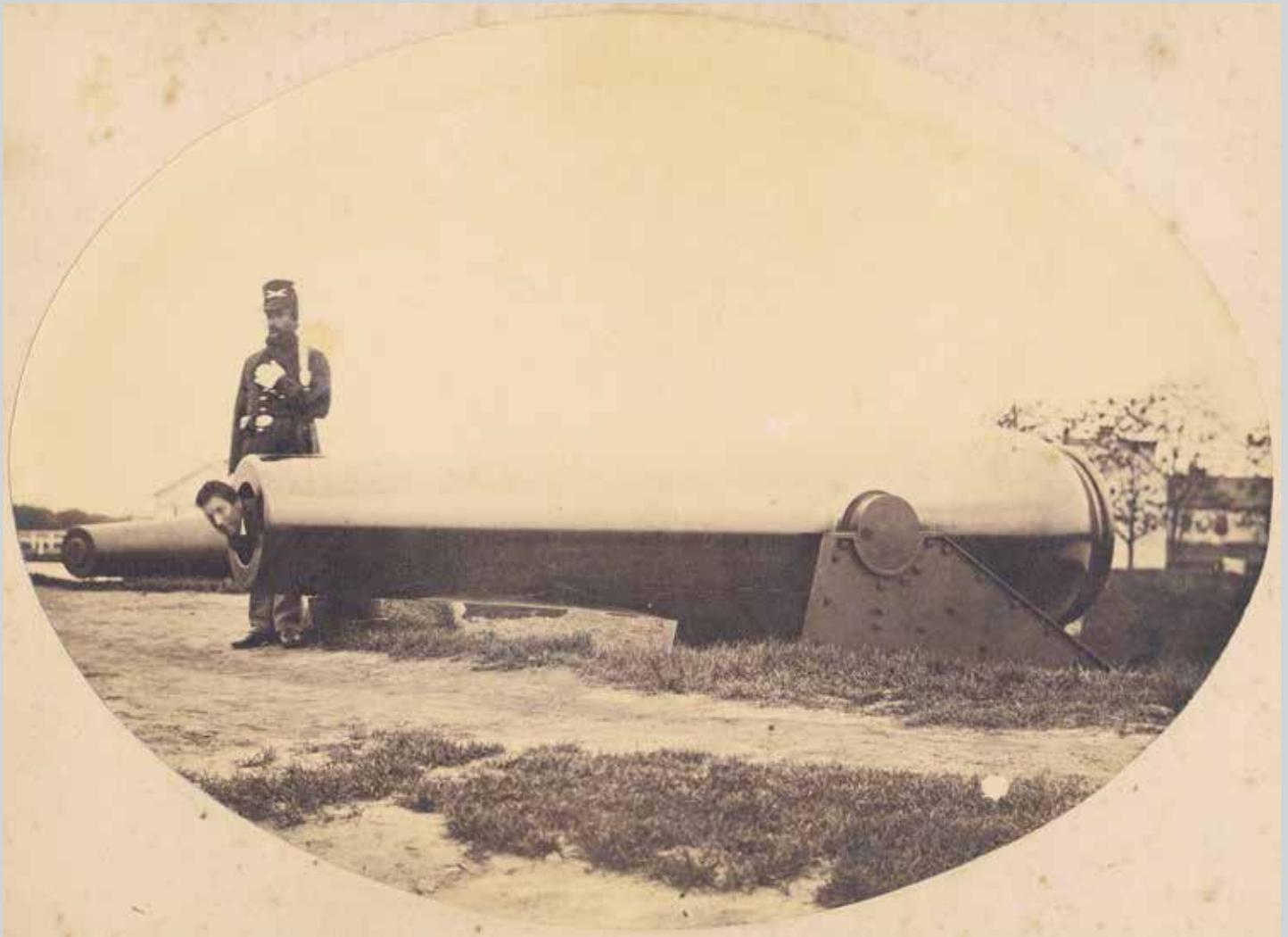




Battlefield Photographer

THE JOURNAL OF THE CENTER FOR CIVIL WAR PHOTOGRAPHY

A BIG GUN AND FUN AT BATTERY RODGERS



ALSO

BRADY'S BATTLE FOR COPYRIGHTS (PAGE 9)

A CLOSER LOOK AT AN "UNREMARKABLE" PHOTO (PAGE 15)

FEATURES

PAGE 3: A Big Gun and Fun at Battery Rodgers - By Bob Zeller

PAGE 9: Brady Battles for Copyright Justice, by Jason Lee Guthrie

PAGE 15: Hidden Stories in a South Carolina Cemetery Photo, by John Banks

ARTICLES AND BRIEFS

PAGE 20: A Devil of a Seminar at Richmond

FRONT COVER IMAGE

In another Battlefield Photographer exclusive, we present a clear reproduction of an image by U.S. Army photographer Capt. Andrew J. Russell showing a civilian, probably one of his assistants, in the barrel of the 15-inch Rodman gun at Battery Rodgers in Alexandria, Virginia.

This is the third known image of someone posing in the gun. We present all three here for the first time. (Collection of Walton H. Owen II).

BACK COVER IMAGE

Russell took this overall image of Battery Rodgers in Alexandria, Virginia, on April 15, 1864. The 15-inch Rodman gun is on the parapet at left center. (Library of Congress Lot 4336, no. 7).



BATTLEFIELD PHOTOGRAPHER IS THE JOURNAL OF THE CENTER FOR CIVIL WAR PHOTOGRAPHY

A 501(c)(3) non-profit organization
www.civilwarphotography.org
info@civilwarphotography.org
947 E. Johnstown Rd. #161, Gahanna, OH 43230
(614) 656-2297

EDITOR: Bob Zeller

DESIGNER: Larry Kasperek

MISSION STATEMENT

- To educate the public about Civil War photography, its role in the conflict, and its rich variety of forms and formats;
- To digitally secure original images and preserve vintage prints;
- To enhance the accessibility of photographs to the public;
- To present interpretive programs that use stereoscopic and standard images to their fullest potential

BOARD OF DIRECTORS

Bob Zeller, *President*
Garry E. Adelman, *Vice President*
Jennifer Kon, *Executive Director*
John Banks, *Secretary-Treasurer*
John Richter, *Director of Imaging*
Charles G. Morrongiello, *Director of Development*
Justin Shaw, *Director of Membership*
Craig Heberton IV, *Director of Social Media*

BOARD OF ADVISORS

William A. Frassanito
Edwin Bearss
Timothy H. Smith
Rob Gibson
Robin Stanford

A Big Gun and Fun

By Bob Zeller

For Corporals Lewis Bissell and George Wilson Potter of the 2nd Connecticut Heavy Artillery regiment, Tuesday, December 8, 1863, was a day of leisure devoted to seeing some of the sights in Alexandria, Virginia, not far from their camp at Fort Worth, just west of town.

They “went down to the city and boarded one of the Russian ships lying just above Alexandria,” Bissell wrote to his brother Phill back home in Litchfield, Connecticut. Five Russian warships had arrived in Alexandria a few days earlier on an official visit.¹

“We stayed but a short time as they were cleaning the decks,” Bissell wrote in a letter dated December 12. Their next stop was Battery Rodgers, which sat on Water Street (today’s South Lee Street) at Jefferson Street in Alexandria. The main attraction there was the largest gun mounted in the defense of Washington, a 15-inch Columbiad – commonly called a Rodman gun – that weighed almost 50,000 pounds. Its muzzle was so large, “a small man can crawl to the bottom of the bore,” Bissell wrote.

In fact, “a daguerrian artist had been there a day or two before,” he wrote. “He took a picture of it with the head of one of the men sticking out of the muzzle.”

Another soldier, Byron Plugh of the 1st Connecticut Heavy Artillery, also wrote about the unusual image. A photographer “has been taking pictures of our camp and the 15-inch gun today....one picture he took was a man in the muzzle of the gun and something on top of it,” Plugh wrote in his diary entry for Sept. 8.²

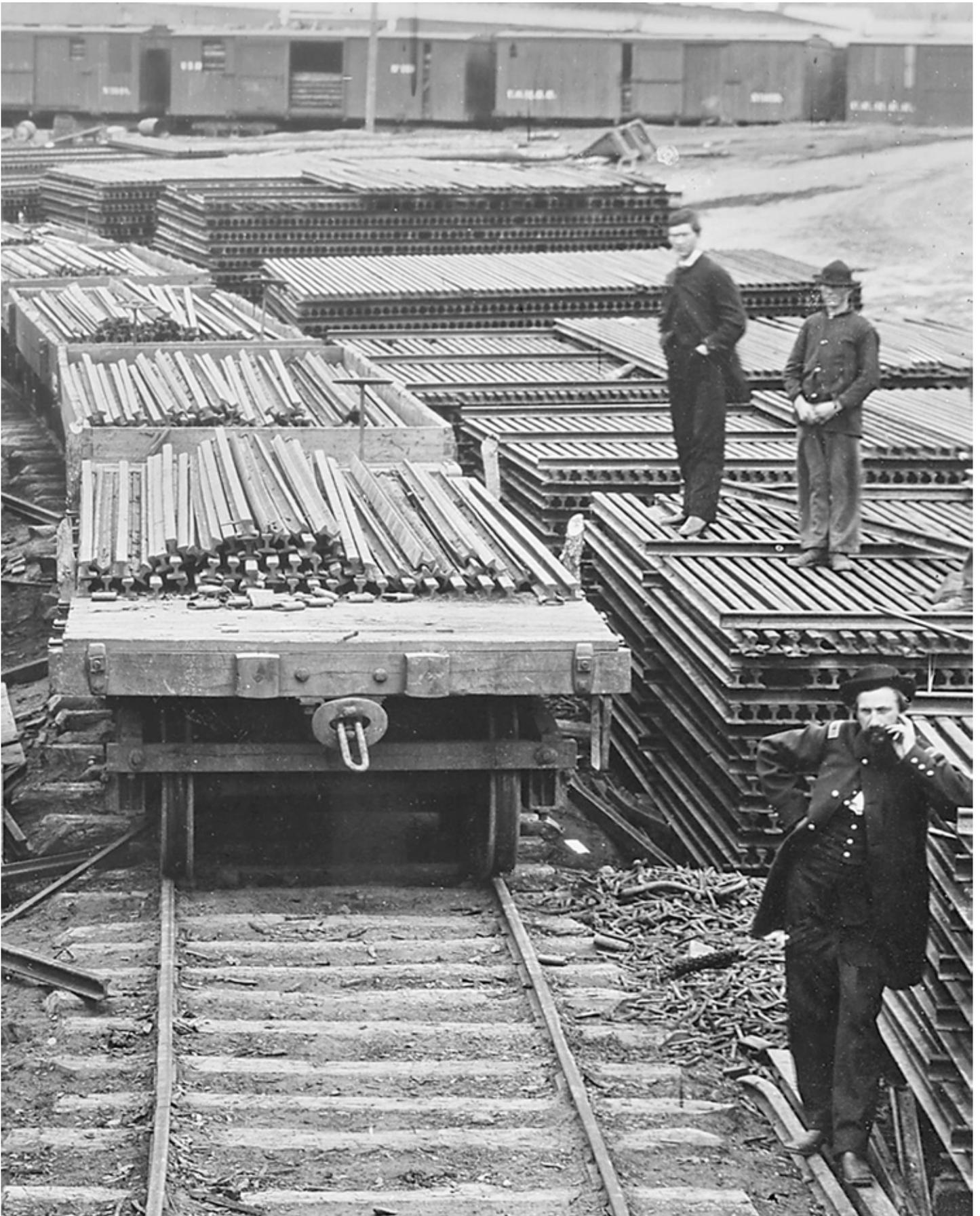
The photographer was U.S. Army Capt. Andrew J. Russell, the only official Army photographer during the war, and we now know that he took at least three different images of two men – one soldier and one civilian – inside the barrel of the massive gun. This article presents an exclusive look at all three images.

The most recently discovered of the three photographs, a side view of the gun, is published here for the first time by itself on the printed page. In the barrel of the gun is an unidentified civilian who is almost surely an assistant or associate of Russell, since he appears in more than a half-dozen Russell photographs.

The image first surfaced in 2004 in a group of nine photographs related to the 1st Wisconsin Heavy Artillery auctioned by Cowan’s Auctions. Its only known previous



A detail of our cover photograph shows the unidentified civilian peering at the camera as he poses while squeezed inside the barrel of the 15-inch Columbiad at Battery Rodgers. (Collection of Walton H. Owen II).



In this detail from a larger photo, Capt. A.J. Russell poses among thousands of new rails in the United States Military Rail Road (USMRR) yard in Alexandria, where his photographic operation was based. In the background, standing with his hands in his pockets, is the same man who posed in the gun in our cover photograph. (National Archives 111-B-4781).



Russell also took this image of a soldier, probably Private George Bear of the 1st Wisconsin Heavy Artillery, in the 15-inch Rodman gun at Battery Rodgers on December 8, 1863. (Library of Congress Lot 4166-H, no. 22).

publication was in the auction catalog, where it was shown in an image of all nine photos together.

In January, this print came up for sale in an eBay auction and was acquired by Center for Civil War Photographer member Wally Owen, retired curator of the Fort Ward Museum and co-author of Mr. Lincoln's Forts, the definitive guide to the Civil War forts of Washington.³

The other two photos are similar views facing the cannon with a smiling soldier crammed in the barrel. The young man is most likely George Bear, a private from Rome, Wisconsin. A stereo view of one of the images surfaced for the first time in 2011 when it was auctioned on eBay and acquired by this author.

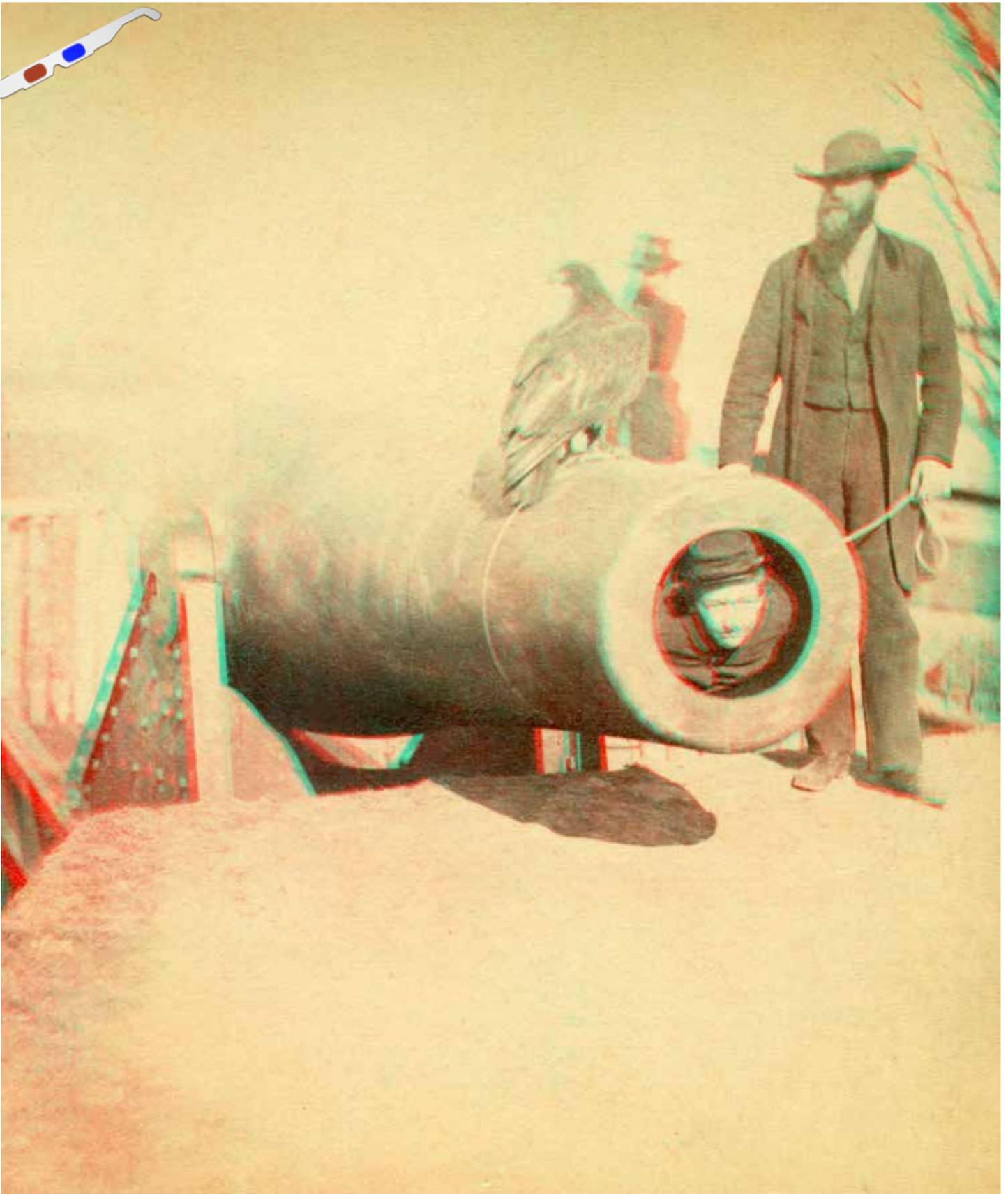
Bear was with the 1st Wisconsin, which served at Battery Rodgers as well as units of the 2nd Connecticut.⁴

In the two photos featuring the soldier, an eagle is perched atop the cannon and a man in civilian clothes stands to the right behind the cannon. In the stereo version, the man is holding what appears to be a leash, presumably (but not visibly) attached to the

bird. Perhaps the story about the eagle and the man who appears to be its keeper will emerge with further research. Owen thinks the man might be a visitor from one of the Russian ships because Plugh wrote in his September 8 diary entry that 14 Russian officers visited the fort that day.

Russell worked for Gen. Herman Haupt, commander of the U.S. Military Rail Roads, headquartered in Alexandria, and became a photographer in the spring of 1863. Among his hundreds of images of bridges, forts and other Haupt projects are photos of Battery Rodgers, which was only about two-thirds of a mile from Russell's Alexandria photographic headquarters.

Battery Rodgers had only two guns, but one was the 15-inch Rodman, which was installed along with two other 15-inch Rodmans across the Potomac River at Fort Foote to prevent Confederate ironclads from invading from the south. With a 40-pound charge, the massive gun could fire a 352-pound shell almost a mile. The huge shells could crack the iron plating of an ironclad, while shells from smaller guns would likely



A Union soldier, probably Private George Bear of Rome, Wisconsin, poses from within the barrel of the 15-inch Rodman on December 8, 1863 in this anaglyph stereo view. An eagle is perched atop the cannon, apparently on a leash held by the unidentified man in the background. (Collection of Bob Zeller; Anaglyph by John Richter).



This anaglyph stereo photograph shows part of Battery Rodgers, the 15-inch Rodman gun and the Potomac River in the background. The negative still exist of this stereo view, which was issued as No. 4015 in the War for the Union stereo view series by E. & H. T. Anthony and Co. (Library of Congress B811-4015; Anaglyph by John Richter).

ricochet off the armament, Owen said.

Neither fort saw action during the war so their 15-inch Rodmans were never fired in anger. But practice sessions must have been a spectacle. “One of the things they practiced was skipping shells across the water,” Owen said. “The fort was built on a small bluff 28 feet above the water because that was the best elevation for skipping shells. And they would record the number of times each shell skipped.” By skipping shells, a gun greatly increased the chances of hitting a vessel.⁵

The photos of the men inside the Rodman gun at Battery Rodgers are among the rare few comedic images from the war. The levity exuded by the images reflected the times. The final weeks of 1863 were a relatively calm

time in the nation’s capital and for the soldiers in the forts that protected the city.

The men of the 2nd Connecticut “were called upon for nothing more laborious than drilling, target practice, stockade building in Alexandria, picking blackberries, drinking a quarter of a gill of whiskey and quinine at Reveille and Retreat, and drawing pay from Major Ladd every two months,” the regimental history reported.⁶

“We had a very good Thanksgiving supper made up of turkey, chicken, pie, cakes and oysters,” Bissell wrote in his Dec. 12 letter. “We did not suffer for want of supper that night.”

Bissell said his company also enjoyed the fruits of the labors of two washer women who had been approved

to stay with the regiment and even “draw rations the same as the men.” This did not sit well with the stern regimental commander, Col. Elisha Strong Kellogg, who ordered the women out.

“Col. Kellogg’s order for women to leave camp did not scare anyone, especially the petticoat tribe,” Bissell wrote. The women “turned up their noses” and moved just outside the fort where they could “stay just out of his reach and stay as long as they pleased. He might issue as many orders as he wanted to for all they cared.”

On Dec. 8, the same day Russell was at Battery Rodgers with his camera, Bissell and his comrades learned that after many weeks manning and training with their fort’s guns, they had officially become artillerymen. Until then, they had been in the 19th Connecticut Infantry. Now they were redesignated as the 2nd Regiment., Connecticut Volunteer Heavy Artillery.

“The boys feel pretty jubilant over it, but for all of that we still have to drill as much as ever in the infantry,” Bissell wrote. “The colonel has his battalion drills every week.”

With the new year, however, came a drastic turn for the worse in the regiment’s fortunes of war. After the heavy Union losses in Battle of the Wilderness and the first days of the Battle of Spotsylvania, Gen. Ulysses S. Grant called for reinforcements. The 2nd Connecticut was ordered to the front – as an infantry unit.

On June 1, 1864, at Cold Harbor, the men deployed in three lines and, with Kellogg leading the way, advanced on the Confederate defenses in front of them. Two Rebel volleys passed just over the heads of the men, but from the left, a long line of gray-clad soldiers unleashed a third volley that decimated the regiment.

“The air was filled with sulphurous smoke, and the shrieks and howls of more than two hundred fifty mangled men rose above the yells of the triumphant Rebels and the roar of their musketry,” the regimental history said. “Wild and blind with wounds, bruises,

noise, smoke and conflicting orders, the men staggered in every direction, some of them falling upon the very top of the rebel parapet, where they were completely riddled with bullets – others wandering off into the woods on the right and front, to find their way to death by starvation at Andersonville, or never to be heard from again.”⁷

“The men began to fall and oh! The storm of leaden rain that was poured into us cannot be described,” Bissell wrote the next day in a letter to his father. “The roar of musketry was terrible but not so awful as the cries of the wounded. Corp. Wilson Potter I suppose is dead. He was shot through the lungs. He is in the hospital dead or wounded.” Potter died that very day.⁸

“If there is ever again any rejoicing in this world, it will be when this war is over,” Bissell wrote on June 3. “One who has never been under fire has no idea of war.”⁹

Kellogg was killed outright. The colonel “was shot in five different places. I saw his body the next morning and helped carry it off the field,” Bissell wrote his father on June 4. He ended this letter with the words, “Cold Harbor and Hell.”¹⁰

In Bissell’s Company A alone, 18 men were killed outright, 13 died of their wounds and 28 were wounded but survived. Two were captured and died at Andersonville prison.

The regiment would lose more men in fighting at Fisher’s Hill, Cedar Creek and Winchester in the Shenandoah Valley, and at Petersburg as well as Fort Fisher, N.C. The final toll of those killed outright or mortally wounded was 12 officers and 242 enlisted men, with 466 wounded.

Bissell was one of the lucky few of the regiment who survived the war unscathed. He returned home to Connecticut and eventually settled in Syracuse, N.Y., where he died in 1935. He was 93 years old.¹¹

ENDNOTES

1 Mark Olcott with David Lear, The Civil War Letters of Lewis Bissell, The Field School Educational Foundation Press, (Washington, D.C., 1981). Letter #94, page 195.

2 The diary entry was provided by Walton H. Owen II as transcribed by co-author Benjamin Franklin Cooling III from the Byron Plugh diary at the U.S. Army Heritage and Education Center, Carlisle, Pa.

3 Benjamin Franklin Cooling III and Walton H. Owen II, Mr. Lincoln’s Forts: A Guide to the Civil War Defenses of Washington. The most recent edition was published by The Scarecrow Press in 2009.

4 In written material that accompanied the nine photos of the 1st Wisconsin sold by Cowan’s Auctions, the civilian in the cannon was apparently misidentified as Bear – a probable

mix-up with the photos of the soldier in a cannon.

5 Author’s interview with Walton H. Owen II, February 13, 2019.

6 Theodore F. Vaill, History of the Second Connecticut Volunteer Heavy Artillery, Originally the Nineteenth Connecticut Vols., Winstead Printing Company (Winsted, Conn., 1868). p. 42.

7 Vaill, History of the Second Connecticut, p. 63.

8 Olcott and Lear, Letters of Lewis Bissell, Letter #124, pps. 245-248.

9 Ibid.

10 Olcott and Lear, Letters of Lewis Bissell, Letter #125, pps. 248-250.

11 Olcott and Lear, Letters of Lewis Bissell, Epilogue, p. 403.

Brady Battles For Copyright Justice: Details From an Early Lawsuit

By Jason Lee Guthrie

When President Abraham Lincoln put his signature on an amendment explicitly adding photography as a copyright-protected medium on March 3, 1865, it was one of the last pieces of legislation he would sign.¹ Little more than a month later, on April 15, he would die by an assassin's bullet.

And it would not be long before an aggrieved party would seek redress under this new law for copyright infringement. That artist was none other than Mathew Brady, the country's most famous photographer, who filed a lawsuit with James Gibson on May 29, 1865 seeking relief from one P.J. Ballew for copyright infringement on a Brady photograph of Lincoln's successor, President Andrew Johnson.

The history of copyright is as complex and contentious as the history of photography, with philosophical justifications and statutory obligations varying significantly from nation to nation.² In colonial America, British copyright laws technically applied but were difficult to enforce.³ Before nationhood, all of the thirteen colonies except Delaware enacted their own copyright statutes beginning in 1783.⁴ The founders thought copyright important enough to enshrine in the United States Constitution, writing "The Congress shall have Power... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."⁵

The first American copyright act in 1790 provided protection for "any map, chart, book, or books."⁶ The fact that image-based maps and charts were listed before books provides some indication of the power images possessed even in the founders' time. Just twelve years later Congress saw fit to amend the copyright statute to include "historical and other prints."⁷ And between 1802 and 1865, other copyright reforms were enacted, most notably an 1831 bill lobbied by Noah Webster that doubled the initial copyright term from fourteen to twenty-eight years. But it was the 1802 amendment's application to lithographic engravings that early daguerreotypists and photographers considered most applicable to their own work once photography was introduced to the world in 1839.

Copyright records have much to offer the pho-



Damaged over time, this is the actual vintage albumen print of President Andrew Johnson by M.B. Brady & Co. entered into evidence in his copyright infringement lawsuit. The photo was allegedly pirated by the defendant, P.J. Ballew, who was ordered by the court to cease the illegal practice. (Equity Case File 444, May-June 1865, Records of the District Courts of the United States, National Archives RG 21, Box 26, Entry 69).

graphy historian. Center for Civil War Photography President Bob Zeller characterized the claiming of copyrights for photographs before they were explicitly protected, a practice that began at least as early as 1854, as "a curious phenomenon that merits further study."⁸ Making sense of these records can be difficult, however, as they can convey conflicting messages. Before 1870, copyright registrations were filed in local United States District Courts.⁹ Brady filed work in both the District

of Columbia and the Southern District of New York before, during, and after the Civil War. Further, as Zeller has noted, some Civil War-era photographers made a regular practice of printing copyright notices on stereographs and cartes-de-visite whether or not they had been formally registered.¹⁰ To the dismay of these intrepid men, the explicit addition of photographic copyright in 1865 had an unintended consequence. It led to a judicial ruling the following year that found photographs were not, in fact, “prints” in the sense of the 1802 amendment, thereby invalidating copyright claims in every photograph published before March 3, 1865, when the new law took effect.¹¹ An article in the photographic trade periodical *Humphrey’s Journal* described this decision as “an interesting example of how the changes and advances in science compel changes in the law.”¹²

Brady and Gibson did not have to worry about an invalid claim. They had filed a valid claim of copyright for their portrait of Andrew Johnson on May 1, 1865, shortly after he ascended to the Presidency upon Lincoln’s death and about two months after the new law had taken effect.¹³ They alleged that the defendant, P.J. Bellew, “copied, in a smaller form by diminishing the main design” of the Johnson photograph “with intent to evade the law” which resulted “in great loss and injury” to Brady’s D.C. Gallery. The complaint filed by Brady and Gibson said the evidence warranted that Bellew appear before the presiding judge to “state how many of said photographs he has sold and disposed of, what he received for the same and give a true and accurate account of the profits derived from the sale.” Bellew was ordered to appear before the president judge the following day, and on June 7 the court issued an injunction that prohibited Bellew from further “printing, publishing, selling or exposing for sale” copies of his pirated version.¹⁴

While the diffuse and inconsistent nature of copyright records during this period makes it difficult to establish the case of Brady and Gibson v. Bellew as a true “first” in photographic copyright history, it is certainly among the first simply by virtue of its close chronological proximity to the 1865 amendment. It is likely to have been an especially notable case at the time. Brady’s involvement would have drawn the attention of industry insiders looking for clues on how courts might rule on their own photographic copyright cases. Yet, if anything, this case shows the limits of copyright protection for photography in mid-nineteenth century America. There is no record of remuneration from Bellew in the case file, but even if damages were recovered, the time spent in court took valuable time away from Brady and Gib-

son’s efforts to revitalize their D.C. gallery. And their own professional relationship was fraught with trouble. By 1868, Gibson had run Brady’s D.C. operation into irreparable ruin, and Brady’s fortunes never fully recovered.¹⁵

In an 1891 interview with George Alfred Townsend, Brady lamented that “many, I might say most, of the pictures I see floating about this country are from my ill-protected portraits.”¹⁶ Despite the obvious overstatement, it is tempting to sympathize with Brady’s plight. He expended a fortune amassed during the antebellum golden age of the daguerreotype in his efforts to document the American Civil War. Right from the start in 1861, Brady was concerned about photo piracy. The printed labels on the back of the “Brady’s Album Gallery” photos and stereo views he sold in 1861 and 1862 carried an explicit warning:

“The Photographs of this series were taken directly from nature at considerable cost. Warning is therefore given that legal proceedings will be at once instituted against any party infringing the copyright.”

By the end of Brady’s professional life, he had little to show for his efforts except the photographs themselves. His professional troubles were largely caused by financial mismanagement, including his own, rather than photo piracy. But it is important to note that photographic piracy was rampant, then as today, and Brady himself was guilty of it. Photo Historian William C. Darrah characterized Brady’s own use of John Wilkes Booth’s likeness as an especially notorious example, and Brady pirated this image contemporaneously to his suit against Bellew.¹⁷ Justice Joseph Story famously characterized copyright as “nearer than any other class of cases... what may be called the metaphysics of the law,” and answers to the problem of protecting intellectual property have never come easy.¹⁸ Still, the case of Brady and Gibson v. Bellew illuminates the divide between what photographers thought copyright law could do and what it actually could achieve.

There may be other ways that the case can help alleviate the frustrating lack of primary sources for Brady’s life and career. At minimum, the rediscovery of the case file supports the credibility of Josephine Cobb’s 1953 essay on Brady, which has frustrated later scholars because of its lack of adequate citation.¹⁹ As Chief of the Still Pictures Branch of the National Archives during the mid-twentieth century, Cobb rediscovered the case. An ancillary document among the equity case files regarding the filing status of the photograph of President Johnson



Photo piracy was a constant concern for Mathew B. Brady, the most famous American photographer of the Civil War era, depicted here around 1865 in an anaglyph 3-D image. (National Archives 111-B-1229; Anaglyph by John Richter).

used in the original case bears Cobb's signature and the date of May 11, 1948. Future work that cross references this case with available business records, trade press, and court filings may help to further understand and illuminate this important aspect of photography history.

ENDNOTES

1 *An Act supplemental to an Act entitled "An Act to amend the several Acts respecting Copyright," approved February third, eighteen hundred and thirty-one, and to the Acts in Addition thereto and Amendment thereof*, Chapter 126, U.S. Statutes at Large 13 (March 3, 1865): 540-541.

2 Jason Lee Guthrie, "Taking the Liberty: Toward a Theory of Copyright and Creativity," *Journal of the Music and Entertainment Industry Educators Association* 16, no. 1 (2016): 97-114 and Jason Lee Guthrie, "Ill-Protected Portraits: Mathew Brady and Photographic Copyright," *Journalism History* 45, no. 2 (May 2019): 1-22.

3 Meredith L. McGill, "Copyright," in **A History of the Book in America, Volume 2, An Extensive Republic: Print, Culture, and Society in the New Nation, 1790–1840**, ed. Robert A. Gross and Mary Kelley (Chapel Hill: University of North Carolina Press, 2010), 200.

4 Thorvald Solberg, ed., *Copyright Enactments of the United States, 1783-1906* (Washington, DC: Government Printing Office, 1906), 11-31.

5 U.S. Constitution, art. 1, sec. 8, cl. 8.

6 *An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned*, Chapter 15, U.S.

Statutes at Large 1 (May 31, 1790): 124-126.

7 *An Act supplementary to an act, intituled [sic] "An Act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies during the time therein mentioned," and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints*, Chapter 36, U.S. Statutes at Large 2 (April 29, 1802): 171-172.

8 Bob Zeller, **The Blue and Gray in Black and White: A History of Civil War Photography** (Westport, CT: Praeger, 2005), 103. Zeller's private collection includes a Frederick Langenheim stereograph entitled The Bible House bearing the inscription "Entered according to Act of Congress in the year 1854 by F. Langenheim in the Clerks office of the district Court for the Eastern district of Pennsylvania."

9 *An Act to revise, consolidate, and amend the Statutes relating to Patents and Copyrights*, Chapter 230, U.S. Statutes at Large 16 (July 8, 1870): 198-217. See also Martin A. Roberts, "Records in the Copyright Office of the Library of Congress Deposited by the United States District Courts, 1790-1870," *The Papers of The Bibliographical Society of America* 31, no. 2 (1937): 81-101 for an explanation of copyright registration formalities prior to 1870 and a detailed bibliographic analysis of the extant District Court records.

10 Zeller, **Blue and Gray in Black and White**, 103.

11 *Wood v. Abbott*, 30 F. Cas. 424 (1866).

12 *Humphrey's Journal*, "Copyrighting Photographs," July 1, 1866, 73.

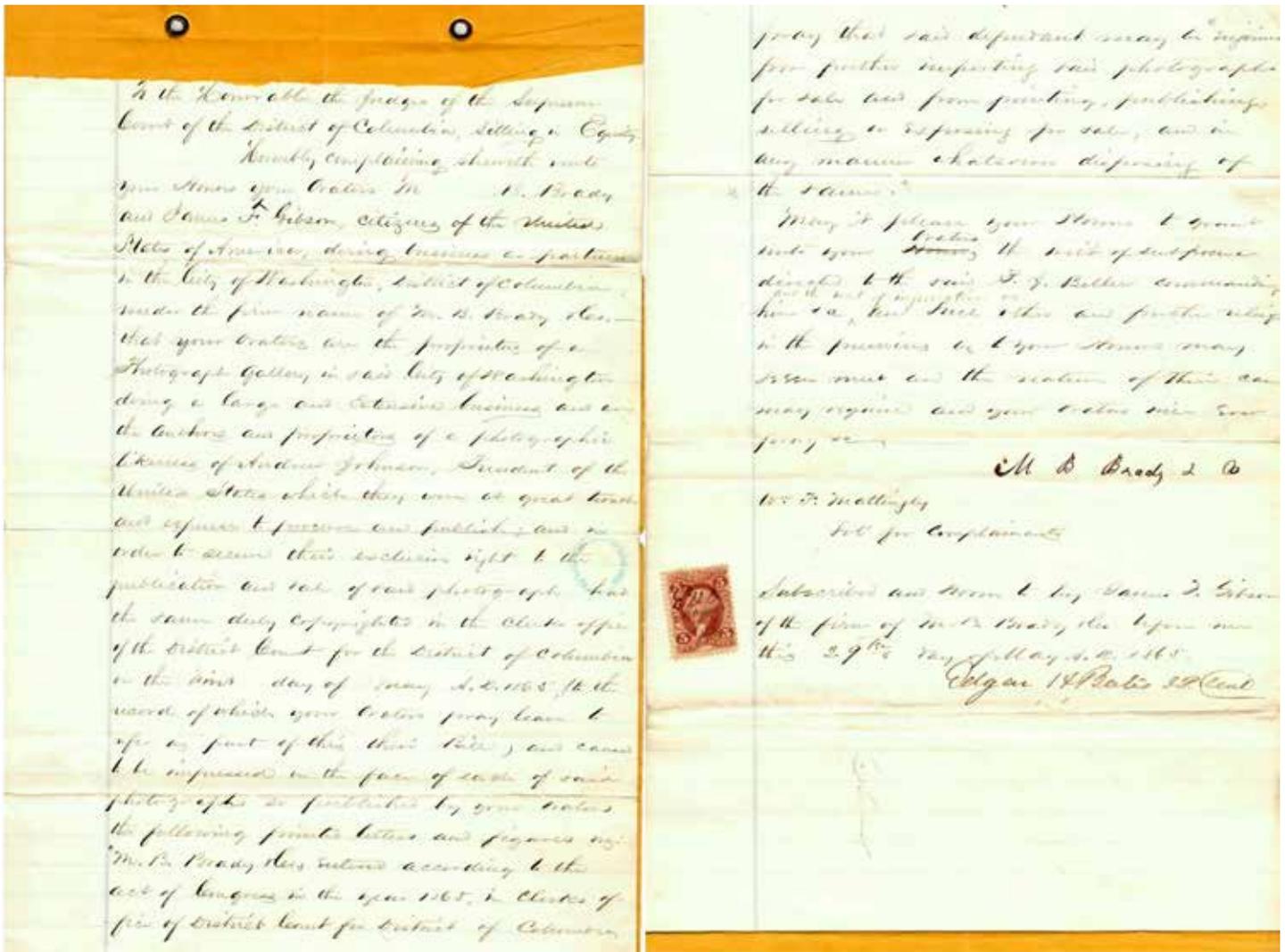
13 Copyrights Records, Volume 10, District of Colum-

AMBROTYPE- \$100

Adams County Historical Society
Barry and Maureen Larkin
Barry McGhan
Bill Anziani
Bob Zeller
Brian Martin
Brian Moran
Carol Johnson and John McGowan
Charles Morrongiello
David J. Tooley
Denise Bethel
Doug McGovern
James Dorrough
Jennifer Kon
John and Norma Kelley
Joyce Mountz

THANK YOU CCWP

Kimball Brace
Mack Lee
Marc Storch
Mark Romoff
Mike Strong
Munroe Cobey
Neil McConnell
Paul and Paula Wilson
Phil LeDuc
R.F. Kaiser
Richard C. Mancini
Richard Young
Robert Billheimer
Robert E. Shannon
Robert Krick
Robert Shenk
Robert Twining
Robin Stanford
Ron Zanoni



Shown here are the first and last pages of the complaint filed by Brady and associate James Gibson in the 1865 copyright infringement case of *Brady and Gibson v. Ballev*. (Equity Case File 444, May-June 1865, Records of the District Courts of the United States, National Archives RG 21, Box 26, Entry 69).

PREMIUM MEMBERS

S. C. Yeakel
 Stephen W. Sears
 Tom and Janice Grove
 Tom and Lesley Mack
 Wayne Basconi
 Wayne Blattner
 William Christen

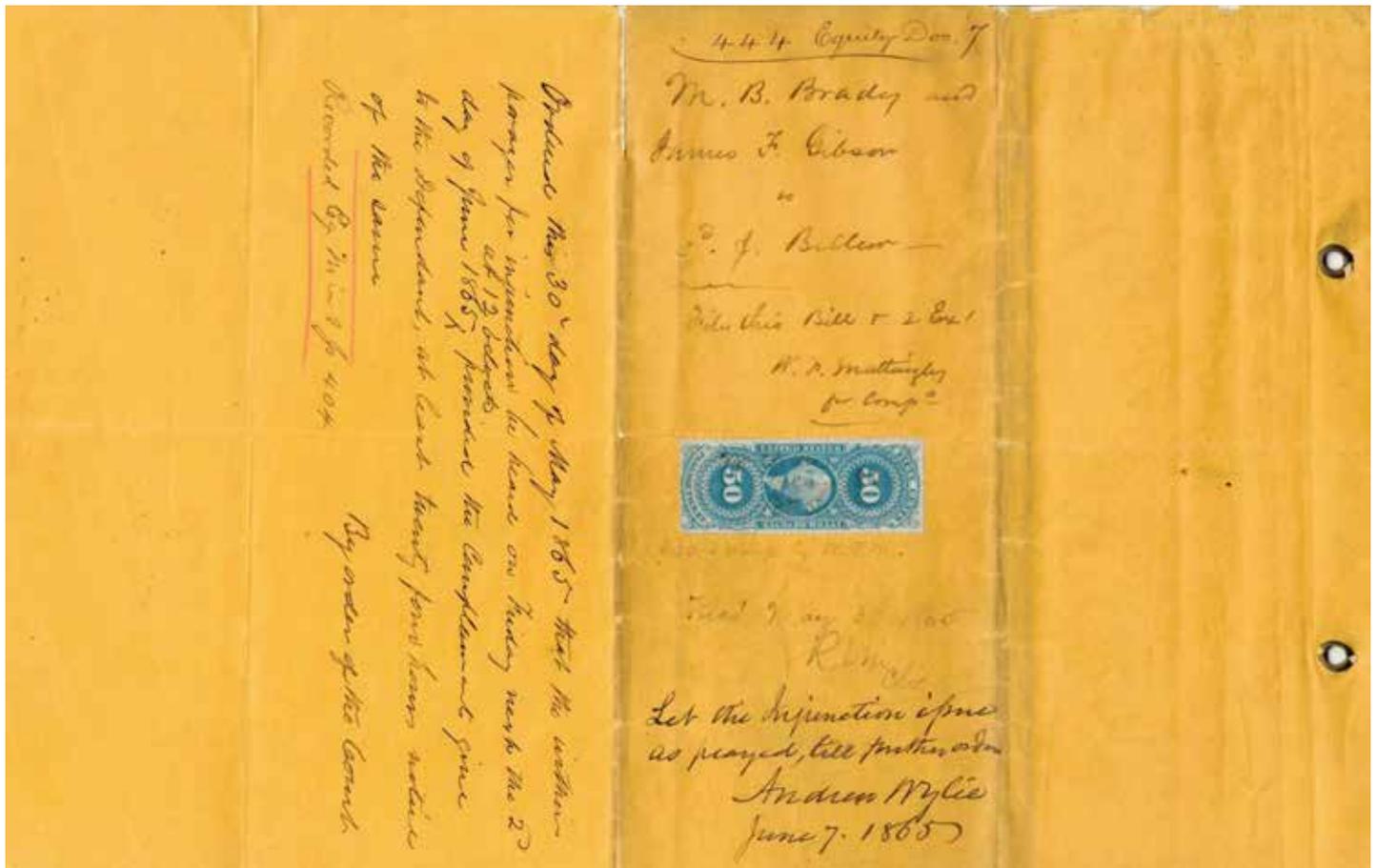
Todd Janus
 Walton Owen

DAGUERREOTYPE- \$250

Craig Heberton
 Gary McQuarrie
 James O'Conner
 Nancy and Ed Miville
 Philip D. Nathanson
 Ronald Cogswell
 Timothy York

FOLIO- \$500

Brian Beirne
 Jeremy Thompson
 Keith Brady
 Phil LeDuc
 S. C. Yeakel



The outer cover of the original Brady and Gibson v. Ballew case file includes an Internal Revenue tax stamp as well as the inscription that an injunction was issued June 7, 1865. (Equity Case File 444, May-June 1865, Records of the District Courts of the United States, National Archives RG 21, Box 26, Entry 69).

bia, 1845-1870, Rare Book and Special Collections Division of the Library of Congress, Washington, D.C., 295.

14 Equity Case File 444, May-June 1865, Records of the District Courts of the United States, RG 21, Box 26, A1, Entry 69, National Archives and Records Administration, Washington, D.C.

15 Robert Wilson, Mathew Brady: Portraits of a Nation (New York, NY: Bloomsbury, 2013), 200-203.

16 George Alfred Townsend, "Still Taking Pictures," *New York World*, April 12, 1891, 26.

17 William C. Darrah, Cartes de Visite in Nineteenth Century Photography (Gettysburg, Pa: W. C. Darrah, Publisher, 1981), 57.

18 Folsom v. Marsh, 9 F. Cas. 342 (1841).

19 Josephine Cobb, "Mathew B. Brady's Photographic Gallery in Washington," *Records of The Columbia Historical Society, Washington, D.C.* 53/56 (1953): 58.

Jason Lee Guthrie is a media historian with interests in the creative industries and intellectual property law. He also enjoys teaching media production at the college level.



The late Josephine Cobb, chief of the National Archives Still Pictures Branch and an archives employee from 1936 to 1972, rediscovered the Brady and Gibson v. Ballew case in the archives in 1948. In this photo taken in 1952, she examines an imperial glass plate negative of President Abraham Lincoln. (National Archives 64-NA-1-273.)

Hidden Stories in a South Carolina Cemetery Photo

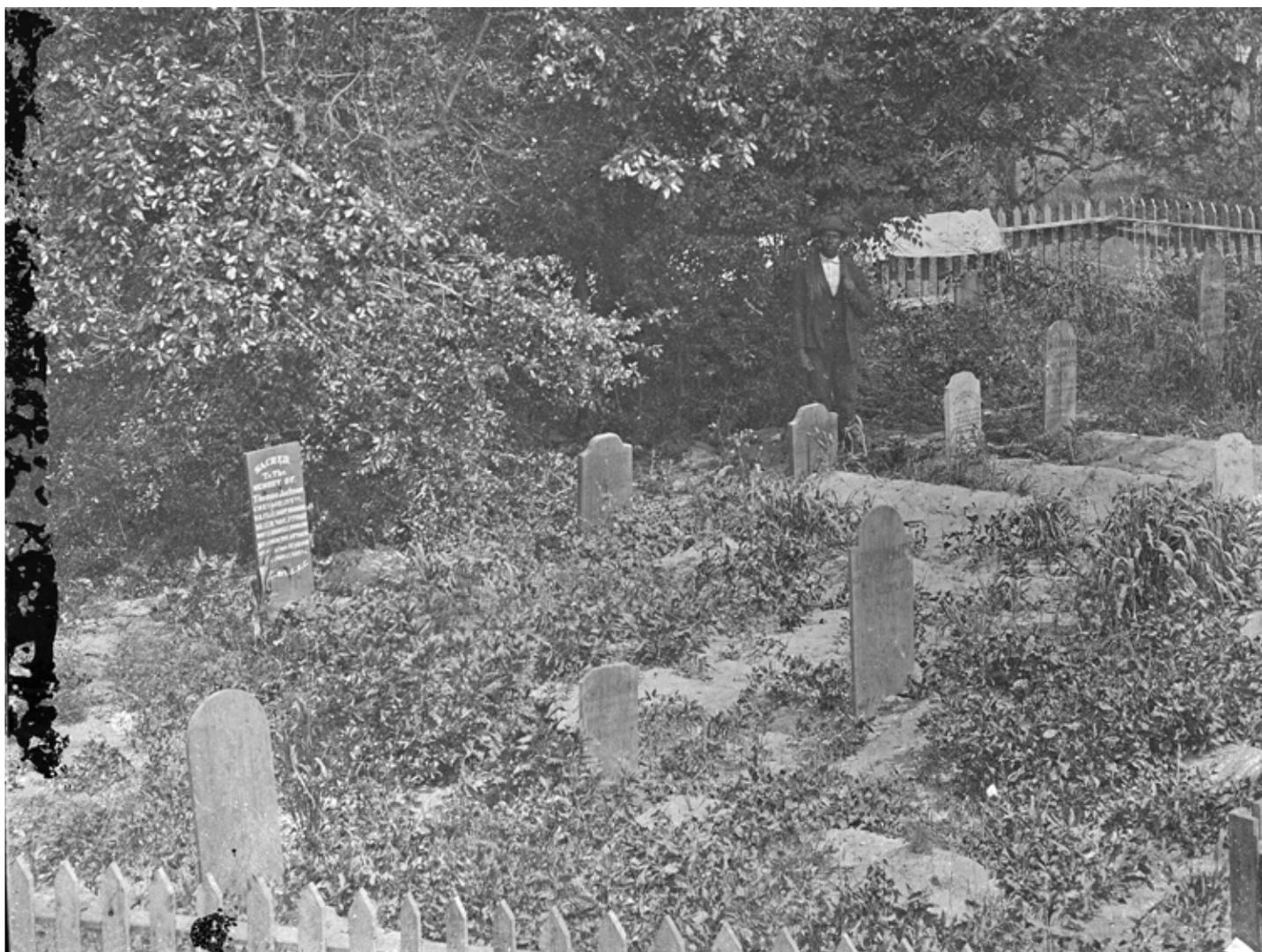
By John Banks

At first glance, the age-darkened negative of the scene in a small South Carolina cemetery is unremarkable. A picket fence borders the grounds, which include at least 11 graves. Words appear on the headboard on the left in the back row, but they seem indecipherable. A large tree branch juts out, perhaps obscuring other graves in the background. Judging from the freshly turned dirt in the right background, three of the interments appear to be recent. Weeds choke the cemetery, suggesting upkeep was not a priority.

The scene was photographed by Timothy O'Sullivan

in South Carolina in 1862. The glass-plate image is in the collection of the Library of Congress, which makes high-resolution digitized versions of Civil War photos available for free on its excellent web site. The caption on the negative sleeve for the original image reads, "Graves of Sailors Killed at bombardment Hilton Head, S.C. Nov. 1861." On the LOC web site, the creation date for the photograph is listed as "1861 Nov.," but that's incorrect because one of the sailor graves in the image notes he died in 1862. Other images by O'Sullivan in Hilton Head were taken in April 1862, the probable time frame for this photograph.

When one explores the details visible in the high-



Only one half of photographer Timothy O'Sullivan's stereo negative of a soldier cemetery in South Carolina in 1862 still exists and it has darkened with age. But stories still abound within the depths of the photograph. (Library of Congress B811-187).

resolution scan, secrets of the image reveal themselves.

A closer look at the large, wooden headboard in the left background reveals it marks the grave of Thomas Jackson, a coxswain aboard the flagship U.S.S. *Wabash*. Jackson suffered a gruesome death during the Union navy's attack at Port Royal Sound in South Carolina on Nov. 7, 1861, when the *Wabash*, a large steam frigate, came under fire from batteries at forts Beauregard and Walker. A "huge shot" struck Jackson in the leg, leaving it "dangling by a mere shred of quivering flesh and skin." Probably in shock, Jackson attempted to amputate the leg with his knife but was unsuccessful, and he was quickly attended to by his comrades.

Lacking cannons of heavy enough caliber or range to withstand the attack, the Confederates were overwhelmed and abandoned the forts, allowing the Union to tighten its blockade on South Carolina. Casualties on both sides were light: the Union navy suffered at least eight dead and 20 wounded; 11 Confederates were killed and 47 were wounded in the forts.

"Rapidly he sunk away," noted an 1865 account of Jackson's death in *The Soldier's Casket*, "and at last, with a short sigh, died." Jackson was apparently buried by his messmates hours later and may have been re-interred

A TRUE AMERICAN SAILOR.

THOMAS JACKSON, COXSWAIN U. S. STEAMER WABASH.

Since we recorded the heroic conduct of young William Steele, the powder boy aboard the United States Steamer *Wabash*, we have learned of another act of enduring bravery, on the part of one of the crew of that noble vessel.

Thomas Jackson was Coxswain aboard the *Wabash*, and during the battle of Beaufort distinguished himself by his cool and daring efficiency. Just before the end of the action, a huge shot from the enemy's battery struck him, and so completely severed one of his legs as to leave it dangling by a mere shed of quivering flesh and skin.

On finding himself lying so suddenly on the deck, Jackson was astonished. But as a slight pang of pain took him, and he glanced down at his mangled limb, he saw what had happened, and knew that he must die.

"That's bad!" was all he said, and then feeling behind him for his sheath knife, he hastily drew it, and endeavored to complete the amputation commenced by the shot. But the knife was too dull, or, more properly, poor Jackson was too weak to succeed.

He was quickly picked up by his messmates, one of whom bound his stump tightly, to lengthen out his life as long as possible—and carried below.

"Tell me, mates," he continually asked, "how goes the fight; are we getting the best of it? Oh! I hope we'll win it! I'm dying happy, to think that I've been able to do a little for the dear old Flag."

This, Jackson kept up until he became so weak that his voice could not be heard. Still every now and then his dull eyes would brighten, as well as they were able, and he would move his lips. Rapidly he sunk away, and at last, with a short sigh, died.

On the very instant of his death, a wild shout rang out above, telling of victory, and a bosom friend of Jackson's rushed down the hatchway, and leaping to his mate's bedside, took his hand and called in his ear:

"Tom! Tom! we've won it! we've won it!"

But there was no answer; poor, brave Tom was gone, and his friend turned away and dropped his limp dead hand in real, unaffected grief.

"Ah! well," said he at last, turning again to the corpse, "Tom, you were a true American Sailor, and I hope when my turn comes, I'll die like you!"

A few hours later, and almost before the rising breeze had swept away the dull, grey clouds of cannon smoke, Coxswain Jackson was buried by his messmates with all the honor worthy so brave a man. Thousands and thousands of sailors and soldiers have fallen since then, but none more admired than Thomas Jackson.

later in the graveyard in Hilton Head. It's unknown whether his remains were disinterred and re-buried nearby in Beaufort (S.C.) National Cemetery, which was established in 1863. It is the final resting place of more than 7,500 Union servicemen, many unidentified. There is no record of grave there for Thomas Jackson.

When O'Sullivan shot this photograph, George W. Collins' marker (third from right, back row) was partially obscured by weeds. A 43-year-old seaman from Delaware, he joined the Union navy in Philadelphia on Aug. 24, 1861. According to a Union navy enlistment document, Collins stood 5-foot-6 and had blue eyes, brown hair, a fair complexion and his occupation was listed as carpenter. In the 1860 U.S. census, Collins' occupa-



Above: A close-up look at the grave marker of Union sailor Thomas Jackson, killed in action during the Battle of Port Royal near Beaufort, S.C. on Nov. 7, 1861. (Library of Congress).

At left: Jackson's story is reproduced here as it appears on page 333 of *The Soldier's Casket*, No. 6, June 1865, a journal of war stories about individual soldiers and officers published by C.W. Alexander of Philadelphia, Pa.

tion was listed as “waterman,” and he lived in the Kent County town of Little Duck Hundred with his wife and daughters, Lucy and Mary. At least four other people whose relationship to the Collins family is uncertain lived with them.

In March 1862, Collins and several other sailors from the U.S.S. *Susquehanna* were ordered to go on scouting missions on two South Carolina rivers. On March 22, they were fired on by Rebel pickets, who were scattered by a howitzer. But later that night, when they went ashore at the junction of Pull-and-be-Damned Creek and the Cooper River, they were mistakenly fired on by Union pickets. One of the shots hit Collins, killing him. It was an act, a Union officer wrote in a report, of “culpable carelessness.” Later that spring, Collins’ body was buried in Hilton Head.

An enlargement of the tall headboard next to Collins’ marker reveals the words “Sacred to the Memory of” and “Killed on Board.” I was initially stumped by the wording on this grave. Eagle-eyed CCWP board member Craig Heberton believes it’s “W.H. FitzHue (FitzHugh),” who died “aged 23 years” onboard the “U.S.S. Pawnee.”

William, a first-class boy and a former slave aboard the *Pawnee*, was among eight Union sailors who died from wounds during the successful effort to take Port Royal, South Carolina, on Nov. 7, 1861. Fitzhugh’s right leg was shattered when a Confederate shell exploded on the *Pawnee*, killing a seaman, John Kelly, instantly. Fitzhugh’s leg was amputated, but he died later that evening. He was buried with full military honors the next day with the seven other Union sailors who were killed in the battle.

Behind those graves stands an unidentified man dressed in a suit coat and wearing what appears to be a slouch hat. Perhaps he was the cemetery caretaker or maybe someone who just came to pay his respects to Union sailors buried there.

John Banks is secretary-treasurer of the Center for Civil War Photography. This story originally appeared on his blog, John Banks’ Civil War Blog, <http://john-banks.blogspot.com.html>, in August 2015.

ENDNOTES

- Barratt, Peter, *Circle of Fire: The Story of the USS Susquehanna in the War of the Rebellion*, Columbiad Press, 2004, Page 97.
- *Official Records of the Union and Confederate Navies in the War of the Rebellion*, Series I, vol. 12 (Washington: Government Printing Office, 1902), 264.



This detail shows the graves of George W. Collins (left) and, most likely, William H. Fitzhugh. Collins was killed by friendly fire while on a scouting mission in March 1862. Fitzhugh was mortally wounded in the Battle of Port Royal when a Confederate shell shattered his right leg. (Library of Congress).

CIVIL WAR NAVY

The Magazine

- ↕ New design
- ↕ Expert content
- ↕ Historic photos and illustrations
- ↕ Published quarterly

All Hands on Deck—Support Our Mission to Bring You the Naval History

“This is the magazine for all things Civil War Navy. From ‘Uncle Sam’s web-feet’ to the ‘grey jacket navy’ raised by Jeff Davis! It is all here thoroughly researched and illustrated by beautiful contemporary navy images.”

—Ron Field, military historian and author of over 45 books, including *Bluejackets: Uniforms of the United States Navy in the Civil War Period, 1862-1865*.

1 Year—4 Issues: \$24.95 (Save 20% Off Cover Price)
2-Years—8 Issues: \$45.99 (Save 25% Off Cover Price)
Subscribe Now at civilwarnavy.com
Or send a check to: CSA Media, 808 Drayton St., Savannah, GA 31401
International subscriptions subject to postage surcharge.

USS Galena (1862-1872). Photograph looking forward along the ship's port side, shortly after her May 15, 1862 action with Confederate batteries at Drury's Bluff, on the James River, Virginia, NH 53984. Courtesy of Naval History and Heritage Command. Image colorized by Nick Edwards.



AMERICAN
BATTLEFIELD
TRUST ★ ★ ★
PRESERVE. EDUCATE. INSPIRE.

SAVING HISTORY & HONORING HEROES

Join us today!

BATTLEFIELDS.ORG

Chroniclesville Battlefield, Virginia - THERESA RASMUSSEN

America's only Civil War publication
solely dedicated to photographs
of soldiers and sailors.

Military Images

SUBSCRIBE NOW
4 quarterly issues,
\$24.95

Online:
MilitaryImages
Magazine.com

By check
payable to:
Military Images
PO Box 50171
Arlington, VA
22205

MI

MilitaryImagesMagazine.com | Facebook.com/MilitaryImages

19th Annual IMAGE OF WAR SEMINAR

Exclusive 3-D shows on a full-size theater screen ★ Special wet plate
experience ★ Designed for novices and seasoned experts alike



www.imageofwar.org

Richmond, Virginia
September 27-29, 2019

A Devil of a Seminar at Richmond

By Bob Zeller

Our 19th annual Image of War seminar returns to Richmond, the Capital of the Confederacy, where one of the most memorable moments in seminar history took place almost 15 years ago.

In 2005, as National Park Service historian Mike Gorman talked about an unidentified word he had recently noticed scrawled on a brick in the deep background of Mathew B. Brady's famous April 1865 photo of Gen. Robert E. Lee, CCWP member and seminar regular Barry Larkin pointed to a blow-up of the graffiti and said, "It says 'Devil!'"

The discovery of derisive graffiti by the backdoor of Lee's Richmond house was an electrifying moment for all of us on that memorable Sunday in 2005. And during our upcoming event on Sept. 27-29, 2019, while we can't promise a revelation of that magnitude, we plan to deliver three full days of photographic delights, insightful commentary, fascinating tours and lots of fun.

And who knows? We may just duplicate the feat, considering how frequently new finds and discoveries are brought to light in the thriving and ever-growing field of Civil War photography.

Gorman returns in 2019 as one of our key presenters and even he is surprised at everything new he's come across in the past 15 years about Civil War images of Richmond, which was one of the most photographed places of the conflict.

"I'm only one worker in this field, but since 2005 I've found countless panoramas that have not previously been seen, more "motion pictures" than I can shake a stick at, and made anaglyphs that are as good or better than what you might expect from a modern movie," Gorman told me. "Then there are the images that get discovered as archives digitize their collections – it's a real exciting time to be a Civil War photo geek!"

Gorman will show many of these finds on the full-size theater screen during our Friday evening gathering at the historic Henrico Theater, an Art Deco-style facility built in 1938. CCWP Vice President Garry Adelman also will present

a show. And we'll have the premier showing of a 3-D show by CCWP member Steve Woolf that takes a look at the Fort Sumter Victory Celebration of April 14, 1865 like you've never seen it before.

We plan to spend all day Saturday on a bus tour to Capitol Square, Libby Hill, Drewry's Bluff and other Richmond sites. It will be led by Gorman and Adelman and enhanced by our "4-D windows" – poster-sized anaglyph wartime 3-D images displayed at the precise locations where they were taken. We will also have our regular wet plate photography demonstration and group photograph, with wet plate artist Robert Szabo behind the camera. It's always a special treat to see the photo almost magically appear before your eyes in mere seconds as the plate is immersed in developing fluid.

Our Saturday evening dinner at our seminar hotel, the Omni Hotel, will be capped off with the legendary Image of War raffle and auction, which always includes a wide array of vintage Civil War photos, lithographs and graphics, books, relics and generous donations from our members.

For more information, visit imageofwar.org and we hope to see you in Richmond this September.



At the 2005 Image of War seminar in Richmond, National Park Service Historian Mike Gorman lectures at Robert E. Lee's house about Mathew Brady's famous April 1865 photos of the Confederate general. To Gorman's right, CCWP Vice President Garry Adelman is about to show a blow-up of one of the photos showing a single word of graffiti scrawled on the house that Gorman had discovered in the depths of the original glass plate negative. From the audience, CCWP member and seminar regular Barry Larkin identified the word for the first time: "Devil." (Photo by Bob Zeller).



THE CENTER FOR CIVIL WAR PHOTOGRAPHY
- HISTORY IN FOCUS -

947 E. JOHNSTOWN RD. #161
GAHANNA, OHIO 43230

