The story of *United States v. Klein* begins nearly a decade before its conclusion, with the passage of Congress's Abandoned and Captured Property Act of March 12, 1863. As extended by a second act on July 2, 1864, the legislation "authorized a recovery in the court of claims for the proceeds of property captured and sold by the military authorities without judicial condemnation after July 17, 1862, and before March 12, 1863."<sup>2</sup> In passing the act, Congress enabled owners of property that had been seized in the course of the war to claim whatever proceeds had been gained from the sale of the confiscated property.<sup>3</sup> John A.

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<sup>2</sup> This summary of the Abandoned and Captured Properties Act can be found under the General Index entry for the act in United States Supreme Court, *United States Supreme Court Reports, Volumes 98-101* (Rochester, NY: The Lawyers Co-Operative Publishing Company, 1901), 1087.

<sup>3</sup> "1. Under [the Abandoned and Captured Properties Act] a party preferring his claim in the Court of Claims, need not, where he has purchased in good faith, prove the loyalty of the person from whom he bought the property whose proceeds he claims. . . .

2. The vendor is a competent witness to support the claimant's case, if he never had any claim or right against the government, and is not interested in the suit. . . .

3. In a claim under this act, the Court of Claims may render judgment for a specific sum as due to the claimant.

4. Claimants under the act are not deprived of its benefits because of aid and comfort *not* voluntarily given to the rebellion.

Klein, acting administrator for the estate of Vicksburg Collector of Customs Victor F. Wilson, would act in accordance with the passing of the new act when he applied in the Court of Claims for proceeds owed Wilson “for cotton and interest due . . . and for refund of duties and internal-revenue tax.”<sup>4</sup> The 664 bales of cotton in question (amounting to \$125,300 USD in claims) had been seized from Wilson’s warehouse by Confederate troops in the summer of 1863 during Grant’s siege of Vicksburg.<sup>5</sup> The

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5. But voluntarily executing, even through motives of personal friendship, the official bonds of quartermasters or commissaries of the rebel army, was giving such aid and comfort. . . .

6. The mere taking possession of a city by the government forces was not a ‘capture’ of all the cotton in it, within the meaning of the act.”

United States Supreme Court, *Cases Argued and Adjudged in The Supreme Court of the United States, December Term, 1869* (Washington, DC: William H. Morrison, 1870), 817.

<sup>4</sup> Victor F. Wilson died intestate—without a will—on July 22, 1865, only a few short weeks after the last Confederate troops surrendered to Union forces. Wilson would be survived by his widow Jane Wilson (d. 1878) and his children Ann Wilson, Jane “Jeanie” Wilson, Ellen Wilson, Victor F. Wilson, Jr., Catherine Wilson, and Robert Wilson. United States Supreme Court, “United States, Appt., v. John A. Klein, Surviving Admr. of Victor F. Wilson, Deceased” in *United States Supreme Court Reports, Volumes 78-81* (Rochester, NY: E.R. Andrews Printing Company, 1912), 519-527. Victor F. Wilson family information courtesy of Ancestry.com

<sup>5</sup> This sum of \$125,300 would amount to more than \$2.36 million today once adjusted for inflation. (Calculation curtesy of “Inflation Calculator,” <http://www.davemanuel.com/inflation-calculator.php>.)

troops then took the cotton and “without his license or consent” relocated it to “the various defenses of the town, to protect it [the cotton] against the approaches and assaults of the Union army.”<sup>6</sup>

The Confederate plan backfired, however, and the bales were discovered and subsequently sold by the victorious Union forces, with proceeds from the sales going to the United States Treasury. The situation was further complicated with a development on December 8, 1863, when President Abraham Lincoln issued a proclamation offering pardon to any individual who had supported or fought for the so-called Confederate States of America—including full restoration of property rights—so long as the individual was able and willing to take the oath of allegiance to the United States.<sup>7</sup> Victor F. Wilson would take eager advantage of this offer, taking the oath of allegiance only weeks later on February 15, 1864. After the war ended, Klein submitted a claim for the 664 bales of cotton to the Court of Claims on December 26, 1865. In 1866 the suit was brought before the court for \$125,300, at which time the court ruled in favor of Wilson’s estate.<sup>8</sup>

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<sup>6</sup> United States Supreme Court, *Digest of the United States Supreme Court Reports: U. S. vols. 1-206* (Rochester, NY: Lawyers Co-Operative Publishing Co., 1908), 3.

<sup>7</sup> Dictionary.Law.com defines an executive pardon as using “the executive power of a Governor or President to forgive a person convicted of a crime, thus removing any remaining penalties or punishments and preventing any new prosecution of the person for the crime for which the pardon was given.”

<sup>8</sup> United States Supreme Court, “United States, Appt., v. John A. Klein, Surviving Admr. of Victor F. Wilson, Deceased,” *United*

It was only later revealed that Wilson had received surety—guarantee of imbursement—in the form of two Confederate bonds, one signed on August 11, 1862 for brigade quartermaster John H. Crump and the other in 1863 for an assistant commissary. This acceptance of Confederate bonds was a development that brought the sincerity of Wilson's 1864 oath of allegiance into question. The court ruled that Klein himself "did give aid and comfort to the rebellion and the persons engaged therein, and did not at all times consistently adhere to the United States." The ruling did state, however, that Wilson's children were minors during the war and "never gave comfort to the rebellion." Wilson, likewise, "did adhere to the United States" during the period in question, his pardon having "[relieved] him from any charge of disloyalty on account of his having become surety." On May 26, 1869, the Court of Claims ruled that Wilson's estate was entitled to receive the full \$125,300 and so decreed the entirety of the amount to Klein to administer to Wilson's estate.<sup>9</sup>

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*States Supreme Court Reports, Volumes 78-81* (Rochester, NY: E.R. Andrews Printing Company, 1912), 519-527.

<sup>9</sup> Readers may find it intriguing to learn that the case of the 664 bales of stolen cotton was not the first of Wilson's wartime misfortunes. On September 5, 1862, it was reported in the *Vicksburg Evening Citizen* that previous day's shelling of the city and its port had resulted in a shell striking Wilson's residence. The shell "entered the northwest corner [of the house], and from thence to the cellar, where it exploded, tearing things to pieces generally, and coming out at the top of the building." United States House of Representatives, "Claims Arising Under the Captured and Abandoned Property Act" in *United States*

On April 30, 1870 the Supreme Court would decide a parallel case to *United States v. Klein* in the form of *United States v. Padelford*. Like Klein, Edward Padelford had abandoned his stores of cotton due to wartime chaos and “having participated in the rebellion had taken the amnesty oath.” He then approached the Court of Claims in the hopes of regaining the value of his lost cotton. The court ruled that Padelford’s swearing of the oath of allegiance to secure the presidential pardon had effectively negated his participation in the late rebellion, making him eligible to claim the value of his lost cotton. Lawyers representing the United States then appealed the *Padelford* case before the Supreme Court, only to be defeated again by the powerful presidential

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*Congressional Serial Set, Issue 3269* (Washington, DC: U.S. Government Printing Office, 1894), 2; United States Supreme Court, “United States, Appt., v. John A. Klein, Surviving Admr. of Victor F. Wilson, Deceased” in *United States Supreme Court Reports, Volumes 78-81* (Rochester, NY: E.R. Andrews Printing Company, 1912), 520; United States Court of Claims, *Reports from the Court of Claims Submitted to the House of Representatives, Volume 12* (Washington, DC: W.H. and O.H. Morrison Law Books Publishers, 1877), 729; Charles C. Nott and Samuel H. Huntington, *Cases Decided in the Court of Claims of the United States at the December Term 1871; and the Decisions of the Supreme Court of the United States in All the Appealed Cases from 1865 to May 1872* (Washington, DC: W.H. and O.H. Morrison Law Books Publishers, 1873), vii-viii; *The Philadelphia Inquirer*, “Appointments, etc.,” June 23, 1865; United States Supreme Court, “*United States v. Klein*” [80 U.S. 128 (1872)], in *United States Reports: Cases Adjudged in the Supreme Court, Volume 80* (Washington, DC: U.S. Government Printing Office, 1872), 132.

pardon. Ultimately, the Supreme Court would rule in the favor of Edward Padelford, affirming the Court of Claims decision.<sup>10</sup>

Three months after the decision of *United States v. Padelford*, on July 12, 1870 the progression of *United States v. Klein* would be forced to diverge significantly from *United States v. Padelford*'s trajectory when Congress passed what became known at the time as the Drake proviso to the General Appropriations Act of 1870, prohibiting the use of a presidential pardon in applying for sale proceeds in the Court of Claims:

*Provided*, That no pardon or amnesty granted by the President, whether general or special, by proclamation or otherwise, nor any acceptance of such pardon or amnesty, nor oath taken, or other act performed in pursuance or as a condition thereof, shall be admissible in evidence on the part of any claimant in the Court of Claims as evidence

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<sup>10</sup> United States Supreme Court, "*United States v. Klein*" [80 U.S. 128 (1872)] in *United States Reports*, 132, 143; United States Supreme Court, "*United States v. Padelford*" [76 U.S. 531 (1869)].

<https://supreme.justia.com/cases/federal/us/76/531/case.html>; United States Supreme Court, *The Supreme Court Reporter*, Volume 15 (St. Louis: West Publishing Co, 1895), 170; *The Saturday Review of Politics, Literature, Science and Art*, "The President and Congress," December 22, 1866. Published in *The Saturday Review of Politics, Literature, Science and Art Volume 22* (London: Spottiswoode and Co., 1866).

in support of any claim against the United States, or to establish the standing of any claimant in said court, or his right to bring or maintain suit therein...

Furthermore, Republican Missouri Senator Charles D. Drake's proviso asserted that acceptance of such a pardon amounted to evidence that the pardoned individual did in fact provide support to the Confederacy and was therefore ineligible to recover sale proceeds. By even requesting a pardon, the Drake proviso claimed, an individual admitted his own guilt. As a result, Wilson's acceptance of Lincoln's pardon in 1862 would be reason enough to categorize Wilson's estate as ineligible to receive the proceeds from the sale of the 664 bales of cotton seized in Vicksburg. The ripples of this kind of *ex post facto* presidential pardon limitation had chafed public opinion as far away as Britain, with one British journalist calling such legislation "a revolutionary measure, and the retrospective effect of the change [a] violation of natural justice." On the basis of the new 1870 statute, the United States government appealed the increasingly convoluted claims case to the Supreme Court. The Supreme Court then accepted *United States v. Klein* to be the seventeenth of almost forty for review and trial during that session, setting the date for its argument as April 21, 1871, only to be held under advisement until October of the same year.<sup>11</sup>

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<sup>11</sup> United States Supreme Court, "*United States v. Klein*" [80 U.S. 128 (1872)], in *United States Reports*, 133; "The President



On January 29, 1872, nearly a full seven years after the Civil War's conclusion, the United States Supreme Court ruled in favor of John A. Klein and by extension the estate of the late Victor F. Wilson. When Chief Justice Chase rose and delivered the court's opinion, he not only ruled in favor of Klein and Wilson but also in favor of the presidency's executive pardoning power. The court ruled both that the General Appropriations Act of 1870's Drake proviso was unconstitutional and that Congress had exceeded its constitutionally-allotted legislative power by attempting to dictate a judicial branch decision. Furthermore, the court ruled that Congress had also encroached on the executive branch's domain in passing a statute intended to restrict the power of the executive's constitutional pardoning power. In an opinion delivered by T.D. Lincoln, J.M. Carlisle, and others on behalf of the appellee that was later recorded in Volume 80 of the Supreme Court Reports, it was forcefully asserted that "If [the president's] acts are liable to be controlled, modified, annulled, or defeated by Congress, the division of powers in this government is a chimera and a delusion."<sup>12</sup> Their sentiments are echoed perfectly in an

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and Congress," *The Saturday Review* [London], December 22, 1866; "Washington," *The New York Herald*, April 24, 1871; "Constitutionality of the Civil Rights Bill," *The Philadelphia Inquirer*, April 28, 1871.

<sup>12</sup> Justices Samuel F. Miller and Joseph P. Bradley opposed the majority opinion in *United States v. Klein*. Presenting the dissenting opinion for the two was Miller, who argued that the key issue at hand was that the Supreme Court honor the original intent of the Abandoned and Captured Property Act: "to restore the proceeds of such property to the loyal citizen, and to transfer

*Atlanta Daily Sun* article of March 8, 1873 that utilized the language of abolition when it forcefully maintained that “This power to grant pardon and amnesty is vested by the Constitution in the President alone. It cannot be fettered by legislation.” The volatility of sentiment regarding the case held by those involved in and monitoring its progress simply cannot be overlooked.<sup>13</sup>

Press coverage of *United States v. Klein* was as diverse and spirited in opinion as that surrounding the question of presidential pardon. One article originally printed in *The New York World* was reprinted in Atlanta on March 14, 1872. In it, the author reflected on the decision’s relationship with the Constitution’s Fourteenth Amendment, adopted several years earlier on July 9, 1868. In the view of the *New York World* author, the wording of the amendment’s

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it absolutely to the government in the case of those who had given active support to the Rebellion. . . . Can it be inferred from anything found in the statute that Congress intended that this property should ever be restored to the disloyal? I am unable to discern any such intent.” For Justice Miller, the question of Wilson’s loyalty was laid to rest by Wilson’s traitorous acceptance of Confederate bonds. *United States Supreme Court*, “United States, Appt., v. John A. Klein, Surviving Admr. of Victor F. Wilson, Deceased”, 521; *United States Supreme Court Reports, Volumes 78-81* (Rochester, NY: E.R. Andrews Printing Company, 1912), 526-527.

<sup>13</sup> *United States Supreme Court*, “United States, Appt., v. John A. Klein, Surviving Admr. of Victor F. Wilson, Deceased”, 521; *United States Supreme Court Reports, Volumes 78-81* (Rochester, NY: E.R. Andrews Printing Company, 1912), 521; *The Atlanta Daily Sun*, “The Morrill Amendment, Speech of Rep. Erasmus W. Beck, of Georgia” March 8, 1873.

third section proves convoluted in light of the *United States v. Klein* ruling. That third section reads as follows:

No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

When read alongside the majority opinion of *United States v. Klein*, the journalist argued, it might be interpreted that prior to the ratification of the Fourteenth Amendment, “all citizens were eligible to office, even though they might have participated in insurrection or rebellion, but that with the adoption of the amendment such classes as are named therein were rendered ineligible by reason of such participation.” Thus, it was Section 3 of the Fourteenth Amendment itself that had “imposed” disabilities, rather than merely outlined them for maximum Constitutional

clarity. As a result, Johnson's Proclamation 170 pardons of July 4, 1868 under the executive freedom of pardon reaffirmed under *United States v. Klein* became needlessly complicated, rendered meaningless in the face of an amendment that had defined punishment for a crime that had not even existed until its ratification. A writer for the *Georgia Weekly Telegraph* would respond some five days later on March 19, 1872, writing that although the author for *The New York World* held an argument that "seems conclusive," it was nonetheless one without pragmatic worth. "Congress will not acknowledge it, and the precise point is yet to be passed upon by the Federal courts." It would not do, he cautioned, to lose oneself in theory at a time when the nation so desperately required level-mindedness.<sup>14</sup>

The same *Georgia Weekly Telegraph* journalist continued on to provide one of the most vitriolic condemnations of the Drake proviso to the General Appropriations Act of 1870. The proviso was a spiteful example of postwar federal legislation, he raged, that

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<sup>14</sup> *The New York World*, "Does the Fourteenth Amendment Disqualify Anybody?" March 9, 1872. Reprinted under the same title in *The Atlanta Daily Sun*, March 14, 1872; "14th Amendment," accessed via Legal Information Institute, Cornell University Law School.

<https://www.law.cornell.edu/constitution/amendmentxiv>; Andrew Johnson, "Proclamation 170, Granting Pardon to All Persons Participating in the Late Rebellion Except Those Under Indictment for Treason or Other Felony," 1868.

<http://www.presidency.ucsb.edu/ws/index.php?pid=72270>; *Georgia Weekly Telegraph*, "An Interesting if not a Practical Question," March 19, 1872.

attempted to “convert into poison and venom, a constitutional act of Executive benignity.” This Congressional design to corrupt a “generous and merciful offer of pardon was the lowest example of legislative retribution for the late rebellion,” the author continued. There was no doubt in his mind that “the case is clear enough” and it would only be proper that the United States Supreme Court would stand in line with the executive platform of official magnanimity, ruling in favor of the deceased Victor F. Wilson. In agreement with him was a reporter for the *New York Herald* on January 30, 1872 who railed that “To repeal [the presidential pardon by way of the Drake proviso] would be a breach of faith not less cruel and astounding than to abandon the freed people whom the Executive had promised to maintain in their freedom.” Once again, a newspaper writer invoked enslavement and freedom to legitimize his argument, appealing to the kindly sentiments of his readers.<sup>15</sup>

The Supreme Court’s decision in *United States v. Klein* has had an impressively resounding and varied legal legacy. Although the case’s origins lay in a convoluted Civil War property dispute, its utility in debates far removed from its beginnings has been undeniable. In the 1980 *United*

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<sup>15</sup> *The New York Herald*, “United States Supreme Court: Important Decision Based Upon the Drake Amendment of the Appropriation Act of 1863—An Appeal to the Court of Claims by the Administrator to the Estate of a Pardoned Rebel—Congress and the Judiciary at Variance—The Chief Justice Claims Full Jurisdiction and Orders the Property to be Returned to the Suitor,” January 30, 1872.

*States v. Sioux State of Indians* Black Hills claim, a Sioux Nation push for compensation for federal seizure of their ancestral lands stagnated in a quagmire of red tape. In the case, a 1978 *res judicata* waiver served as the 1871 Congressional Drake proviso had in *United States v. Klein*, complicating the court's decision.<sup>16</sup> Suspicions arose that the waiver was an attempt to overrule a 1942 Court of Claims decision in the Black Hills claim—a flagrant violation of the separation of powers if true. In the Black Hills case, Justice Harry Blackmun ultimately decided that holdings in *United States v. Klein* did not apply to the Black Hills discussion; the *res judicata* waiver lacked unconstitutional intent to dictate the judicial branch's decision, and it had liberating—rather than restrictive—effects on adjudication.<sup>17</sup>

Former president William Clinton made reference to *United States v. Klein* in his 2001 *New York Times* op-ed piece “My Reasons for the Pardons.” In the article, he defended certain pardons and commutations among the 140 and 36 he respectively made at the end of his presidency on January 20, 2001. Among those released were Marc Rich and Pincus Green, originally indicted in 1983 for racketeering and fraud. By harkening back to *United States*

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<sup>16</sup> *Res judicata*: “the thing has been judged,” meaning the issue before the court has already been decided by another court, between the same parties. Therefore, the court will dismiss the case before it as being useless. <Dictionary.Law.com>

<sup>17</sup> Edward Lazarus, “The Highest Court in the Land” in *Black Hills White Justice: The Sioux Nation versus the United States, 1775 to the Present* (Lincoln, NE: University of Nebraska Press, 1999), 394-396.

*v. Klein*, Clinton likely sought to legitimize his actions, reminding readers of the freedom that the case had granted presidents to pardon whom they chose and as they saw fit. *United States v. Klein* would make a prominent appearance again in 2008 with the legal debate *Exxon Mobil Corporation v. Federal Energy Regulatory Commission*, in which a dense legal tangle arose surrounding the Trans Alaska Pipeline System allowed by Congress in the Trans Alaska Pipeline Authorization Act, 43 U.S.C. § 1651. In the end it was concluded that the decision in *United States v. Klein* had no relevancy in “the administrative context, much less [in] an administrative ratemaking proceeding” as Klein only applied to entities invested with judicial power.<sup>18</sup>

Writings on the *United States v. Klein* decision have sprung up just as richly in the world of academia. These more recent analyses of the case have often been conducted from a background of legal training, however, focusing on the case’s utility in determining the outcome of modern court rulings rather than on the historical significance of *United States v. Klein*. Some, such as Martin H. Redish and Christopher R. Pudelski—professor of Law and Public Policy and law clerk, respectively—have made efforts to defend a political theoretical reading of the case that some have argued blows its true impact out of proportion, making a grand judicial gesture of reinforcing the separation of

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<sup>18</sup> William Jefferson Clinton, “My Reasons for the Pardons,” *New York Times*, February 18, 2001; *Exxon Mobil Corp. v. FERC*, 571 F.3d 1208 (DC Cir. 2009). [http://www.scotusblog.com/wp-content/uploads/2008/12/08-212\\_bio\\_petro.pdf](http://www.scotusblog.com/wp-content/uploads/2008/12/08-212_bio_petro.pdf).

powers out of what is merely a “relatively brief and cryptic post-Civil War decision.” Others have analyzed *United States v. Klein* in the shadow of the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 (FISA Amendments Act of 2008), which established official procedure for “authorizing certain acquisitions of foreign intelligence,” including offering retroactive immunity by providing “standards and procedures for liability protection for electronic communication service providers who assisted the Government between September 11, 2001 and January 17, 2007, when the President's Terrorist Surveillance Program was brought under the FISA Court.” One such scholar is *Utah Law Review* editor Nate Olsen, who stressed in 2009 that the FISA Amendments Act of 2008 “is simply bad law” because it “relies on a power Congress lacks,” a conclusion that he reaches using *United States v. Klein* as precedent for the restriction of Congressional hegemony.<sup>19</sup>

In two articles by Associate Professor of Law Howard M. Wasserman of the Florida International

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<sup>19</sup> Martin H. Redish and Christopher R. Pudelski, “Legislative Deception, Separation of Powers, and the Democratic Process: Harnessing the Political Theory of *United States v. Klein*,” *Northwestern University Law Review* 100, no. 1 (2006): 437-464; Redish and Pudelski, 463; FISA Amendments Act of 2008. <https://www.govtrack.us/congress/bills/110/hr6304/text>; Office of Senator Kit Bond, “FISA Amendments Act of 2008,” *The Wall Street Journal*, June 19, 2008. <http://www.wsj.com/articles/SB121391360949290049>; Nate Olsen, “Congress and the Court: Retroactive Immunity in the FISA Amendments Act and the Problem of *United States v. Klein*,” *Utah Law Review* 1353 (2009): 1-20; Olsen, 7.



University College of Law, Wasserman further explores the value of the case in post-9/11 judicial hearings. There is a certain cult of *Klein*, argues Wasserman, which is largely unsubstantiated. In general, he asserts, the case “does little or no work, certainly not in non-pathological times.” The case’s true efficacy, Wasserman states, is instead in its historical role in “curbing the worst legislative excess,” a crucial one as he notes that “Congress (or at least individual members of Congress) may be willing to vote in favor of unconstitutional legislation, [especially] in pathological times, where the ordinary restraints are removed.” In the post-9/11 political climate of frenetic homeland security measures such as the FISA Amendments Act of 2008, Wasserman argues, *United States v. Klein*’s tempering of Congressional profusion is instrumental.<sup>20</sup>

Gordon Young likewise looked askance at hasty references made to *United States v. Klein* in his 1981 article “Congressional Regulation of Federal Courts’ Jurisdiction and Processes: *United States v. Klein* Revisited.” In it, he made reference to past cases and situations that had “invoked [*Klein*] for propositions on which it has little bearing other than its establishment of the legitimacy of an inquiry into Congress’ [*sic*] abuse of its power to regulate the federal

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<sup>20</sup> Howard M. Wasserman, “The Irrepressible Myth of Klein,” *University of Cincinnati Law Review* 79 (2010): 53-96; Howard M. Wasserman, “Constitutional Pathology, the War on Terror, and *United States v. Klein*,” *Journal of National Security Law and Policy* 5 (2011): 211-235; Wasserman, “The Irrepressible Myth of Klein,” 96; Wasserman, “Constitutional Pathology, the War on Terror, and *United States v. Klein*,” 234-235.

courts.” For instance, he outlined, the case had negligible relevance to contemporary cases involving busing, abortion, school prayers, and the Speedy Trial Act of 1974. Young even went so far as to liken *United States v. Klein* to the “unfortunate guests” of Procrustes, stretched mercilessly without reflection or remorse.<sup>21</sup>

For the American people, their four-year civil war would be the reaper of some 750,000 souls.<sup>22</sup> The conflict would rend the nation with violence and loss. By its end, it would remain for those who had survived to piece back

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<sup>21</sup> “Procrustes had an iron bed (or, according to some accounts, two beds) on which he compelled his victims to lie. Here, if a victim was shorter than the bed, he stretched him by hammering or racking the body to fit. Alternatively, if the victim was longer than the bed, he cut off the legs to make the body fit the bed’s length. In either event the victim died. Ultimately Procrustes was slain by his own method by the young Attic hero Theseus. . .” Encyclopædia Britannica Online, “Procrustes: Greek mythological figure.”

<http://www.britannica.com/topic/Procrustes>.

Gordon G. Young, “Congressional Regulation of Federal Courts’ Jurisdiction and Processes: *United States v. Klein* Revisited,” *Wisconsin Law Review* 1189 (1981): 1189-1262; Young, “Congressional Regulation of Federal Courts’ Jurisdiction and Processes,” 1261.

<sup>22</sup> This 750,000 statistic reflects historian J. David Hacker’s recent scholarship on the casualty figures of the Civil War, which utilized 1860 and 1870 census data to project how United States demographics might have appeared had the war not taken such a deadly toll. J. David Hacker, “Recounting the Dead,” *The New York Times*, Opinionator, 20 September 2011. <http://opinionator.blogs.nytimes.com/2011/09/20/recounting-the-dead/>.

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together that which had been so viciously torn apart in the struggle for Union and freedom. Not unlike the endless heaps of horsehair used by army surgeons to suture closed the gaping wounds of those physically ravaged by the war, it would be postwar rulings and legislation that would stitch the war-torn nation back together after the guns fell silent in 1865. For decades the citizenry of the United States would continue to negotiate a peace that was in many ways more complicated than the violence which had preceded it. The Supreme Court case *United States v. Klein* would function as but a single step in the intricate process of mending the nation. Even so, its role was a crucial one, helping to define the utility and limits of executive magnanimity, reassert presidential power, and further highlight both the divides and intersections between the three branches of American government. In the aging colossal legal apparatus of the post-Civil War era, an unconsidered cog labeled *United States v. Klein* labors on.

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## **“FOR SAFETY AND FOR LIBERTY”: THE DEVAN FAMILY OF GETTYSBURG**

Andrew Dalton

Researching Gettysburg’s 19th century black history is like a jigsaw puzzle. Most people of color died in complete obscurity without leaving behind a significant paper trail. Because many did not own property, their names are missing from tax records and estate papers. Pennsylvania newspapers rarely published obituaries or even death notices for black citizens until after 1900. Blacks were typically placed in shallow graves in local “colored” cemeteries, too often with a temporary wooden headstone or no marker at all; most black families could not afford a permanent stone memorial. Because of the lack of documentation, it is necessary to consult records that are less commonly used: court papers, poorhouse records, estate sale lists, and locally kept census records. By piecing these sources together and making connections between individual families, it is easier to determine where these people came from, why they settled in Gettysburg, and what their lives were like during the antebellum period. Through careful research, historians may better understand the complex lives of these forgotten people.

Pennsylvania, though in the process of a gradual abolition of slavery, was not really a “free state” until the last slaves died in the 1850s. The black population of Gettysburg was, during the first half of the 1800s, a mixture of several distinct groups: slaves, former slaves, and runaways from Maryland and Virginia. It is important to consider these differences in status when viewing the relationships between certain groups of citizens in the town. Another difference among families was skin color. In 1850, Gettysburg’s

African-American population was about half mulatto (mixed) and half black (presumably of full African descent). It appears that the census-taker that year made a concerted effort to distinguish between these two skin types.<sup>1</sup>

Although examining population trends and analyzing statistics from census records are useful methods for historians to use, they lack human interest. To gain this more intimate perspective it is essential to look at the lives of the individuals who made up the community. The subject of this study is the Devan family, a name that has not received much attention from authors, historians, or students of the Civil War. The purpose of this study is to provide a more complex and detailed understanding of the black population in antebellum Gettysburg through the examination of one family's fascinating story.

Many authors and historians attempt to paint local black history with a single stroke. This may be due to a lack of careful primary source research or a need to "fit" the black experience into a broader, preconceived hypothesis. For example, many assume that all blacks in Adams County were escaped slaves who cowered in their cellars or fled in fear upon the approach of Confederate soldiers in 1863. Others have assumed that every prominent individual of African descent in Gettysburg was involved with the protection of escaped slaves in the Underground Railroad system or that crossing the Mason-Dixon Line guaranteed the safety of runaway blacks from slave catchers. These bold and sweeping generalizations are simply not accurate. Much like the white population of the area, local blacks came from different backgrounds, held different beliefs, and dealt with

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<sup>1</sup> This was the first federal census record to list each individual's name, age, and birthplace. It is an invaluable source for local black history. 1850 United States Federal Census, Gettysburg.

the cruel racial strife of the era in different ways. The Devan family is an excellent example of this racial complexity.

William Devan, probably born in the late 1760s, was a slave in Frederick County, Maryland until he was granted his freedom papers in 1817. Records indicate that he was mulatto, “born of a white woman in the family of Richard Simpson.” That same year, a mulatto woman by the name of Lydia Devan attained her freedom. Although Lydia was considerably younger than William, it is reasonable to suggest that they were husband and wife. The Devans who eventually moved to Gettysburg were likely children of this union, as there is only one Devan family listed on early census records in Frederick County.<sup>2</sup>

There are no Devans listed on the 1840 Census records of Frederick County, Maryland. Evidently, at least two of William’s sons (Nelson and Eden) had brought their young families to Adams County in 1837 or 1838. William had probably died by this point, and a newspaper reference suggests that his wife Lydia came to Gettysburg and died soon after the move.<sup>3</sup> In January of 1839, Nelson Devan purchased the freedom of his enslaved wife Sophia and their two oldest children, Phoebe and Elizabeth. They had been owned by George Francis and his wife Anna of Frederick County. For \$200 he was able to “discharge the said Sophia and her two children from all manners of service which they

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<sup>2</sup> This source suggests that Lydia may have been William’s daughter. This seems unlikely given their age difference. As slaves, their exact ages were probably not known or recorded. Also, Eden Devan (presumably the son of William), named his children according to the well-established European naming pattern—his first son named after his father and his second daughter named after his mother. Death certificates indicate that the Devan family of Gettysburg came from Frederick County. Paul Heinemann, *Free African Americans of Maryland and Delaware: From the Colonial Period to 1810*, p. 101.

<sup>3</sup> “List of Letters,” *Gettysburg Compiler*, October 29, 1839.

or either of them owes, or ever did owe.”<sup>4</sup> In 1842, tax records indicate that Nelson Devan purchased four acres of land at the intersection of the Emmitsburg and Taneytown Roads just outside of Gettysburg.<sup>5</sup> It is possible that he had already been renting this land since the time of his arrival in the area a few years earlier. At some point, he built a small one and one-half story house on the lot.<sup>6</sup> In 1840, Nelson appeared on a list of “the board of officers” for the Colored Wesleyan Methodist Episcopal Church in Gettysburg.<sup>7</sup> After raising the appropriate funds, the congregation built a church on Long Lane in the 1840s that was occupied for many years.

Tax records indicate that in 1843, both Eden Devan and Amy Devan (who may have been his sister-in-law) purchased property in the Borough of Gettysburg. Eden’s lot was on South Washington Street next to the brick home of Jacob Stock, a German immigrant. At the time, this area of the borough was inhabited by a mixture of lower class families, primarily blacks and newly-arrived immigrants who could not afford more expensive homes closer to the center of town. Over the next two decades, Eden Devan

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<sup>4</sup> The 1840 Census lists George Frances [sic] as a resident of Frederick, Maryland. 1840 United States Federal Census; Adams County Deed Book O, p. 39, Adams County Historical Society (hereafter referred to as ACHS).

<sup>5</sup> This tract was in Cumberland Township until the limits of Gettysburg Borough were expanded in the mid-1800s and it became part of the borough. Nelson and Eden Devan are shown on the 1840 Census living in close proximity to each other. 1840 United States Federal Census; Gettysburg Borough and Cumberland Township Tax Records, ACHS.

<sup>6</sup> Pension Record of Fleming Devan, National Archives and Records Administration (hereafter referred to as NARA), copy at ACHS.

<sup>7</sup> *Star and Banner* (Gettysburg), May 19, 1840.

purchased several other properties in the borough and rented them to black families.<sup>8</sup>

Eden Devan’s residence was a house that he built on the Washington Street property. On the 1850 Census he was listed as a hostler. This was a common, low-paying occupation that many blacks undertook in the town of Gettysburg. Surprisingly, Eden’s real estate value in 1850 was higher than any other person of color in the borough; ten years later, the census indicates that his combined real and personal estate value was, once again, the highest among all blacks in Gettysburg. This data, combined with the following testimony, calls into question Eden Devan’s character and may offer an explanation for his financial success. In a 1904 letter to local historian J. Howard Wert, Samuel R. McAllister (whose family was active in assisting runaway slaves in Adams County) stated that “there was a yellow kidnapper in town who was very busy and got away with several. His name was Ede Devan. He made considerable money at it.”<sup>9</sup> Wert added a few more details about Devan in his own article about the Underground Railroad: “By a strange sarcasm, the most efficient ally of the slave catchers in the town of Gettysburg was a man of gigantic size, himself of African blood. He made considerable money by his nefarious business.”<sup>10</sup> Wert even went so far as to write a poem about Devan entitled “Pious

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<sup>8</sup> Estate file of Eden Devan, ACHS; Gettysburg Borough Tax Records, ACHS; Adams County Deed Book Q, p. 255.

<sup>9</sup> This is a private letter written by someone who was intimately involved with the Underground Railroad in Adams County. There can be no doubt that he was extremely sympathetic to the cause of abolition, and would have no reason to slander a member of the black community without ample evidence to do so. Letter of S. R. McAllister, December 2, 1904, in G. Craig Caba, *Episodes of Gettysburg and the Underground Railroad*, pp. 58-59.

<sup>10</sup> *Harrisburg Telegraph*, December 9, 1904.

Uncle Eden,” mocking the fact that he was involved with the church while at the same time engaged in immoral behaviors. The poem begins as follows:

There was a fat old colored man,  
With most prodigious nose.  
Who weighed more than three hundred pounds,  
Dress'd in his Summer clothes:  
Chuck full of loud religion he,  
From eye-brows down to toes;  
He shouted each campmeeting, from  
The first day to the close.<sup>11</sup>

Eden Devan's membership with the colored church in town appears to have been quite complex. In 1854, Devan was designated as “a collector” for the church “to go through the county and receive whatever the benevolent will contribute to help a needy people, whose thanks and prayers they shall ever have.”<sup>12</sup> His next appearance in local newspapers relating to the church states that he and several other church leaders were “excluded” from the congregation for plotting against a church elder and for “dissension and envying our doctrines and discipline, and improper conduct.”<sup>13</sup> Perhaps Devan's reputation in Gettysburg had

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<sup>11</sup> Although Devan (the surname) is not mentioned, there is no doubt that Eden Devan is the subject. There are no other blacks on Gettysburg records with the given name Eden. Also, Wert refers to Devan as “a man of gigantic size” in a different article. “Thoughts and Things,” *Gettysburg Compiler*, August 29, 1906.

<sup>12</sup> *Adams Sentinel*, August 21, 1854.

<sup>13</sup> The other church members excluded were Rev. James Cameron, Lewis Jones, and Samuel Bowen. The Elder in Charge was J. P. Hamer. *Adams Sentinel*, July 20, 1857.

caught up with him and contributed to his exclusion from the church.

One notable incident occurred at the home of Eden Devan in 1848, years before his troubles with the church. An article in Gettysburg’s *Star and Banner* detailed the scene:

Considerable stir was occasioned in this place, on Saturday evening last, among the colored people, in consequence of the capture of a fugitive slave, belonging to a Mr. Thomas, of Frederick county, Md. The slave had made his escape from his master some days previous, but reached this place on Saturday evening, and concealed himself in the house occupied by Eden Devan—a colored man. By some means, the master discovered his whereabouts, and, about 3 o’clock . . . suddenly pounced upon him in his snug quarters, and rushed him in hot haste through our streets with the view of securing him before an alarm could be given. A large crowd soon assembled in the public square—the colored population evincing considerable feeling; but the fugitive admitting himself to be a slave, and expressing a willingness to return with his master, the latter, after liberally feeing his assistants, left with his property.<sup>14</sup>

This account, in addition to the McAllister letter and Devan’s financial prosperity, seems to indicate that Devan was involved in the “nefarious business” of handing over

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<sup>14</sup> *Star and Banner* (Gettysburg), September 15, 1848.



runaway slaves to their masters for a profit. Perhaps he was one of liberally paid “assistants” in the case shown above. After all, J. Howard Wert’s poem about Eden Devan includes the line: “there’s sartin [sic] to be fire, where there’s such sights of smoke.”<sup>15</sup>

Nelson Devan’s family fared better in the public sphere, at least until after the Civil War. During the 1850s, Nelson worked for Gettysburgian John L. Tate and later as a laborer at Haldeman’s furnace in Lancaster County, Pennsylvania. In 1856, while hauling ore near Marietta, “the horses, taking fright, started to run, and in the effort to arrest them, he was caught between the wheel and a post.” Devan’s injuries were extremely serious, causing his death “eight or nine” days later. His body was brought back to Gettysburg to be interred in the black cemetery on York Street.<sup>16</sup> After her husband’s death, Sophia Devan’s sole source of income was through her sons, especially Flemming, who worked for a white family as “a waiter and servant” for only two dollars per month. He also tempered clay at a local brickyard and worked on a farm to supplement the family income. All pay went to his mother, who was described as “very poor and often in bad health.” One of Flemming’s employers remembered that he was an “industrious, reliable boy.”<sup>17</sup>

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<sup>15</sup> “Thoughts and Things,” *Gettysburg Compiler*, August 29, 1906; “Pious Uncle Eden,” *Harrisburg Daily Independent*, August 14, 1906.

<sup>16</sup> This was the only place where people of color could be buried in the Gettysburg area at the time. The cemetery was abandoned in 1906 and a house (311 York Street) stands on the site today. Devan probably never had a headstone. If he did it was lost before 1906 when some cemetery stones were moved to Lincoln Cemetery (then the Goodwill Cemetery) on Long Lane. For more information relating to local black cemeteries, see Betty Dorsey Myers, *Segregation in Death: Gettysburg’s Lincoln Cemetery*. “Fatal Accident,” *Gettysburg Compiler*, January 28, 1856.

<sup>17</sup> Pension Record of Fleming Devan, NARA (copy at ACHS).

As the Civil War approached, Gettysburg’s black population decreased slightly from about 200 in 1850 to 188 in 1860. This is probably due in part to the Fugitive Slave Act of 1850, which made it far more difficult for runaway slaves to escape and remain undetected in Pennsylvania. As former slaves, Sophia Devan and her two oldest children must have felt great anxiety living so close to the Mason-Dixon line. When the Civil War began in 1861, Gettysburg’s people of color lived in fear of an invasion by the Southern army. They dreaded the sight of the Confederates, who regarded their race as inferior and made no distinction between free people and runaway slaves.<sup>18</sup>

On June 26, 1863, Confederates under General Jubal Early entered Gettysburg and demanded supplies from the town leaders. The approach of the Confederates caused widespread panic throughout the local black population. Many families took to the hills surrounding town or sought out back roads and farm paths that led to safer areas. Sophia Devan and her children were among those who were “obliged to flee for safety and for liberty from the invading Rebels.”<sup>19</sup> It is not clear if Eden Devan and his family left town, but it seems likely that they did given the fact that Confederates, just a few days later, would occupy many of the abandoned dwellings on South Washington Street near their home. Unlike his sister-in-law Sophia, Eden Devan did not file a claim for damage done to his property during the summer of 1863.

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<sup>18</sup> For more information about local black citizens during the Gettysburg Campaign, see Margaret Creighton, *The Colors of Courage: Gettysburg’s Forgotten History*. 1850 and 1860 United States Federal Censuses, accessed on Ancestry.com.

<sup>19</sup> Damage Claim of Sophia Devan, Gettysburg National Military Park (hereafter referred to as GNMP).

Jubal Early's force left town after ransacking most of Gettysburg's businesses and stealing much-needed supplies. The Confederate army returned to Gettysburg five days later in force during the first day of the Battle of Gettysburg. By evening they occupied the streets of town, and skirmishers advanced to Breckenridge Street and the southern end of Washington Street. Union soldiers of the Eleventh Corps occupied a position near Sophia Devan's house at the corner of the Emmitsburg and Taneytown Roads. Both Devan houses were caught between the lines during heavy skirmishing and sharpshooting on July 2nd and 3rd. The brick residence and boarding house of Jacob Stock, next door to Eden Devan, was targeted by Union artillery and riflemen to drive Confederate sharpshooters away.<sup>20</sup>

When the smoke cleared on July 4, 1863, Sophia Devan's house was all but destroyed. Shells had crashed through the building, destroying the roof as well as household contents like beds, a table, and the cooking stove. Damaged plates, dishes, silverware, and clothing lay scattered around the house and surrounding property. Fence lines, as well as the doors of the house, were destroyed or taken away to be burned, and the nearby garden had been trampled down by hundreds of soldiers. Crude breastworks created by German soldiers of the Eleventh Corps lined the Emmitsburg Road just west of the house. In short, the property was "entirely unfit to be occupied." Sophia and her

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<sup>20</sup> Battle damage is still visible on the southern wall of the Stock house. Eden Devan's frame structure no longer stands, but part of it can be seen in early images of the Stock house, including an 1863 view of the building that has just recently come to light through an eBay auction. For more on the sharpshooting action in this area of town, see Timothy H. Smith's *In the Eye of the Storm: The Farnsworth House and the Battle of Gettysburg*, as well as Dr. Walter L. Powell's *The Alexander Dobbin House In Gettysburg: A Short History*.

family were forced to live elsewhere for “the greater part of a year” while Charles Tawney, a local mason, repaired the walls, chimney, roof, and doors of the dwelling. For all of these damages, Sophia Devan was awarded less than \$300 by the government.<sup>21</sup>

While repairs continued on the Devan property, the Gettysburg community began a long recovery from the effects of the battle. The dead and wounded greatly outnumbered the population of the town and surrounding townships. Nearly every church, public building, and private residence became a makeshift hospital. Gettysburg would become the final resting place for thousands of Union soldiers who died during or after the three days of fighting. On November 19, 1863, President Abraham Lincoln dedicated a portion of the “hallowed ground” as a National Cemetery. The following day, Sophia Devan’s 18-year-old son, Flemming Devan, enlisted as a private in the 8th United States Colored Troops. He was 5 feet 3 inches tall with black hair, black eyes, and a “yellow” complexion.<sup>22</sup> Eden Devan’s son William, age 23, had joined this unit in September, probably after being drafted. He was a musician, and records indicate that he played the fife and bugle. Another of Sophia’s sons, Solomon Jeremiah, enlisted in the 22nd USCT in December of 1864. He was 19 years old at the time and, like his brother, was 5 feet 3 inches tall.<sup>23</sup>

Sophia Devan’s teenage sons spent time in Philadelphia during the organization and training of their respective units. Solomon’s regiment left in January of 1864

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<sup>21</sup> Damage Claim of Sophia Devan, GNMP; S. G. Elliot Burial Map of Gettysburg, 1864, Library of Congress.

<sup>22</sup> Yellow is a term used on many period records to signify those of a mixed race, also known as mulatto. Service Record of Flemming Devan, NARA.

<sup>23</sup> Service Records of Solomon Devan and William H. Devan, NARA.

for Yorktown, Virginia where it would remain until May of 1864 without seeing any combat. Flemming's unit was not so lucky. In February, the 8th Infantry was sent to Hilton Head, South Carolina and then on to Jacksonville, Florida. It first saw action at the Battle of Olustee on February 20, 1864.<sup>24</sup> Lieutenant Oliver W. Norton, a veteran of the Battle of Gettysburg, served as an officer in Flemming's company. He detailed the bloody struggle at Olustee in a letter to his sister written shortly after the battle:

Military men say it takes veteran troops to maneuver under fire, but our regiment with knapsacks on and unloaded pieces, after a run of half a mile, formed a line under the most destructive fire I ever knew. We were not more than two hundred yards from the enemy, concealed in pits and behind trees, and what did the regiment do? At first they were stunned, bewildered, and knew not what to do. They curled to the ground, and as men fell around them they seemed terribly scared, but gradually they recovered their senses and commenced firing. And here was the great trouble—they could not use their arms to advantage. We have had very little practice in firing, and, though they could stand and be killed, they could not kill a concealed enemy fast enough to satisfy my feelings. After seeing his men murdered as long as flesh and blood could endure it, Colonel Fribbley ordered the regiment to fall back slowly, firing as they went. As the men fell back they

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<sup>24</sup> Service Record of Flemming Devan, NARA.

gathered in groups like frightened sheep, and it was almost impossible to keep them from doing so. Into these groups the rebels poured the deadliest fire, almost every bullet hitting some one.<sup>25</sup>

At least one of these bullets struck and killed young Flemming Devan. In a letter home to Devan's mother, Sophia, Lieutenant Norton wrote: “It becomes my painful duty to inform you of the death of your son in the battle of Olustee Fla. Feb. 20, 1864. Fleming was a pvt. of mine and though from his extreme youth and small stature he seemed poorly fitted for a soldier's life yet he met the enemy like a man and fell bravely fighting.” Devan's body was left on the field during the hasty Union retreat. His personal effects were all lost, and his body was probably never recovered or identified.<sup>26</sup>

The following month a fourth Devan enlisted in the Union Army. His name was Robert Wesley Devan, a 44 year old barber from Adams County. He may have been Eden and Nelson's brother.<sup>27</sup> Robert was present with his unit, the 43rd USCT, in the thick of the fighting at the Battle of the Crater on July 30, 1864. Surprisingly, he came out of this engagement unscathed but was badly wounded in the left

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<sup>25</sup> Oliver Wilcox Norton, *Army Letters, 1861-1865*, pp. 198-199.

<sup>26</sup> Pension Record of Flemming Devan, 8th USCT, NARA (copy at ACHS).

<sup>27</sup> Robert Devan was too old to be the child of either Eden or Nelson Devan. If he was not their brother, he was surely a cousin, as records indicate that he was born in Frederick County, Maryland. Robert was the husband of Margaret Craig, a well-known fortune-teller in the area known to many as “Black Mag.” Flemming Devan's full name was William Flemming Devan. He appears to have gone by Flemming, and this name will be used henceforth. Service Record of Robert Devan, NARA.

thigh while on fatigue duty near Petersburg, Virginia on August 14, 1864. Devan was sent to a hospital in Philadelphia to recover and returned in late September. By January he had become very sick and was placed at hospital in Portsmouth, Virginia where he died of heart disease on February 24, 1865. He wrote a letter home to his wife on the day that he died, stating, "My feet and legs swell very much and I have about given up the hopes of ever geting [sic] well. . . . if we should not meet again on earth I hope that we shall meet in a fare [sic] better land." He forwarded along his military papers and pay so that his wife and young children could prove to the government that he had died while in the service of the United States.<sup>28</sup>

Eden Devan's son William had a very different experience in the military but with a similarly unfortunate outcome. According to his service records, he deserted two months after joining his unit. Evidently, he had returned to Gettysburg on a pass but did not rejoin his regiment at the proper time. Military authorities arrested him in Gettysburg on January 16, 1864, and he returned to duty without a trial. William fought at Olustee, Florida where his cousin Flemming was killed. He survived and engaged in several more battles in Virginia leading up to the final surrender of the Army of Northern Virginia at Appomattox Court House. After Lee's surrender, Devan's unit was sent to Texas, and he became very sick during the hot summer march with an affliction listed on his records as "Texas Blindness." He arrived "with his head tied up" at a hospital in Brownsville, Texas and died there on August 28, 1865. He left behind a widow and young daughter. William had been married at his father's home in a double wedding on December 27, 1860. He shared the day with his sister Lydia and her groom, John

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<sup>28</sup> Pension Record of Robert W. Devan, NARA (copy at ACHS).

W. Watts. Watts served during the Civil War and died in 1866 from illnesses contracted while in the service. Thus, the extended Devan family suffered four deaths as a result of the war.<sup>29</sup>

Solomon Devan, Sophia’s other son, survived the war but was badly wounded on June 15, 1864 when a bullet struck him in the upper thigh near Petersburg, Virginia “whilst in a charge on a fort of the enemy.” The wound fractured his thigh bone, causing the shortening of his right leg by several inches. He walked with a limp for the rest of his life and was unable to work the way that he had before the war.<sup>30</sup>

Sophia Devan eventually moved back to her house that had been nearly destroyed during the Battle of Gettysburg. To pay for the repairs she had used money sent home by her sons during their service in the United States Colored Troops. She faced the loss of her son Flemming, upon whom she had depended for income. Her other son was incapacitated by a horrible wound, and her two youngest sons were under the age of ten. Her husband had been dead for years and her brother’s family was similarly torn apart by the war. Surely, there were few families affected by the Civil War as heavily as the Devans. Coming events would only make matters worse.

When Solomon Devan returned to Gettysburg from a New Jersey hospital he began attending classes at the colored school in town. The wounded veteran, still a teenager, sat among the other children in the classroom under the direction of their teacher, David McMillan. On December 5, 1864, just two weeks after Devan was

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<sup>29</sup> Pension Records of William H. Devan and John W. Watts, NARA (copies at ACHS). Watts was the brother of Lloyd Francis Asbury Watts, a well-known member of Gettysburg’s black community.

<sup>30</sup> Pension Record of Solomon Devan, NARA (copy at ACHS).



discharged from the army, he was approached by Mr. McMillan with a rod. McMillan attempted to strike young Devan, and the frightened youth pulled out his revolver and “fired two shots at the teacher, neither of which . . . took effect.” Local newspapers covered this story and made no mention of the fact that Devan was a wounded veteran or that his brother had been killed and his corpse left on a Florida battlefield. Instead, the *Gettysburg Compiler*, known to have a conservative bias, ended the article with the statement: “Abolitionism is costing more than it will come to.”<sup>31</sup> This conveys a powerful message about the racial tensions in Gettysburg during the final months of the Civil War. Devan was immediately arrested and sent to jail “to await such punishment as his conduct deserves.” In April of 1865 he was sentenced to “a term of one year and one month” at the Eastern Penitentiary in Philadelphia.<sup>32</sup>

Solomon Devan served his time in prison and eventually left Gettysburg for Lancaster County where he married Susan Green on March 18, 1875. He died on November 18, 1903 and was laid to rest in the Philadelphia National Cemetery. Sophia Devan died in 1876 and was probably buried in the Goodwill Cemetery (now Lincoln Cemetery), although no headstone exists. This is unfortunate because Sophia had made special mention in her will of having “a pair of gravestones . . . for me, and also for my deceased husband Nelson Devan and my deceased daughter Phoebe Ann Devan (Reed) in the grave yard of the coloured people in Gettysburg.” She also stipulated that these stones “shall be paid out of the first monies coming into the hands

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<sup>31</sup> “Another Shooting Affair,” *Gettysburg Compiler*, December 12, 1864; “Another Shooting Affair,” *Adams Sentinel*, December 13, 1864.

<sup>32</sup> *Adams Sentinel*, April 25, 1865.

of my executor.” Perhaps she died in so much debt that this wish for a memorial could not be fulfilled.<sup>33</sup>

After their mother’s death, the Devan children all left Gettysburg for different cities in Pennsylvania and New Jersey. Martha Jane Devan married Joseph H. Timbers, a Civil War Veteran, and moved to Burlington, New Jersey where she died on April 15, 1921. Her descendants still live in that part of New Jersey and have preserved many Devan family photographs.<sup>34</sup>

Eden Devan lived out the rest of his life in Gettysburg and died on August 1, 1880. He and his wife divorced at some point after the Civil War, and he remarried a woman by the name of Rebecca.<sup>35</sup> J. Howard Wert’s poem about Devan includes two interesting passages that hint at his relationships with women:

Il pulpit and at altar, too,  
Old Eden work’d his knees:  
The sisters dearly lov’d this man—  
Fat dames of all degrees,  
For he could drown the preacher’s voice  
With most accomplish’d ease. . . .

One sinner unregenerate,  
Way down Ramshackle street,  
Thought Uncle Eden to his wife

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<sup>33</sup> Very few wills include such careful instructions for a properly marked burial. Perhaps this says something about Sophia’s desire to be remembered as a person, not as someone’s property. She had been born a slave and died as a free woman. Estate file of Sophia Devan, ACHS.

<sup>34</sup> Death Certificate of Martha Jane Timbers, (ancestry.com).

<sup>35</sup> 1880 United States Federal Census; “Deaths,” *Star and Sentinel*, August 5, 1880.

Was most uncommon sweet.<sup>36</sup>

The story of the Devan family in Gettysburg is a mixture of liberty, tragedy, business, and survival. There can be no doubt that heroes like Flemming Devan laid down their lives in the service of their country. But, by a strange contrast, Flemming's uncle Eden, at least by some accounts, did not act in the best interests of innocent runaways who sought the freedom that he and his family enjoyed.

On the other hand, Sophia Devan's life and legacy are characteristic of the great struggle endured by former slaves. She first lost her husband—the man who had purchased her freedom and brought her to Pennsylvania. She then lost her home during the deadliest battle of the Civil War. Just months later two of her sons left for the army. One was killed and the other badly wounded and then sent to prison for over a year. Her family was forever changed by the war, both on the home front and on the battlefields of Virginia and Florida. Sophia's final wish was for a properly marked grave--something that she did not receive. Her struggle is just one of many stories from Gettysburg's black community that have been overshadowed and replaced by the stories of white citizens and white soldiers. For too long history books have been filled with the same canned stories about the white experience, printed and reprinted over and over again with great regularity. Without digging deeper into the unpublished, the unknown, the forgotten, we lose a part of our past that is just as important. Historians must work harder to bring untold stories to light.

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<sup>36</sup> "Thoughts and Things," *Compiler*, August 29, 1906; "Pious Uncle Eden," *Harrisburg Daily Independent*, August 14, 1906.

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## **“SPARE YOUR COUNTRY'S FLAG”: UNIONIST SENTIMENT IN FREDERICK, MARYLAND, 1860-1865**

Megan McNish

In 1863, John Greenleaf Whittier made Barbara Fritchie an icon.<sup>1</sup> Although there is little evidence to suggest that the event Whittier depicted actually occurred, he was able to convince the American public of his truth of the tale of Stonewall Jackson's march through Frederick, Maryland.<sup>2</sup> Whittier was an abolitionist poet and, as a result, he portrayed Frederick in the light of the Unionist cause.<sup>3</sup> In fact, many historians have seen Frederick in the same light and have characterized the city as firmly Unionist.<sup>4</sup> This belief is unfounded. Upon examination of a diverse set of primary source material, a different narrative emerges.

Unionism can be characterized as the desire, passive or active, to sustain the United States as one unified nation and to avoid or oppose secession.<sup>5</sup> This means that those

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<sup>1</sup> See Whittier's poem "Barbara Fritchie," <http://www.poetryfoundation.org/poem/174751>.

<sup>2</sup> Nina Silber, "Barbara Fritetschie," *American National Biography* (From Oxford University Press) Research Starters, EbscoHost, accessed November 29, 2015.

<sup>3</sup> "John Greenleaf Whittier (1807-1892)," *Whittier Birthplace*, accessed December 2, 2015, [http://www.johngreenleafwhittier.com/about\\_whittier.htm](http://www.johngreenleafwhittier.com/about_whittier.htm).

<sup>4</sup> Daniel W. Crofts, *Reluctant Confederates: Upper South Unionists in the Secession Crisis* (Chapel Hill, NC: The University of North Carolina Press, 1989), 353-354.

<sup>5</sup> Abraham Lincoln and Stephen A. Douglas believed that a few Southern fire-eaters perpetrated secession and that most Southerners were loyal to the Union. In the years since the Civil War, those interested in secession have asked the question 'Did the Confederate States have the right or the power to secede from the Union?' and this

who believed in the cause did not have to take direct action to express their support. There is no specific barometer for examining these beliefs, making it very difficult to study every person in Frederick who believed in the Unionist cause. Although historians never can be sure of exactly how many people in any given place were Unionists, there are windows into the views of the county's citizens that shed light on how people aligned politically. The election returns for the presidential elections of 1860 and 1864 suggest that Frederick was a divided city. The election results have been compiled and organized into tables and maps to illustrate the regional distribution of election returns. In addition, diaries—both Union and Confederate—and army dispatches have been incorporated to illustrate the personal beliefs that individuals held prior to and during the Civil War as another window through which Unionism might be understood, albeit on more personal terms.

The historiography of Frederick has maintained in the years since the Civil War that the area was firmly pro-Union. Frederick was divided in its sympathies at the beginning of the Civil War. By 1863, however, the county began to shift its sympathies in favor of Unionist sentiment. It is the latter period for which the town's allegiance has been remembered.

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has colored the historiography. Legal scholars have seen the issue of secession as either unlawful and a breach of the Constitution, or as a breach of contract between the Southern states and the United States government. Many more questions have been asked about secession and full justice to the historiography cannot be done in this project. Stephen C. Neff, *Justice in Blue and Gray: A Legal History of the Civil War* (Cambridge, MA: Harvard University Press, 2010), 8-14; William J. Donnell, "Conspiracy or Popular Movement: The Historiography of Southern Support for Secession," *The North Carolina Historical Review* 42, no.1 (January 1965): 70-71, accessed December 9, 2015, JSTOR.

## Frederick in the 1860 Presidential Election and Its Immediate Aftermath

There is a direct correlation between the counties with higher enslaved and free black populations and the votes that Maryland residents cast in the 1860 election.<sup>6</sup> John Bell, who ran on the Constitutional Union ticket in 1860, was seen as a compromise vote to preserve the Union. Although Bell was not an extreme candidate, support for him suggested a commitment to Southern issues and, if he was not elected, the possibility of disunion.<sup>7</sup> Bell received the highest percentage of the Frederick vote (see Table 1), although a large percentage of the electorate, particularly in the city, voted for John C. Breckenridge, the extreme Southern, secessionist candidate.<sup>8</sup> A vote for Breckenridge in the 1860 election was a vote for stronger government involvement in the institution of slavery, a stronger fugitive slave law, and the strong possibility of disunion.<sup>9</sup> In

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<sup>6</sup> The election process in 1860 was different from what Americans experience today. In the mid-19th century, polling stations were in large, open rooms. Voters filled out their ballots in these open spaces and then brought their completed ballots to the voting window. As a result, the voters and their ballot were almost always visible to the crowds that often gathered. Due to the format of the voting process, voters felt pressure, particularly in the larger slaveholding counties in Maryland, to cast their ballots for John C. Breckenridge and John Bell. Richard Franklin Bensel, *The American Ballot Box in the Mid-Nineteenth Century* (Cambridge, United Kingdom: Cambridge University Press, 2004), 11.

<sup>7</sup> Denton, *A Southern Star for Maryland*, 22-23.

<sup>8</sup> *Ibid.*, 22.

<sup>9</sup> Some Southern historians have argued that Breckenridge himself was not pro-secession. Frank Heck argued in his article “John C. Breckenridge” that the Southern Democrat had reaffirmed his loyalty to the Union prior to the election. However, many of Breckenridge’s most prominent supporters were Southern fire-eaters, looking only for an



comparison to the rest of the state of Maryland, Frederick's vote for Breckenridge was not large. It does appear that there was a direct, although not exact, correlation between counties with large black populations and a large percentage of votes for Breckenridge.

The election results indicate that residents of Frederick County were not unified under the banner of Unionism. Jacob Engelbrecht, a prominent supporter of the Unionist cause in the city of Frederick recorded numerous events in Frederick prior to the 1860 election. "Yesterday [November 1] the Breckenridge wing of the Democratic Party had a mass meeting in our town...some 300 persons were in precession."<sup>10</sup> Engelbrecht noted Breckenridge's followers had a meeting in Frederick and he had significant returns in the county. Although Stephen A. Douglas's returns in Frederick County and the city of Frederick were not significant, when compared with those of the other Northern candidate, his returns are much more respectable. The returns for Abraham Lincoln were almost non-existent.

It is not surprising, however, that Douglas was unpopular among Marylanders in 1860. Douglas's platform for the Election of 1860 was based on popular sovereignty, the principle that individual states should be able to decide

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excuse for secession. In addition, after the election, Breckenridge supported secession in his home state of Kentucky. Frank H. Heck, "John C. Breckenridge in the Crisis of 1860-1861," *The Journal of Southern History* 21, no. 3 (August 1955), 328, 333. William T. Autman, *Civil War in the North Carolina Quaker Belt: The Confederate Campaign Against Peace Agitators, Deserters and Draft Dodger* (Jefferson, NC: McFarland & Company, 2014), 27; Larry Sabato and Howard R. Ernst, *Encyclopedia of American Political Parties and Election* (New York, NY: Facts on File, 2007), 319.

<sup>10</sup> Jacob Engelbrecht, November 2, 1860, *Diary of Jacob Engelbrecht, 1818-1882*, edited by William R. Quynn (Frederick, Maryland: PublishAmerica, 2006), 884.

if their territory would be open to slavery.<sup>11</sup> Those who were likely to vote for Douglas were those who were not invested in the institution of slavery, as well as those who were more conservative. In fact, the counties of Allegany, Cecil, Howard, and St. Mary’s gave Douglas the most support in 1860 and tended to be those with the smallest percentage of enslaved residents.<sup>12</sup> In Frederick, residents of the county tended to give less support to Douglas, but the percentage of the vote given to him in the city of Frederick was higher which reflects a national trend of reduced reliance upon slavery in cities (see Table 1).

Engelbrecht states that those in favor of secession were comfortable parading their beliefs and did not feel the need to hide them. He indicated a similar sentiment in 1861 when the Maryland electorate voted on secession. Among those who voted for secession was Andrew Kessler of

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<sup>11</sup> Horace Greeley and John F. Cleveland, comp., *Political Text-book for 1860 Comprising a Brief View of Presidential Nominations and Elections: Including All the National Platforms Ever Yet Adopted: Also, A History of the Struggle Respecting Slavery in the Territories, and of the Action of Congress as to the Freedom of the Public Lands, with the Most Notable Speeches and Letters of Messrs. Lincoln, Douglas, Bell, Cass, Seward, Everett, Breckenridge, H.V. Johnson, Etc., Etc., Touching the Questions of the Day; and Returns of All Presidential Elections Since 1836* (New York, NY: The Tribune Association, 1860), 194.

<sup>12</sup> The only county among those listed that gave significant support to Douglas and had a significant enslaved population was St. Mary’s County. A possible explanation is that although the county had a sizeable enslaved population, according to Lawrence Denton, there were two hundred and thirty-six families in St. Mary’s County that owned more than ten slaves. This means that there were more than 2,360 slaves in the county held in large groups. As a result, there may have been more non-slaveholders than it would appear at first glance. Denton, *A Southern Star for Maryland*, 34.

Frederick County.<sup>13</sup> Kessler was a member of the House of Delegates and was one of a number of citizens of Frederick expressing Confederate sympathies in the early part of the war.<sup>14</sup> Jacob Engelbrecht noted in his diary a group of Frederick men who joined the Confederate Army, the ultimate symbol of patriotism for a cause. "Secession Soldiers- A Company of 'Palmetto Flag boys' raised in our town & commanded by Bradley T. Johnson left Frederick yesterday morning...for Harpers Ferry, Virginia to join the southern men there."<sup>15</sup> Engelbrecht highlights this display of Confederate enthusiasm and went on to list 23 soldiers by name, but says that there were 26 soldiers in total who were a part of the band of men Johnson led to Harpers Ferry.<sup>16</sup> Catherine Markell, a Confederate sympathizer from Frederick, recorded in her diary her 1861 visit to Harpers Ferry between May 23 and 25 to see the Confederate soldiers. It is likely that Mrs. Markell saw some of these men

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<sup>13</sup> Engelbrecht, May 4, 1861, *Diary of Jacob Engelbrecht, 1818-1882*, 886.

<sup>14</sup> Thomas John Chew Williams and Folger McKinsey, *Frederick County Maryland: From the Earliest Settlements to the Beginning of the War Between the States Continued from the Beginning of the Year 1861 Down to the Present Time*, reprint (Baltimore, MD: Genealogical Publishing, 1979), 600-601.

<sup>15</sup> Engelbrecht, May 10, 1861, *Diary of Jacob Engelbrecht, 1818-1882*, 900.

<sup>16</sup> While Engelbrecht only listed twenty-six soldiers, he was not always the most reliable with numbers. See the returns for the Election of 1860 for the city of Frederick. Rebecca Miller argued in "Confederate Sentiment in Frederick County, Maryland" that it was frequently very difficult for men with southern sympathies to join the Confederate Army. See Rebecca Miller, "Confederate Sentiment in Frederick County, Maryland, 1861-1862," in *Mid-Maryland History: Conflict, Growth and Change*, edited by Barbara M. Powell and Michael A. Powell (Charleston, SC: History Press, 2008), 23-25. Engelbrecht, May 16, 1861, *Diary of Jacob, Engelbrecht 1818-1882*, 900-901.

from Frederick during her visit, as most of the soldiers Engelbrecht mentions in his list of the “Palmetto Boys” enlisted in the 1<sup>st</sup> Maryland Infantry and 1<sup>st</sup> Maryland Cavalry at Harpers Ferry on May 21, 1861.<sup>17</sup>

In hindsight, Southern sympathy in Frederick is further evidenced in the results of the election of 1860, which saw John Bell take Frederick. Just behind Bell in the polls was John C. Breckenridge, the most extreme Southern candidate. Voting for Breckenridge was akin to a vote for secession and over 40% of Frederick residents cast their vote in that manner. Despite this, there was no overt support for the Confederate cause in Frederick immediately after the election. Instead, more support came after the firing on Fort Sumter and this Confederate support became more apparent in September 1862 when the Army of Northern Virginia marched through Frederick. Prior to the beginning of armed conflict, Frederick showed little interest in supporting the Southern cause, perhaps because of their lack of reliance on slavery and investment in manufacturing. In the days following Fort Sumter, however, men from Frederick rose to serve the Confederacy and their support for the Confederate cause became more apparent in 1862 as the Confederate Army arrived on their doorstep.

## **Frederick and the Confederate Army**

Devotion to the Confederacy in Frederick County continued throughout the early years of the war.<sup>18</sup> On their

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<sup>17</sup> Catherine Susannah Thomas Markell, May 21-23, 1861, *Frederick Maryland in Peace and War, 1856-1864*, transcribed by David H. Wallace (Frederick, MD: Frederick County Historical Society, 2006), 94.

<sup>18</sup> Miller, “Confederate Sentiment in Frederick County, Maryland, 1861-1862,” 24.

march north during the Maryland Campaign in the fall of 1862, Robert E. Lee and his army stopped in Frederick. A September 7th letter to the Charleston *Mercury*, a newspaper published in the heart of the secessionist south, told the story of Lee's march North. Personne, a correspondent for the newspaper, wrote to the paper: "Thus far we have everywhere met with cordial hospitality. Along the road the farmers have welcomed the presence of our men with sincerity that cannot be misunderstood, opened their houses, and spread their boards with the fat of the land."<sup>19</sup> It should not be assumed that Personne's account was entirely honest due to the writer's intended audience in Charleston, an area with strong secessionist sympathies. It is highly probable that Personne put the march in the best possible terms. Notwithstanding his obvious bias, it is probable that there was some truth to the fact that the soldiers were welcomed as they marched through Frederick County.

Jacob Engelbrecht inadvertently confirms that, despite remaining in the Union, there remained a degree of Southern sympathy in the city. While he noted that many citizens left Frederick or closed their doors to the soldiers, he also wrote that many of the stores remained open for the soldiers of the Army of Northern Virginia and, after two days of occupation, Frederick merchants had nothing left to sell.<sup>20</sup> At first glance this may seem to be a handful of merchants trying to make money from the soldiers who had no choice but to pay their prices. However, this interpretation does not stand up. Confederate money never had the same strength as the U.S. dollar, and by the autumn of 1862, it was worth even less than it had been in 1861.

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<sup>19</sup> Scharf, *History of Western Maryland*, 230.

<sup>20</sup> Engelbrecht, September 6, 1862-September 11, 1862, *Diary of Jacob Engelbrecht, 1818-1882*, 947-949.

While it is possible that Frederick merchants planned to exchange the money, by September 1862 inflation rates had reached new levels. In December 1862, it took 300 Confederate dollars to purchase 100 dollars in gold. By comparison, the U.S. dollar remained fairly stable through 1862, maintaining the value it held in 1860.<sup>21</sup> It was a counterintuitive business practice to sell goods to Confederate soldiers to make money, as there was no money to be made.<sup>22</sup> By September 1862, Frederick had not yet experienced the full hardships of war, resulting in a greater expression of Confederate patriotism among the population, including among local merchants. In addition, Jacob Engelbrecht constantly recorded regiments of Union soldiers passing through Frederick. As Union soldiers could pay with hard currency, selling to Union soldiers would have been more profitable.

While some Frederick business owners may have sold goods to Confederate soldiers out of a fear that goods would have been commandeered without compensation, if they did not wish to sell to Confederates, merchants of Frederick could have done what their counterparts in Hagerstown did and send their stock elsewhere.<sup>23</sup> Nonetheless, it is doubtful that the Confederate Army would

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<sup>21</sup> Richard F. Selcer, *Civil War America 1850 to 1875* (New York, NY: Facts on File, 2006), 82, accessed December 5, 2015, Google Books.

<sup>22</sup> Richard Duncan argues that Confederates paid for their merchandise in southern currency, certificates of indebtedness, and United States Treasury notes. Due to the necessity of using certificates of indebtedness, it can be inferred that the Confederates used United States currency infrequently and that merchants could not expect to be reimbursed for goods purchased by Confederate soldiers with United States currency. Richard R. Duncan, “Marylanders and the Invasion of 1862,” *Civil War History* 11, no. 4 (December 1965), 372.

<sup>23</sup> “War News. The Situation.,” *The Sun*, September 12, 1862, accessed January 3, 2016, America’s Historical Newspapers.

have commandeered goods due to their desire to bring Maryland into the Confederacy. Robert E. Lee issued the following statement as the Confederate Army entered Frederick: "This army will respect your choice [whether to remain with the Union or join the Confederacy] whatever it will be, and while the Southern people will rejoice to welcome you to your natural position among them, they will only welcome you when you come of your own free will."<sup>24</sup> While Lee's statement encouraged Maryland to enter the Confederacy, it can be applied more generally as a statement to govern the actions of the soldiers of the Army of Northern Virginia in order to prevent violence and looting. If the Confederate Army was to convince skeptical Marylanders that leaving the Union was in their interest they had to be on their best behavior, and breaking into shops was not considered acceptable while individual soldiers certainly broke the code of conduct, on the whole there does not seem to have been a significant problem in Frederick. If business owners could be fairly certain that their goods were safe, the act of selling goods to Confederate soldiers can be viewed as an expression of Southern sympathy.

While the merchants of Frederick may not have expressed outright support for the Confederacy, many individual citizens in Frederick openly supported the Confederate cause. On September 8, 1862 Catherine Markell wrote of a vibrant scene with the Confederate officers. "General McLaws and staff, General Kershaw and staff, took tea with us, some 20 officers and many girls were here until midnight....Our house [was] so brilliantly illuminated at night and horses in charge of orderlies stood 3 deep, the

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<sup>24</sup> Robert E. Lee, "Dispatch of September 8, 1862," in Scharf, *History of Western Maryland*, 231.

length of the square.”<sup>25</sup> In a later diary entry Catherine Markell described as the soldiers left town that “over 300 soldiers took meals and lunch at our house during the day...Mrs. Douglas displayed a pretty little rebel flag...Fanny Ebert had my southern cross which caused great cheering.”<sup>26</sup> Markell was one of many diarists who showed civilian support for the Confederacy in September 1862. These citizens created an environment that welcomed the Confederate Army on their march North. The events she described show clear support among the civilian population for the Confederate cause.

Civilians in Frederick were willing to do more than just support the Confederate Army from their homes; they were also willing to go to war. “A company of southern rights men was made up in Frederick the past few days and today a little after 12 o’clock PM they left town following the army towards Hagerstown.”<sup>27</sup> This group consisted of close to 50 men according to Jacob Engelbrecht.<sup>28</sup> Despite the passage of over a year, Frederick was still sending men

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<sup>25</sup> Markell, *Frederick Maryland in Peace and War, 1856-1864*, September 8, 1862, 106.

<sup>26</sup> Markell, *Frederick Maryland in Peace and War, 1856-1864*, September 10, 1862, 107.

<sup>27</sup> Engelbrecht, September 11, 1862, *Diary of Jacob Engelbrecht, 1818-1882*, 949.

<sup>28</sup> Among the men that Engelbrecht listed as leaving Frederick on September 11 is Frederick Markell, Catherine Markell’s husband. Included in Catherine Markell’s diary is Frederick’s short account of his time with the army, September 12, 1862 through December 13, 1862. Unfortunately, Frederick’s account was not very expressive and he did not say more about why he chose to go with the army on September 12. Catherine did not shed any light on her husband’s intentions either. Frederick Markell, “Diary of Frederick Markell” in *Frederick Maryland in Peace and War, 1856-1864*, edited by David H. Wallace (Frederick, MD: Frederick County Historical Society, 2006), 110.



off to fight in support of the Confederate cause.

Although John Greenleaf Whittier's account of Barbara Fritchie waving the American flag above the head of Stonewall Jackson as he rode through the city of Frederick was not accurate, that does not mean that there was no Unionist activity in Frederick in the early years of the war. Jacob Engelbrecht's diary illustrates that there was indeed an active Unionist community in Frederick. "Today we had a Union county meeting in our city. The object was to organize a county or state convention to meet in Baltimore some time in April to organize a State Union Party..., The courthouse, where they held the meeting was filled to its utmost capacity."<sup>29</sup> Engelbrecht's account of this meeting demonstrates that there was a sizable group of people in Frederick who believed in the preservation of the Union. In the aftermath of the 1862 Maryland Campaign and as the war entered its second full year in 1863, other citizens of Frederick began to convert to Unionism.

After the Battle of Antietam, Frederick became one of the major hospital depots for wounded soldiers.<sup>30</sup> "There are now 22 hospitals in our city," Engelbrecht wrote on October 27, 1862, more than a full month after the Battle of Antietam while Frederick was still coping with the wounded soldiers.<sup>31</sup> At one point, the number of wounded soldiers equaled the number of citizens in the city of Frederick.<sup>32</sup> These wounded soldiers changed how residents of the city and county saw the war. Gone were the days of tea parties

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<sup>29</sup> Engelbrecht, March 26, 1861, *Diary of Jacob Engelbrecht, 1818-1882*, 895.

<sup>30</sup> Chris Heidenrich, *Frederick: Local and National Crossroads* (Charleston, SC: Arcadia, 2003), 120.

<sup>31</sup> Engelbrecht, October 27, 1862, *Diary of Jacob Engelbrecht, 1818-1882*, 956.

<sup>32</sup> Heidenrich, *Frederick*, 120.

and luncheons. By 1863, the time for destruction had arrived in the Eastern Theater of the war.<sup>33</sup> Lee began targeting bridges, railroads, property, and buildings as well as soldiers, forcing civilians to confront the costs of war.<sup>34</sup>

As a consequence, both Catherine Markell and Jacob Engelbrecht seem to have been tired of the war and did not welcome the appearance of either army in their city in the summer of 1863. Jacob Engelbrecht wrote on June 23, 1863 that the Confederate Army looted forty head of cattle as they marched near Possomtown.<sup>35</sup> This is an action that Lee’s Army avoided in 1862 but their circumstances and hopes of aid from the people of Maryland had changed by 1863.<sup>36</sup> As a result, when the Army of the Potomac and the Army of Northern Virginia marched North through Frederick in 1863 their reception was significantly different. In 1862, Catherine Markell hosted Confederate officers for tea and rejoiced at the grand occasion. However, in 1863, Markell made few entries about the return of the Confederate Army in her diary. Markell wrote, “Rebels reported as having crossed the Potomac and approaching rapidly. Stampede . . . everything in confusion, terrible excitement. Eight or ten stores closed.”<sup>37</sup> Unlike 1862, she noted that stores closed. It would seem that the charity shop owners felt toward Confederate soldiers the year before had disappeared.

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<sup>33</sup> David H. Wallace, Preface to *Frederick Maryland in Peace and War, 1856-1864* (Frederick, MD: Frederick County Historical Society, 2006), 3; Duncan, “Marylanders and the Invasion of 1862,” 382.

<sup>34</sup> Mark Grimsley, *The Hard Hand of War: Union Military Policy Toward Southern Civilians, 1861-1865* (Cambridge, United Kingdom: Cambridge University Press, 1995), 143.

<sup>35</sup> Engelbrecht, June 23, 1863, *Diary of Jacob Engelbrecht, 1818-1882*, 971.

<sup>36</sup> Duncan, “Marylanders and the Invasion of 1862,” 383.

<sup>37</sup> Markell, June 14, 1863, June 19, 1863, *Frederick Maryland in Peace and War, 1856-1864*, 120.

In addition to Mrs. Markell's comment that many shops were closed, her tone in describing the Confederate Army's approach was markedly different from what it had been the previous year. In 1862, Mrs. Markell was elated by the impending arrival of the Confederate soldiers, but in 1863 she seemed to be more disgruntled by the inconvenience created by the movement of the armies. "Soldiers skirmishing in street in front of our house. School dismissed in haste here, we could [not?] get into Patrick Street for the skirmishing."<sup>38</sup> In this instance, Catherine Markell and her family were prevented from returning home due to the skirmish and, instead of waxing about the gallant Confederate soldiers as she would have done in 1862, Mrs. Markell ended her entry with a short summary of those involved. The diaries of both Catherine Markell and Jacob Engelbrecht reveal that Frederick had changed a great deal since 1862.

In the summer of 1864, the Confederate Army once again visited Frederick, this time commanded by General Jubal Anderson Early. Unlike 1862 and 1863, the Confederate Army stayed and fought the Union Army on the outskirts of town in what became known as the Battle of Monocacy. The Confederate Army captured the city of Frederick on July 9 and, instead of offering to pay for goods as they had in 1862, Confederate soldiers looted the shops. "Hauer's hat store was entered and robbed of...about 300\$. Another store, Jew Reineke['s] was robbed of about two hundred dollars. The robbing of horses about the county was general...the soldiers stole from the farmers, money, meat, chickens, cattle, sheep, and anything that came in their

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<sup>38</sup> Markell, June 21, 1863, *Frederick Maryland in Peace and War, 1856-1864*, 120.

way.”<sup>39</sup> Engelbrecht wrote that “some of the secessionist stores sold out all their stock of goods,” although, not all of the stores were open, unlike 1862.<sup>40</sup> Engelbrecht lamented the arrival of Confederate soldiers in 1864 and he also described plundering on a level that had not occurred in either 1862 or 1863.

To make matters worse, the Confederates ransomed the city for \$200,000. The banks of Frederick paid the money, which was demanded to prevent the city from being burned, but that was not all the Confederates threatened.<sup>41</sup> “The Rebs threatened to shoot people if they would not give up their money, horses, [etc].”<sup>42</sup> These circumstances, as well as the millions of dollars in losses the county sustained, caused resentment on the part of residents of Frederick toward the Confederate Army.<sup>43</sup> In fact, among some residents like Jacob Engelbrecht, it created further resolve to see the war through to its end. “Whatever is the final issue, I say come weal or woe come life or death we go for the Union of the states forever one and inseparable.”<sup>44</sup> While it is not certain what every citizen in Frederick thought, it would seem that more believed in Unionism.

The horror that the city of Frederick faced did not end when the Confederates left town. In fact, it was compounded by the presence of over two thousand casualties that resulted

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<sup>39</sup> Engelbrecht, July 11, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 998.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Engelbrecht, July 16, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 999.

<sup>43</sup> Ibid. Engelbrecht estimated the losses to be between two and three million dollars based on the inquiries he made in the city.

<sup>44</sup> Engelbrecht, July 11, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 998.

from the Battle of Monocacy.<sup>45</sup> After the battle, Jacob Engelbrecht visited a Union hospital and recounted: “Many had limbs amputated I saw one operation of the amputation of the left leg of a Union soldier...the wounded of both parties are now in our hospital at the barracks.”<sup>46</sup> Engelbrecht’s account of his visit to the hospital gives a gruesome view of what the citizens of Frederick were forced to confront. On July 11, Catherine Markell visited the hospital with her friend Alice. Although she does not mention what she saw, it is well known that the women of Frederick, including Markell, served as nurses and would have experienced the horrors of war first hand.<sup>47</sup> While women did not vote in the 1860s, it would have been difficult for the men of Frederick to fail to notice the wounded soldiers who lingered in town until early 1865.<sup>48</sup> The soldiers that remained were a reminder to the citizens of Frederick of what had changed in the last four years and this most certainly affected men of the city when they went to the polls in November 1864.

## Frederick and the Election of 1864

The shift in Unionist sentiment in Frederick is most visible in the returns of the Presidential Election of 1864 when compared with the returns of the previous election. In

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<sup>45</sup> “Battle of Monocacy,” *Civil War Trust*, accessed December 6, 2015, <http://www.civilwar.org/battlefields/monocacy.html>.

<sup>46</sup> Engelbrecht, July 11, 1864-July 12, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 998.

<sup>47</sup> Markell, July 11, 1864, *Frederick Maryland in Peace and War, 1856-1864*, 136; Wallace, Preface, *Frederick Maryland in Peace and War*, 3.

<sup>48</sup> Jacob Engelbrecht last mentions the wounded soldiers on December 27, 1864. Engelbrecht, December 27, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 1006.

1860, residents of both Frederick County and the city of Frederick gave over 98% of their vote to candidates other than Abraham Lincoln. In 1864 over 60% of the votes in Frederick County went to Lincoln. By 1864, the war had been dragging on for three years and Frederick County had seen both the Confederate and Union Armies move into and through their area. The community also had been host to hundreds of wounded soldiers.

In the 1864 election, a vote for Abraham Lincoln was a vote to continue the Civil War and the horrors that came with it. A vote for George McClellan, on the other hand, was a vote for peace, but also disunion.<sup>49</sup> As Table 3 illustrates, the majority of voters who went to the polls in Frederick chose to continue the Civil War or end it on Unionist terms. When the returns of Table 1 are compared to those in Table 3, it becomes clear that the percentage of votes that were pro-Union in Frederick County versus the city of Frederick shifted significantly between 1860 and 1864. In the 1860 election, the city of Frederick gave close to 45% of its vote to John Breckenridge, the most pro-secession candidate running in 1860, compared to just over 43% pro-Breckenridge in the county as a whole. Conversely, in 1864, the city of Frederick had a larger percentage of its votes go to Lincoln than the county as a whole. Therefore, sentiments had changed not only within Frederick County, but also within the city of Frederick, showing an increase in Unionist sentiment between 1860 and 1864.

The numbers alone do not tell a complete story, as there are several different ways to interpret this shift in Frederick politics. One possible interpretation for this

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<sup>49</sup> Jacob Engelbrecht called the Democratic Party “McClellanites or Peace Party or Rebels.” Engelbrecht, November 2, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 1005.

political shift incorporates the difference in the number of votes cast between the 1860 and 1864 elections. Between the two elections, the number of votes returned in Frederick County decreased by 1,476, while in the city of Frederick, voters declined by 394 during the same time span.<sup>50</sup> This decrease in votes was a result of the absence of citizens who were serving in the Confederate Army, deaths between 1860 and 1864, the separation of the soldiers' vote, and citizens who simply stayed away from the ballot box. The change in the number of voters between the two elections displayed a decrease of just over 29% in the county and close to 22% in the city. The percent change between votes in the 1860 and 1864 elections in Frederick County was an atypical change, one for which there was no precedent.<sup>51</sup> In the city of Frederick, however, it is clear the percent change between elections tended to be more volatile than it was in the county. This difference could be a result of a better turn out in the 1860 election, which was surrounded by a great deal of drama. The 1856 election, on the other hand, was not as contested.<sup>52</sup> It is not possible to assume, however, that a significant increase in votes for Lincoln was due to the percent change in the number of votes. The election returns, therefore, are not enough to fully interpret this election.

It is possible that in 1860 citizens of Frederick wanted to vote for Lincoln, but felt pressure against doing so

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<sup>50</sup> The numbers for the city of Frederick are as reported by Jacob Engelbrecht and are likely not exact, but they do provide a window in the political phenomenon occurring in Frederick.

<sup>51</sup> Michael J. Dubin, *United States Presidential Elections, 1788-1860: The Official Results by County and State* (Jefferson, NC: McFarland & Co., 2002), 124, 145; Cleveland, *The Tribune Almanac and Political Register for 1861*, 49; Ottarson, *The Tribune Almanac and Political Register for 1865*, 55.

<sup>52</sup> Engelbrecht, November 5, 1856, November 7, 1860, November 8, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 799, 885, 1005.

because of the open voting process. However, this shift also can be accounted for in the opposite manner. It is conceivable, though improbable, that residents felt a different kind of pressure in 1864; this time there was pressure to vote for Lincoln. Jacob Engelbrecht gives some insight into this issue through his record of political activity in Frederick. Engelbrecht lists in his diary a number of events held prior to the 1864 election, including those held by both the Republican, or Unionist Party, and the Democratic, or Peace Party. The presence of activity by both political parties before the election suggests that residents of Frederick felt comfortable expressing support for Peace Democrats. In fact, on November 2, 1864, Engelbrecht recorded that “the McClellanites or Peace Party or Rebels,” held a meeting in Frederick, connecting a victory for McClellan in 1864 with a victory for the South and their bid for independence.<sup>53</sup> This connection to peace made the Democratic ticket in 1864 unappealing for many Marylanders, as a great deal had changed in the state in four years. Not only had Maryland passed a new Constitution that outlawed slavery, but citizens of Western Maryland also had been witness to Union and Confederate Armies moving through their counties in 1862, 1863, and 1864.<sup>54</sup> Frederick County saw over 1,000 young men join and serve with the

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<sup>53</sup> Engelbrecht, November 2, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 1005.

<sup>54</sup> McClellan and his supporters knew that slavery could be a liability for them, so they focused on slavery as an obstruction to peace. Michael Vorenberg, “‘The Deformed Child’: Slavery and the Election of 1864,” *Civil War History* 47, no. 3 (September 2001): 249, Project MUSE. For more on the Maryland Constitution passed in 1864 see Engelbrecht, October 13, 1864-November 1, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 1003-1005; Guy, *Maryland’s Persistent Pursuit to End Slavery, 1850-1864*, 435-452.



Union Army and countless die for their country.<sup>55</sup> The city of Frederick was home to numerous hospitals in 1862 following the Battle of Antietam and again in 1864 after the Battle of Monocacy.<sup>56</sup> During the 1864 battle, the city also paid \$200,000 in ransom to Confederate General Jubal Early.<sup>57</sup> It is apparent, after the suffering Frederick had experienced, why the citizens of Frederick County were more open to Lincoln's reelection in 1864 than to the election of George McClellan as president. Yet, despite the suffering they had endured, close to 40% of the county cast their votes for the former general. This suggests that Frederick had changed over time, rather than voters feeling pressured to support Lincoln.

## Conclusion

On Monday April 10, 1865, when news of Robert E. Lee's surrender reached Frederick, Maryland Jacob Engelbrecht wrote that "the whole town [was] in commotion."<sup>58</sup> Frederick had seen a great deal of commotion during the war, from the arrival of the Confederate Army in September 1862 to the departure of the last wounded soldiers in 1865. Frederick had been host to both the Confederate and

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<sup>55</sup> The quota for Frederick County was 1,352 men, but as of October 9, 1862 only 1,019 had enlisted. Engelbrecht wrote that there was to be a draft taken up to fulfill the rest of the quota on October 15, 1862, but it did not take place until November 14, 1862. Two hundred and thirty-nine men were drafted. Engelbrecht, October 1, 1862, November 14, 1862, *Diary of Jacob Engelbrecht, 1818-1882*, 955, 958.

<sup>56</sup> Engelbrecht, October 29, 1862, July 11, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 957, 998.

<sup>57</sup> Engelbrecht, July 11, 1864, *Diary of Jacob Engelbrecht, 1818-1882*, 998.

<sup>58</sup> Engelbrecht, April 10, 1865, *Diary of Jacob Engelbrecht, 1818-1882*, 1011.

Union armies, their wounded, and their dead; as a result Frederick had changed politically. Prior to the 1860 Presidential Election, there was significant support for Southern causes and the preservation of slavery, but by 1864, Maryland had outlawed slavery in its new Constitution.

What had changed the state so greatly between 1860 and 1864? While some of the changes in Frederick can be, in part, accounted for by the exodus of voters with sympathies to the Confederate Army, a much more fundamental change occurred in the county. In 1860, most voters in the county wanted to avoid secession, and yet over 40% of residents showed, with their votes for Breckenridge, that they were willing to go to war if it came to it. But when war arrived in the city of Frederick in September 1862 with the advance of the Confederate Army, the public’s willingness to live through the conditions of the war was worn down. Although Frederick residents were not overly disrupted by the march of the armies, they quickly realized the effects that followed in the armies’ aftermath. This included wounded soldiers, dead bodies, and a rise in the price of everyday goods. “In fact all things are extra high,” Jacob Engelbrecht recorded in his diary on November 1, 1862.<sup>59</sup> Similar to the young soldiers who entered the war in 1860, the illusions of residents of Frederick were shattered once they saw the nature of war. As a result, they were much less enthusiastic to see the Confederate Army in 1863, knowing that they brought death and destruction with them. When the Confederate Army again arrived in 1864, they managed to further alienate the civilians in Frederick through their ransom of the city and the soldiers’ threat to

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<sup>59</sup> Engelbrecht, November 1, 1862, *Diary of Jacob Engelbrecht, 1818-1882*, 957.

shoot citizens who did not give them what they wanted. This translated to considerable support for Lincoln in the 1864 election and the county's resolve to see the war through to the end. The reality of war had transformed the outlook of the citizens of Frederick, making preservation of the Union the most appealing outcome for voters who had chosen a different platform only four years earlier.

Although Frederick did not start out as a bastion of Unionism, the cause gained support during the ensuing years of war. The change in the election returns between the 1860 and 1864 elections are a concrete example of this phenomenon. The shift in Catherine Markell's tone throughout the war is another example, although a subtler one. That being said, Frederick did not become entirely unified behind the Union by the end of the war. In the 1864 election, close to 40% of the voting population of Frederick County cast their vote for George McClellan—a vote in support of ending the war with a peace agreement rather than defeat. In that sense, there was still opposition to the war in Frederick, although support for the Confederacy had decreased significantly since the start of the war. However, Frederick was not a bastion of Unionism at the beginning of the war. Instead it was only when Frederick County and the city of Frederick experienced the horrors of war that the Unionist “loyal winds” were “stirred.”<sup>60</sup>

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<sup>60</sup> Whittier, “Barbara Fritchie,”  
<http://www.poetryfoundation.org/poem/174751>.

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Frederick County			City of Frederick	
<i>Candidate</i>	<i>Votes</i>	<i>Percentage</i>	<i>Votes</i>	<i>Percentage</i>
Lincoln	103	1.4%	27	1.5%
Douglas	445	6.1%	129	7.2%
Bell	3,616	49.3%	835	46.5%
Breckenridge	3,167	43.2%	804	44.8%
<b>Total</b>	<b>7,331</b>	<b>100.0%</b>	<b>1,795</b>	<b>100.0%</b>

**Table 1: This table illustrates the 1860 election returns for Frederick County and the City of Frederick.** Numbers from *The Tribune Almanac and Political Register for 1861*, compiled by J.F. Cleveland (New York, NY: Tribune Association, 1861), 49; Jacob Engelbrecht, *Diary of Jacob Engelbrecht, 1818-1882* Wednesday November 7, 1860 (Frederick Maryland, Frederick County Historical Society), 885. Engelbrecht's numbers on the city of Frederick's votes in the Election of 1860 do not add up. These numbers have not been adjusted.

Frederick County		
<i>Year</i>	<i>Votes</i>	<i>Percent Change</i>
1852	6,561	
1856	7,049	7.44%
1860	7,331	4.00%
1864	5,855	-20.13%
City of Frederick		
1856	1,125	
1860	1,795	59.56%
1864	1,401	-21.95%

**Table 2: Table indicating change in number of votes cast in each election.**

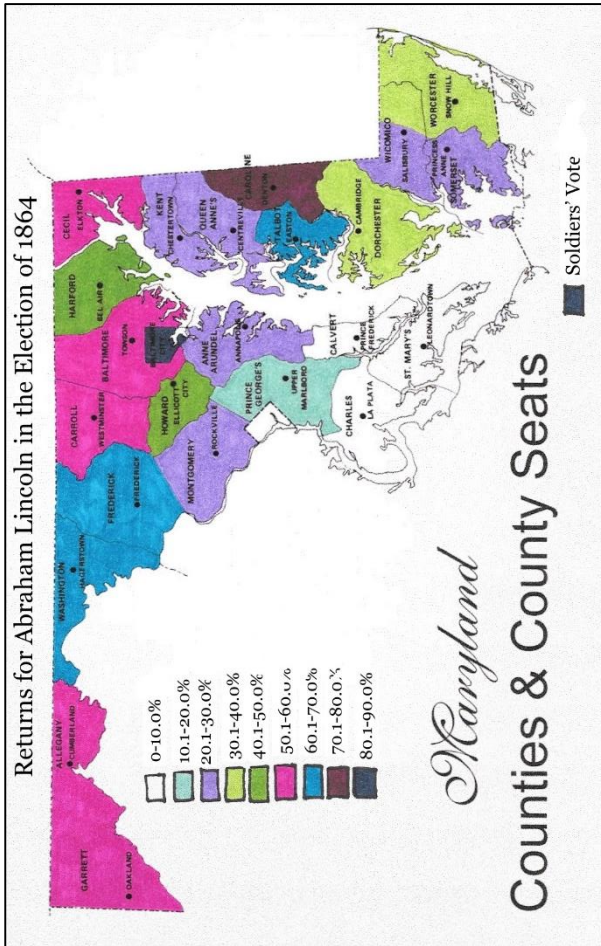
“Spare Your Country’s Flag”

Frederick County			City of Frederick	
<i>Candidate</i>	<i>Votes</i>	<i>Percentage</i>	<i>Votes</i>	<i>Percentage</i>
Lincoln	3,553	60.7%	918	65.7%
McClellan	2,301	39.3%	479	34.3%
<b>Total</b>	<b>5,854</b>	<b>100%</b>	<b>1,401</b>	<b>100%</b>

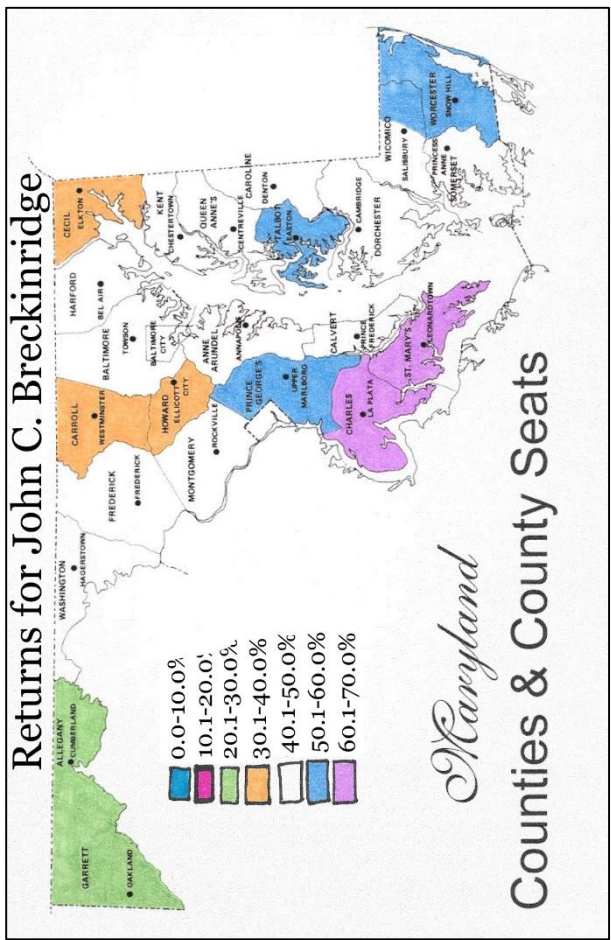
**Table 3:** This table illustrates the 1864 vote in Frederick County. Numbers appear as reported by Engelbrecht and have not been altered to reflect numerical accuracy. Engelbrecht, *Diary of Jacob Engelbrecht, 1818-1882*, 1005; *The Tribune Almanac and Political Register for 1865*, compiled by Francis J. Ottarson, (New York, NY: The Tribune Association, 1865), 55.



**Figure 1: Map of Maryland illustrating the returns for the Election of 1860 for Abraham Lincoln by County.** Image created by author from *The Tribune Almanac, 1861*, 49. Using map from Maryland State Archives.



**Figure 2: Map of Maryland illustrating the returns for Abraham Lincoln in the Election of 1864.**  
*The Tribune Almanac and Political Register for 1865*, 55.



**Figure 3: Returns by Percent of Votes per County for John C. Breckinridge.** *The Tribune Almanac and Political Register for 1861*, 49.

**NOTES:**

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