



9-7-2018

Trampling Mrs. Lee's Roses: Union Soldiers at Arlington

Savannah Labbe
Gettysburg College

Follow this and additional works at: <https://cupola.gettysburg.edu/compiler>

 Part of the [Military History Commons](#), [Public History Commons](#), and the [United States History Commons](#)

Share feedback about the accessibility of this item.

Labbe, Savannah, "Trampling Mrs. Lee's Roses: Union Soldiers at Arlington" (2018). *The Gettysburg Compiler: On the Front Lines of History*. 291.

<https://cupola.gettysburg.edu/compiler/291>

This is the author's version of the work. This publication appears in Gettysburg College's institutional repository by permission of the copyright owner for personal use, not for redistribution. Cupola permanent link: <https://cupola.gettysburg.edu/compiler/291>

This open access blog post is brought to you by The Cupola: Scholarship at Gettysburg College. It has been accepted for inclusion by an authorized administrator of The Cupola. For more information, please contact cupola@gettysburg.edu.

Trampling Mrs. Lee's Roses: Union Soldiers at Arlington

Abstract

"I would not stir from this house even if the whole Northern Army were to surround it," wrote Mary Anna Randolph Custis Lee, wife of Robert E. Lee, to her daughter, Eleanor Agnes Lee on May 5, 1861. The Civil War was still in its infancy when Mary Lee wrote this letter, having begun a month earlier on April 12, 1861. Her husband had already sided with the Confederacy but there had not been much fighting yet. Even still, Mary Lee's life was changing and would continue to change irrevocably throughout the war, especially in relation to Arlington House. Arlington House was the only home Mary Lee had ever known. It had been her childhood home, built by her father George Washington Parke Custis in 1802, and was the home where she raised her own children. Little did she know that by the end of the month, she would be gone from Arlington House. [*excerpt*]

Keywords

Arlington, Lee Family, Mary Custis Lee

Disciplines

History | Military History | Public History | United States History

Comments

This blog post originally appeared in [The Gettysburg Compiler](#) and was created by students at Gettysburg College.

THE GETTYSBURG COMPILER

ON THE FRONT LINES OF HISTORY

Trampling Mrs. Lee's Roses: Union Soldiers at Arlington

By [Savannah Labbe '19](#)



Mary Custis Lee

“I would not stir from this house even if the whole Northern Army were to surround it,” wrote Mary Anna Randolph Custis Lee, wife of Robert E. Lee, to her daughter, Eleanor Agnes Lee on May 5, 1861. The Civil War was still in its infancy when Mary Lee wrote this letter, having begun a month earlier on April 12, 1861. Her husband had already sided with the Confederacy but there had not been much fighting yet. Even still, Mary Lee’s life was changing and would continue to change irrevocably throughout the war, especially in relation to Arlington House. Arlington House was the only home Mary Lee had ever known. It had been her childhood home, built by her father George Washington Parke Custis in 1802, and was the home where she raised her own children. Little did she know that by the end of the month, she would be gone from Arlington House.

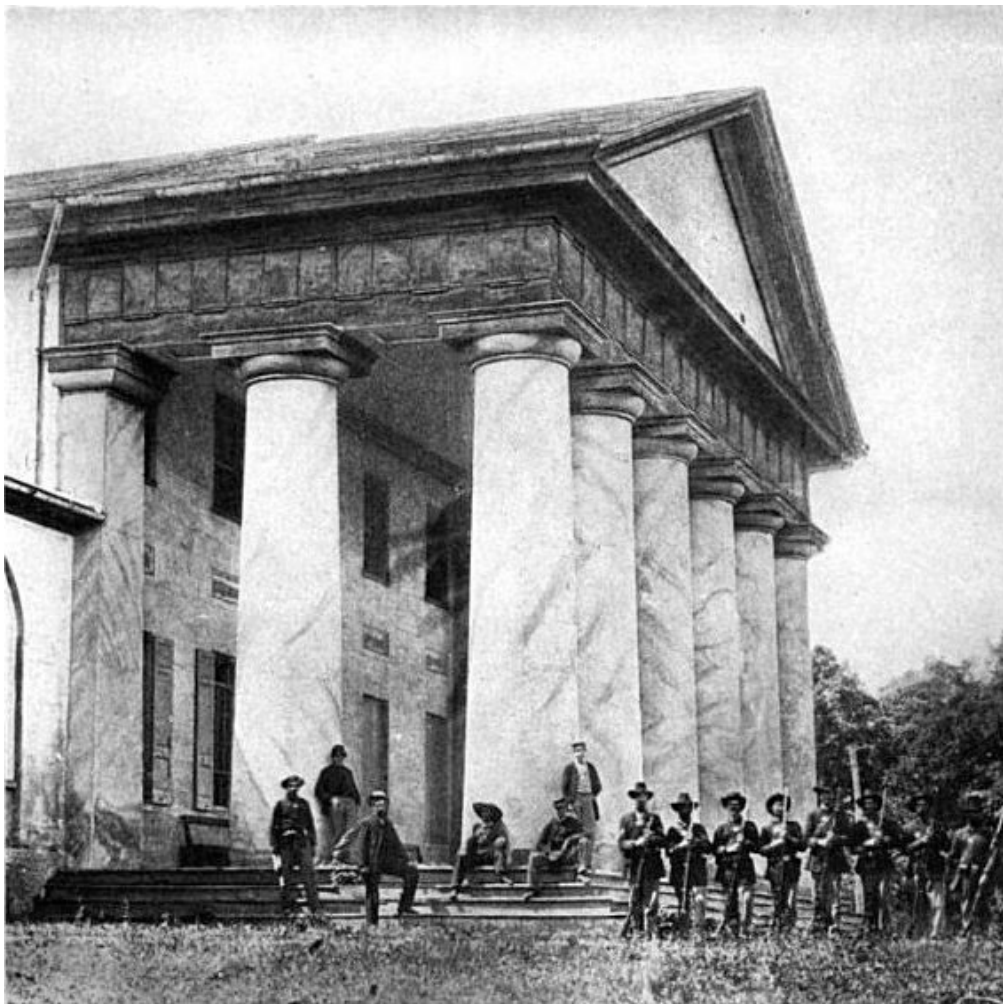
Arlington House is just across the Potomac River from Washington D.C. It is two miles from the White House and not much farther from other important governmental buildings. If the Confederates had been allowed to occupy Arlington, they could potentially have shelled the White House from there. Of course, the Union could not allow this to happen. So, on May 24, 1861, 10,000 Union soldiers under the command of Charles W. Sandford occupied the Arlington estate. When they arrived, the Lees had already fled, leaving only their slaves behind to take care of the estate in their absence. Union soldiers occupied the grounds until 1862, when Lincoln issued the initial Emancipation Proclamation and slaves began to flood the D.C. area. So, in a highly symbolic gesture, a refugee camp for freed slaves called Freedman's Village was set up by the Federal Government on the grounds of the house that belonged to a man fighting to uphold slavery. This camp turned into an expansive village, eventually including a chapel, hospital, and dozens of family homes. The government also sponsored workshops to help teach the freed slaves skills that would be useful in the labor force and in finding employment.

Not only was Arlington House made into a camp for former slaves, it was also made into a cemetery for Union dead. In 1864, the casualty toll began to increase dramatically. In May alone there were 44,000 Union casualties. Many of the wounded were sent to Washington hospitals to hopefully recover, although many succumbed to their wounds. At first, the dead were buried in the cemetery at the Soldier's Home, a military retirement home in Washington D.C., but that was full by 1864. Another place was needed, and Union Quartermaster General Montgomery Meigs suggested Arlington, as he believed the grounds there were perfect for that use. Secretary of War Edwin Stanton agreed, and on June 15, 1864, he issued an order declaring the Arlington grounds a military cemetery. Burials began swiftly after this order. Meigs personally oversaw the burial of 65 Union officers, including his own son, John Rodgers Meigs, in Mary Lee's rose garden and ordered all burials after that to be done as close to the mansion as possible so that it could not be used as a residence again.

Even though the Union had taken great strides to make Arlington House its own, when the war ended, Mary Lee set out to get her house back. While the government has the right to seize property during wartime, under the concept of eminent domain, it still must provide just compensation to the landowner. The Lee's were never compensated, though, because Arlington was seized under the authority of the Doolittle Act of 1862. The Doolittle Act was an attempt by the Union government to raise money for the war effort. It allowed government commissioners to assess and collect taxes on real estate in "insurrectionary districts" and then auction off the property if the tax was not paid. Arlington was assessed, and it was determined that Mary Lee owed \$90.07 for the property. Mary Lee attempted to send a cousin, Phillip Fendall, to pay the tax in December 1863, but the commissioners said they would only accept payment from the landowner, Mary Lee, in person, meaning she would have to cross Confederate and Union lines to pay the tax. There was, however, nothing in the act that said the landowner must pay in person.

About a decade later, in 1872, Mary Lee petitioned Congress for compensation, at the very least be paid for the property that had been taken from her. The proposal to pay her was resoundingly defeated by a vote of 54 to 4. Mary Lee died the next year, never seeing her house again after she had left it in May of 1861. Her son then took up the fight to get the house back. He sued the government officials that had seized Arlington, and his case went all the way up to the Supreme Court.

In 1882, in the case of *United States v. Lee*, the Supreme Court decided that Custis Lee was indeed the legal owner of Arlington House. Lee claimed that the government had violated the due process clause of the Fifth Amendment by claiming title to the land through an invalid land tax and not compensating Mary Lee for the land. The Supreme Court agreed with Lee, by a vote of 5 to 4, making it clear that the Constitution cannot be suspended during wartime. Lee was not as concerned with getting the actual property back as he was with getting the government to pay for it. With all the bodies and the controversy it would cause to have them disinterred, Lee agreed to the government's proposal to purchase Arlington for \$150,000 on February 7, 1883. Lee had gotten what his mother wanted all along, though she was not alive to see it.



Union soldiers standing in front of Arlington House

The circumstances surrounding Arlington are all highly symbolic. The fact that it was turned into a camp for freed slaves was meant to send a message to Robert E. Lee, as were the bodies that were buried there. Housing freed slaves and burying Union soldiers on his property was a way of punishing Lee for his betrayal. The Union soldiers buried on his lawn served as a constant reminder of his responsibility in causing their deaths. The struggle that Mary Lee and her son went through to be justly compensated for their property shows that there were still lingering wounds and bad feelings between the North and the South, as Congress was not willing to admit legal fault to the family of an ex-Confederate. Now Arlington, the house so dear to Mary Lee, serves as a burial ground for soldiers of the United States—soldiers who were her husband’s enemies. Arlington can be seen as somewhat of a microcosm of the Civil War and its legacy. It was close to D.C., the capital of the Union, but was a highly contested area by both sides. Originally belonging to a Southerner, the North took it back during the war and it was highly contested even after that. In the courts, Custis Lee fought it out with the Federal government and he won a symbolic victory, but ultimately the government got what they wanted, to keep Arlington as a cemetery for Federal soldiers. Arlington’s legacy is complicated, much like the legacy of the Civil War.

Sources:

Gaughan, Anthony J. “Taking Back Arlington.” *Civil War Times* 50, no. 6 (December 2011): 32-39. Accessed April 16, 2018.

Gaughan, Anthony J. “The Arlington Cemetery Case: A Court and a Nation Divided.” *Journal of Supreme Court History* 37, no. 1 (March 2012): 1-21. Accessed April 16, 2018.

Lee, Mary Randolph Custis. [“Petition of Mary Ann Randolph Lee.”](#) January 22, 1872. Accessed April 16, 2017.

[Lee, Mary Randolph Custis to Eleanor Agnes Lee. May 5, 1861.](#) Accessed April 16, 2018.

Poole, Robert M. “The Battle of Arlington.” *Smithsonian* 40, no. 8 (November 2009): 50-57. Accessed April 16, 2018.