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Congressional Oversight Run Amok: Ball's Bluff and the Ruination of Charles Stone

JAMES T. CURRIE

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The battlefield at Ball's Bluff, Virginia, is today little more than a modest monument, a few grave markers, and a low stone wall. Even Civil War specialists are hard-pressed to offer more than superficial details of this minor engagement, which took place some 30 miles upstream from Washington on the Potomac River. This battle is well worth remembering, however, for it served as the catalyst for one of the most extraordinary examples of congressional oversight ever, oversight that ruined the career of a Union general whose crime was that he did not hate the South enough.

The first major Union defeat of the war occurred at Bull Run—or First Manassas, in Southern terminology—in July 1861. Ball's Bluff followed in October of that year.¹ This particular engagement, like so many others during the Civil War, happened quite by accident. Confederate troops were reported to be camped near the town of Leesburg, Virginia. At the direction of Major General George B. McClellan, commander of the Army of the Potomac, Brigadier General Charles P. Stone sent a force across the river into Virginia to reconnoiter and to see whether the Confederates could be run off.

To lead the expedition Stone chose Colonel Edward D. Baker, a volunteer whose military experience consisted of ten months in an Illinois regiment during the Mexican War. When the Civil War began Baker was serving as a United States Senator from Oregon. He resigned his seat in Congress and accepted a commission as colonel, the same rank he had held some 14 years earlier. The subsequent investigation of the Ball's Bluff affair left some doubt as to exactly what Baker believed he was supposed to do during his foray into Virginia. Whatever he thought his task to be, however, he did a poor job of it.²

Baker's force crossed the river in lackadaisical fashion. After scaling a 50-foot bluff, his men deployed haphazardly on the Virginia side in a poor

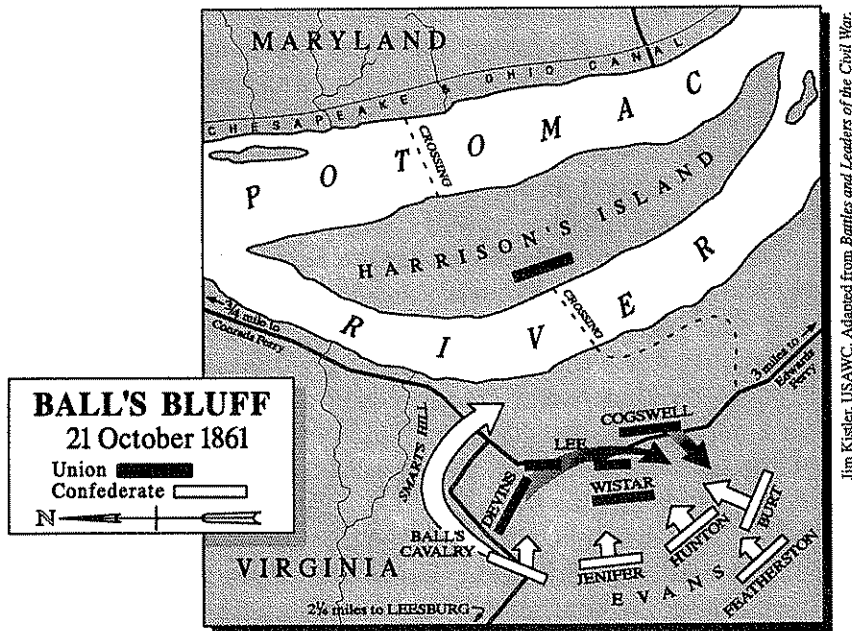
defensive position. Confederate forces in the area, commanded by Colonel N. G. Evans, quickly discovered the Union movement and moved into position to counter it. According to one of the men who participated in the engagement, Baker's reaction upon meeting the enemy was to withdraw his force into a clearing which was surrounded by trees on three sides. The open side was the drop-off to the river. From the trees the Confederates poured a withering fire into the Union ranks.³

Attempts by Baker's troops to bring their three artillery pieces into play were futile, as the rebels shot down every man who tried to serve the guns. The Union soldiers fought bravely, but they were in an untenable position. By day's end the losses were appalling. The Union side suffered 49 killed, 158 wounded, and 714 missing or captured, out of only 1700 engaged. The Confederates lost 33 killed, 115 wounded, and 1 missing. The most notable casualty on either side was Colonel Baker, who was killed while attempting to rally his troops.⁴

This second Union defeat so close to Washington caused some of the more radical members of the Republican Party in Congress to demand an active role in the conflict. Not so much of a role as might cause them to get hurt, certainly, but enough of one that they might understand what was happening and have a hand in running the war effort. The outcome was a December 1861 resolution which proposed a Joint Committee on the Conduct of the War, to consist of three Senators and four Representatives. The committee was to "inquire into the conduct of the present war, with power to send for persons and papers"⁵

The debate on the measure establishing the Joint Committee left few doubts as to what some members of Congress thought the investigation of Ball's Bluff would reveal. Representative Roscoe Conkling of New York, a man whose idea of color coordination was to dress like a peacock, proclaimed that Ball's Bluff was "the most atrocious military murder ever committed in our history as a people." Representative Owen Lovejoy of Illinois saw the hand of God in the defeat. The real difficulty faced by the Union, asserted this uncompromising abolitionist, was slavery. It was like Jonah on the ship, said Lovejoy. Unless the nation rid itself of Jonah—i.e. slavery—Ball's Bluff would be only one more in a continuation of defeats. Senator Henry Wilson, a Massachusetts Republican, left no doubt as to what he thought Congress should do. In words that would

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make any military commander blanch, he declared: “We should teach men in civil and military authority that the people expect that they will not make mistakes, and that we shall not be easy with their errors.”⁶

There were a few men of moderation, such as Representative William Richardson of Illinois, who believed that this proposed committee was likely “to raise an issue between the House of Representatives and the Army, and divide the country,” but such men were outnumbered. By a margin of 79-54, the majority comprised almost solely of Republicans, the House decided to create the Joint Committee. The Senate soon tagged along.⁷

Congress had engaged in oversight of executive branch activities since 1792, when it first appointed a special committee to investigate the military defeat of Major General Arthur St. Clair. During the 1830s there were regular investigations of the postal service, and it was a rare year indeed when Congress did not ask to see certain papers from the War Department.⁸

This Joint Committee was different, however, largely because there had never been intensive congressional oversight of the actual conduct of a war. Wars are simply not suited to being run by committee, and the general feeling—both before and after the Civil War—has been that the President and military leaders should be allowed to conduct military operations during wartime without interference from the legislative branch. This was certainly the case with World Wars I and II, Korea, and the Persian Gulf, though it was less so with Vietnam. Even in Vietnam, however, it was the executive branch—not the Congress—that placed most limitations on the conduct of the war, such as declaring certain targets off limits and calling halts in bombing campaigns.

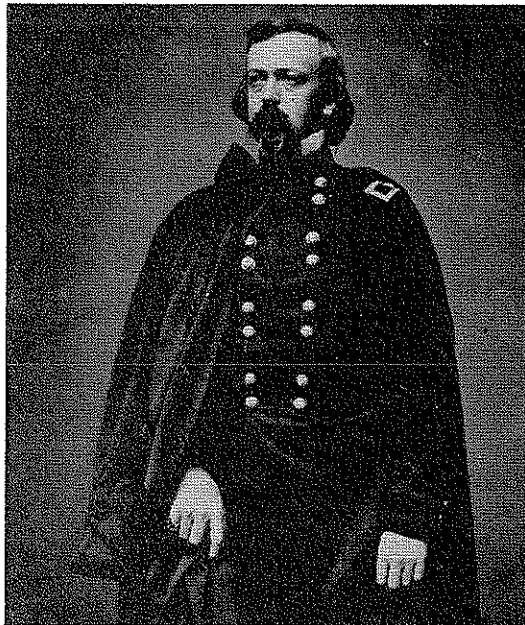
Many of the inquiries and investigations of the Joint Committee, which functioned as an arm of the Radical Republicans—meaning those who sought early on to make the eradication of slavery a Union war aim—were unexceptionable. Committee members looked into the treatment of Union prisoners of war, the production of heavy cannons, and the building of light-draft armored warships.⁹ But with the Ball's Bluff investigation the abuse and excess that are always possible in the congressional oversight process reached their apogee.

Colonel Baker was clearly the man most to blame for the debacle. But he had been their friend and colleague in the Senate, and, besides, he was dead. The Joint Committee required a live victim for its inquisition. That man would be Brigadier General Charles P. Stone, the division commander. Stone was a graduate of West Point who had served with distinction during the Mexican War. He had earlier been entrusted with organizing the defense of the nation's capital, and from all reports he had done a superb job. Stone was widely regarded as one of the more competent officers in the US Army in 1861, but his fine record and sterling reputation did nothing to help him when the Joint Committee decided to make him its target.¹⁰

Charges against Stone were never officially proffered. The committee centered its questioning, however, on his popularity with alleged pro-Southern elements in the area, his allowing letters and packages to cross the river from Confederate to Union territory, and his supposed incompetence during and after the engagement at Ball's Bluff.¹¹

The committee's modus operandi was simple—and subject to abuse. It invited members of General Stone's command to appear before it in closed

**Brigadier General
Charles P. Stone**



National Archives

session and offer their opinions as to the character, fitness, and actions of their commander. While this method had the advantage of promoting candor, it also allowed the introduction of hearsay, error, and vindictive testimony. Because the witnesses were promised confidentiality until their testimony was published much later as a committee report, this procedure prevented Stone from knowing exactly what witnesses were saying about him.¹²

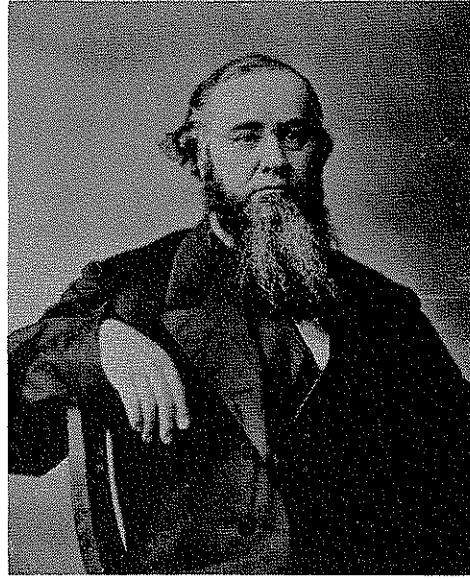
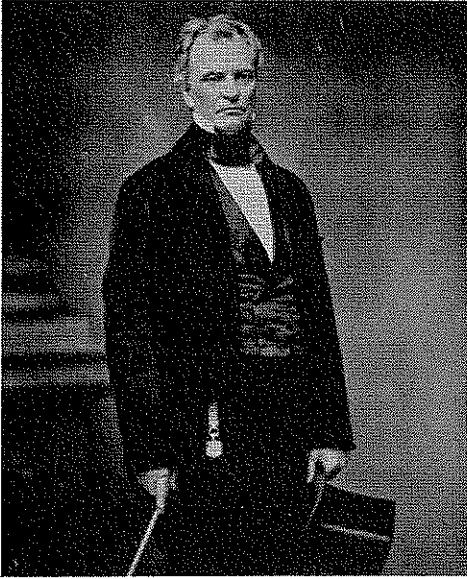
Members of Stone's command told of mysterious letters and packages that came across from the Confederate side under flag of truce, were taken to Stone, and then passed to unknown destinations. Many of these missives, testified the witnesses, were from well-known secessionists or rebel sympathizers who seemed to regard Stone with great affection. Indeed, one witness testified that "rebel pickets repeatedly haloo across that General Stone is a gentleman, and they would not do anything to injure him."¹³

A former Army captain, who had resigned his commission after Stone would not allow him to go back to New York to tend his business (an action that cost him \$3000, he complained), stated that the general had allowed the transmission of letters "that were very disgusting for us Union soldiers to read: blackguard letters about our defeat at Bull Run &c." A third witness testified that Stone had failed to use his artillery to batter down a mill that produced flour for the Confederates (and for families loyal to the Union cause, as well). Others criticized the way in which Stone had performed his command responsibilities at Ball's Bluff. This series of Monday-morning quarterbacks—primarily lieutenants and captains who had been civilians only a few months before—freely expressed just how they could have done better, if only they had been in command. And so it went.¹⁴

The committee interviewed a total of 39 witnesses, including Stone himself. Stone was never told the exact nature of the committee's concerns, nor was he allowed to review the testimony of those who had appeared previously. As a result, the General's testimony was guarded and unfocused and did not address directly many of the allegations that had been offered against him. The impression that comes through in the record of the committee's hearings is clear: as far as these members were concerned, Stone was at least guilty of malfeasance and might even have committed treason.¹⁵

Stone, meanwhile, committed a great blunder. Having been criticized publicly by Senator Charles Sumner for allegedly sending runaway slaves back to their masters, Stone took offense and wrote a blistering letter to the Massachusetts Senator. The letter was abusive in the extreme, almost challenging Sumner to a duel, and it did nothing to endear him to the abolitionist members of the Joint Committee.¹⁶

The committee did not have any actual authority over members of the executive branch of government, but it had a great deal of influence there. Following the compilation of testimony about General Stone and the Battle



National Archives (both photos)

Among the principals in the affair were Senator Benjamin Wade (at left), Chairman of the Joint Committee on the Conduct of the War, and Secretary of War Edwin M. Stanton (at right), who ordered General Stone's arrest.

of Ball's Bluff, the committee chairman, Senator Benjamin Wade of Ohio, made it clear to Secretary of War Edwin M. Stanton that he wanted Stone arrested. Stanton, ever willing to court favor with the powerful members of the committee, ordered Major General McClellan to effect the deed.¹⁷

McClellan dawdled for some ten days, not wanting to arrest his colleague. But on 9 February 1862, at the awful hour of 1:00 a.m., the mission was accomplished. The commander of the provost guard in Washington, D.C., arrested General Stone and sent him in the custody of a lieutenant and two policemen to Fort Lafayette in New York harbor. Stone immediately asked for a statement of charges and a hearing or court-martial, as was allowed and required under the Articles of War. His requests were ignored.¹⁸

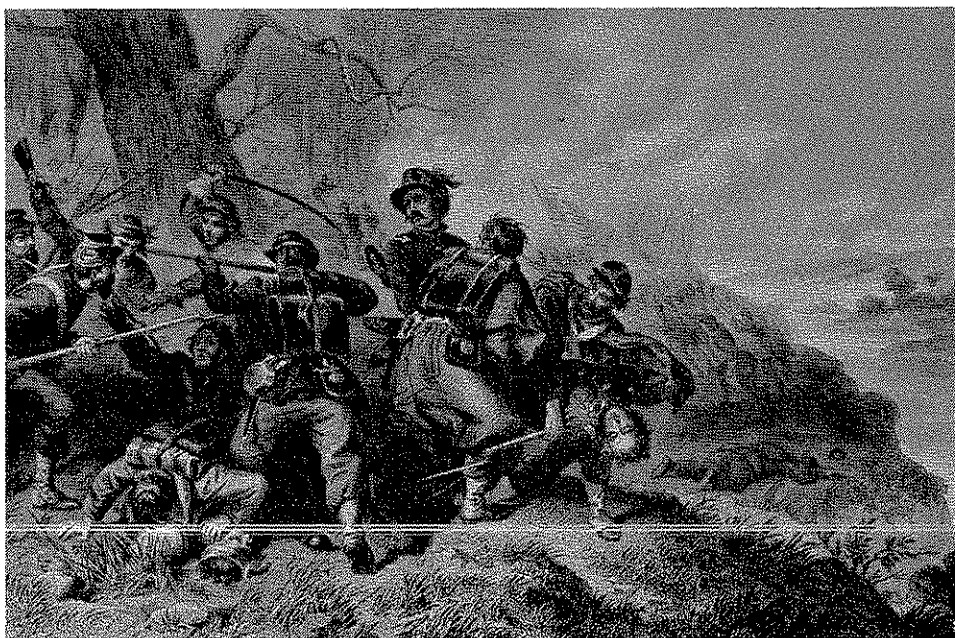
Instead, Stone languished in solitary confinement for 50 days, and there he might have remained had not his family notified James A. McDougall, a Democratic Senator from California and a friend of Stone. McDougall took up Stone's cause, and on 11 April 1862 he introduced a resolution calling upon Secretary of War Stanton to answer a series of questions about the arrest.¹⁹

McDougall pointed out that Stone had never been charged with a crime and that the General had repeatedly asked for a court of inquiry to determine his guilt or innocence. McDougall then suggested that the Joint Committee on the Conduct of the War bore considerable responsibility for Stone's incarceration, a charge that brought an immediate and heated response from Senator Wade, the committee's chairman.²⁰

Wade's response was disingenuous. His committee, he admitted, had "ascertained facts, the existence of malpractices, shortcomings, and things inconsistent with the proper and beneficial conduct of the war." They had then gone on occasion to President Lincoln, to Secretary of War Stanton, and sometimes "to the whole Cabinet" and "there in secret have disclosed the testimony that has come to us, and we have endeavored to work out a redress."²¹

As far as Wade was concerned, "There was, and is, probable cause for the arrest of General Stone." He would not give details of the evidence, said the Senator, and he regretted that he had to mention the subject at all. His committee, insisted Wade, had used its power "with moderation, with great forbearance, and with a discretion that cannot be impeached here or elsewhere." He then attacked McDougall as a Confederate sympathizer, a charge of which there is no evidence in the record. Wade then fairly much dismissed Stone's Constitutional rights. It is fine to quote the Constitution, preached Wade, but "it is perfectly manifest that if people are shut up in dungeons, and restrained of their liberties, it is that the Constitution may live."²²

Fortunately for General Stone, others in the Congress—even those who had supported the creation of the Joint Committee—did not share Wade's sentiments toward the abrogation of Constitutional guarantees. Though few members rose to support McDougall, he eventually carried the day. His resolution posing questions to the Secretary of War was changed to ask that President Lincoln furnish information to the Congress about the Stone affair. On 1 May



US Senate Historical Office

A contemporary lithograph of the Battle of Ball's Bluff portrayed Union soldiers "rescuing the body" of Colonel Edward Baker.

the President responded that Stone had been arrested and imprisoned “under my general authority, and upon evidence which, whether he be guilty or innocent, required, as it appears to me, such proceedings to be had against him for the public safety.” Stone had not been tried at court-martial, declared the President, because officers for the court and witnesses could not be summoned without injury to the nation. Lincoln assured the Congress, however, that Stone would be charged forthwith and that he would be tried without unnecessary delay.²³

Stone was still imprisoned, but a probable result of McDougall’s exertions on his behalf was that the General was taken from solitary confinement and transferred to Fort Hamilton, New York, where conditions improved slightly. He still had not been furnished a statement of charges.²⁴

Somehow, McDougall worked the congressional system on Stone’s behalf. Almost two months after the exchange between McDougall and Wade, the Senate took up an innocuous-sounding bill titled “An Act to define the Pay and Emoluments of certain Officers of the Army, and for other purposes.” Most of the 22 sections of the bill related directly to the subject matter in the title, covering such issues as how many horses a major general would be allowed to forage at government expense. Section 11, however, was Stone’s ticket to freedom. This section provided that an accused officer was to be furnished the charges against him within eight days of his arrest and that he was to be brought to trial within 30 days. If a trial did not take place, the officer was to be released. To leave no doubt that this provision applied to Stone, the section stated that its provisions would apply to “all persons now under arrest and awaiting trial.”²⁵

It is unclear from the record just how McDougall—and it was presumably McDougall who effected this—was able to get Section 11 inserted into the pay bill. Regardless of how it happened, the bill passed both the Senate and the House of Representatives on 8 July and was signed by the President on 17 July. Stone was given his freedom in August 1862, after a confinement of 189 days. Even upon his release he was never told why he had been locked away. It was a bizarre ending to this part of the affair, to say the least.²⁶

In February 1863 Stone appeared once again before the Joint Committee on the Conduct of the War, and this time he was better prepared. Having finally learned the unofficial charges against him, Stone demolished his opponents and explained the questionable actions that had occurred during his tenure in command. The seemingly astonished Wade asked the key question: “Why did you not give us these explanations when you were here before?” Stone’s reply was simple and direct: “Because, if the chairman will remember, the committee did not state to me the particular cases.”²⁷

Despite his redeeming performance before the committee, Stone’s military career was ruined. He was ultimately sent to the Western theater of operations and took part in both the Port Hudson and Red River campaigns, but he never achieved the promise that had seemed so near in 1861. Stone

resigned from the Army in 1864 and worked from 1865 to 1869 as engineer and superintendent of the Dover Mining Company in Goochland County, Virginia. In 1870 he left the United States and went overseas, and from then until 1883 he served as chief of staff in the army of the Khedive of Egypt.²⁸

The story of Brigadier General Charles Stone is an aberration in the long history of congressional oversight, but it serves as a stark reminder of what can happen when the process gets out of hand. Oversight of the executive branch by the Congress is both necessary and appropriate, but on this occasion the effects of it were felt personally, professionally, and unnecessarily by a good and loyal soldier.

NOTES

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11. Irwin, p. 123; Senate Reports, Vol. 3, No. 108, 37th Cong., 3d sess., 1862-1863, Serial 1153, pp. 17-18, 265-82.
12. Senate Reports, Serial 1153, pp. 252-510, passim.
13. *Ibid.*, pp. 335, 350 and 252-510, passim.
14. *Ibid.*, pp. 331-38, 315-16, 297-301, 301-05, 318-31, 339-45, 353-58, 371-73, 396-402, 421-26.
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16. Hans L. Trefousse, *The Radical Republicans: Lincoln's Vanguard for Racial Justice* (Baton Rouge: Louisiana State Univ. Press, 1968), p. 188; Irwin, pp. 132-33; T. Harry Williams, *Lincoln and the Radicals* (Madison: Univ. of Wisconsin Press, 1941), p. 95.
17. Trefousse, p. 188; Williams, "Committee on the Conduct of the War," p. 149; Randall and Donald, p. 283.
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19. *The Congressional Globe*, 11 April 1862, p. 1624.
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21. *Ibid.*, p. 1667.
22. *Ibid.*, pp. 1667-68.
23. *Ibid.*, p. 1668; 37th Cong., 2d sess., Senate Executive Document No. 45, "Message of the President of the United States in answer to a resolution of the Senate of April 21, in relation to the arrest of Brigadier General Stone."
24. Williams, *Lincoln and the Radicals*, pp. 102-03.
25. United States Statutes at Large, 37th Cong., sess. 2, chap. 200; Blaine, pp. 390-91.
26. *The Congressional Globe*, 8 July 1862, pp. 3167, 3187; *Journal of the Senate*, 17 July 1862, p. 870.
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28. Williams, *Lincoln and the Radicals*, pp. 103-04; *The National Cyclopaedia of American Biography* (New York: James T. White & Co., 1909), XI, 215-16.