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Biography of Rufus Paine Spalding

Daniel J. Petricini

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Biography of Rufus Paine Spalding

Ancestry:

Rufus P. Spalding was the great great grandson of Edward Spalding, who settled in Braintree Massachusetts after being “made a freeman” in 1640.¹ Around 1655, Edward’s Son, Benjamin Spalding, moved to Plainfield Connecticut.² In Plainfield, Benjamin had a son named Rufus Spalding, the father of Rufus Paine Spalding.³ Rufus Spalding became a doctor and moved from Plainfield to West Tisbury Massachusetts where he set up a medical practice.⁴ Rufus Paine Spalding was born in West Tisbury on May 3rd 1798.⁵ When Rufus was fourteen, Dr. Spalding moved the family from West Tisbury to Norwich Connecticut.⁶

Early Life/Education:

Spalding spent the remainder of his childhood in Norwich.⁷ At age 18, Spalding began his studies at Yale University.⁸ In 1817, he graduated from Yale with the degree of Bachelor’s of Arts. According to *Cleveland Past and Present* by Maurice Joblin, Spalding’s class “contained names that afterwards acquired luster in judicial, legislative and ecclesiastical circles.”⁹ Spalding’s graduating class included: Thomas Whittlesey and Thomas Osbourne who both became

¹ Joblin, Maurice. *Cleveland Past and Present*, 286 Bibliobazaar LLC, (2008).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Obituary Record of Graduates of Yale University*. Series 3, Vol. 7 No. 46, 352.

http://mssa.library.yale.edu/obituary_record/1859_1924/1886-87.pdf (Accessed: March 18, 2009).

⁶ Joblin, *Cleveland Past and Present*, 286.

⁷ *Id.*

⁸ *Obituary Record of Graduates of Yale University*. Series 3, Vol. 7 No. 46, 352.

⁹ Joblin, *Cleveland Past and Present*, 286.

United States Representatives from Connecticut, and John Chapman who became a U.S. Representative from Pennsylvania.¹⁰

Following his graduation from Yale, Spalding began his study of law.¹¹ Spalding apprenticed under Zephaniah Swift.¹² Swift was a prominent lawyer, and judge from Connecticut and the author of several well know legal “digests”.¹³ Swift’s digests covered a variety of topics including civil and criminal actions, the laws of evidence¹⁴, and Connecticut common law.¹⁵ During Spaulding’s apprenticeship, Swift was the Chief Justice of the Connecticut Supreme Court.¹⁶ Spalding had access to Swift’s numerous writings on the law, as well as exposure to the judicial process at the highest level. Spalding’s education under Swift would go on to serve him well as both an attorney and a judge.

In addition to providing Spalding with a legal education, Swift also heavily influenced Spalding’s emerging political identity. Swift was a Deist and a Naturalist.¹⁷ Naturalists believe that man can know about God and His universe from reason unaided by scripture.¹⁸ Swift saw this philosophy applied in the works of the founding fathers, including The Declaration of Independence, which speaks of “the Laws of Nature and of Nature’s God”.¹⁹ As a Naturalist, Swift

¹⁰ Yale Graduates – U.S. Senators and Representatives index, Class of 1817, page 3, <http://www.library.yale.edu/mssa/YHO/usreps-senators.pdf> (Accessed March 17, 2009).

¹¹ Joblin, *Cleveland Past and Present*, 286.

¹² *Id.*

¹³ *Id.* at 286 - 87.

¹⁴ Swift, Zephaniah, *A Digest of the Law of Evidence in Civil and Criminal Cases*.

¹⁵ Swift, Zephaniah, *A System of Laws of the State of Connecticut*.

¹⁶ Joblin, *Cleveland Past and Present*, 287.

¹⁷ Gerardi, Donald F., *Zephaniah Swift and Connecticut’s Standing Order: Conservatism, And Religious Liberty the Early Republic*, *The New England Quarterly*, Vol. 67 No. 2 (June, 1994) 240.

¹⁸ *Id.*

¹⁹ *Declaration of Independence*, [¶ 1] (1776).

believed in the social utility of Christianity as a force for promoting morality.²⁰ While Swift believed in the inherent power of Christianity as a means for promoting good, his legal opinions were anti-clerical.²¹ He reconciled these viewpoints by concluding that Christianity's broader message was beneficial even if its practitioners warped its benevolent character.²² Swift was a passionate defender of the separation of church and state, and was often critical of legislators and jurists who attempted to undermine the law with religion.²³ He imparted these values onto a young Spalding who became a pragmatic politician, and judge.

Early Career:

In December 1819, Spalding left New England and moved to Little Rock Arkansas.²⁴ In Little Rock he set up a law practice with Samuel Dinsmoore.²⁵ Dinsmoore, like Spalding, was originally from New England.²⁶ He moved west from New Hampshire to work as a legal assistant for James Miller, the first governor of the Arkansas Territory.²⁷ Dinsmoore and Spalding practiced together for a year and a half before Spalding dissolved the practice and left the state.²⁸

²⁰ Nash, David, *Blasphemy in the Christian World*, Oxford University Press, 192 (2007).

²¹ *Id.*

²² *Id.*

²³ Gerardi, *Zephaniah Swift and Connecticut's Standing Order*, 245.

²⁴ Joblin, *Cleveland Past and Present*, 287.

²⁵ *Id.*

²⁶ Bastedo, Russell A *Guide to Likenesses of New Hampshire Officials and Governors on Public Display at the Legislative Office Building and the State House Concord, New Hampshire, to 1998*. Compiled, 1998. <http://www.nh.gov/nhdhr/publications/glikeness/dinssamu.html> (Accessed: March 21, 2009).

²⁷ *Biography of James Miller*, The Encyclopedia of Arkansas History and Culture, <http://www.encyclopediaofarkansas.net/encyclopedia/entry-detail.aspx?entryID=2872> (Accessed: March 21, 2009).

²⁸ Joblin, *Cleveland Past and Present*, 287.

Dinsmoore would go on to enjoy a successful career in politics, serving as Governor of New Hampshire from 1849 – 1852.²⁹

In late 1820, Spalding moved from Arkansas to Ohio.³⁰ Spalding settled in the city of Warren in Trumbull County.³¹ It is unknown why Spalding chose to settle in Ohio, only that he was “induced to remain” in Warren.³² Regardless of his motives, Spalding established a new law practice in Trumbull County.³³ Joblin writes:

His [Spalding’s] extensive knowledge of the law, ability in making that knowledge serviceable, and unwearied industry enabled him to soon build up an extensive legal connection, which he retained and increased during his sixteen years in Warren.³⁴

During his time in Warren, Spalding practiced alongside many of the most prominent lawyers and judges in Ohio.³⁵ During this part of the nineteenth century many considered Trumbull County to be the most distinguished bar in the state.³⁶ Members of the Trumbull bar included: Elisha Whittlesey, Joshua R. Giddings, Powell Stone, Matthew Burchard, Thomas Webb and Rueben Hitchcock. Both Whittlesey and Giddings were members of the House of Representatives.³⁷ Giddings in particular became one of the most prominent anti-

²⁹ Bastedo, *A Guide to Likenesses of New Hampshire Official and Governors*.

³⁰ Joblin, *Cleveland Past and Present*, 287.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Ohio Historical Society, *Ohio History*, 103 (1900).

³⁶ *Id.*

³⁷ *Id.*

slavery leaders in Congress.³⁸ Giddings also helped draft the “Appeal of the Independent Democrats” and assisted in the formation of the Republican Party.³⁹

After nearly two decades in Warren, Spalding moved to Portage County Ohio in 1836.⁴⁰ He settled in Ravenna, and continued his legal practice.

Spalding’s reputation as a good lawyer, and civic moved with him from Warren to Ravenna.⁴¹ In 1839, Spalding sought a seat in the State Legislature.⁴² According to Joblin:

The contest for the position was sharp, for Mr. Spalding was a new man in the county, and it was considered by many proper that older residents should represent so important a constituency. But the recognized ability of Mr. Spalding outweighed all objections on the ground of recent residency, and he was elected by a majority of one.⁴³

Ohio General Assembly:

With his election to the Ohio House of Representatives in 1839, Spalding launched his career as a public servant. He would remain in politics for the remainder of his working life. During his first term as a state legislator, Spalding’s most notable accomplishment was overseeing the creation of Summit County.⁴⁴ Lawmakers debated a plan to create what would become Summit

³⁸ *The Encyclopedia of Cleveland History*, <http://ech.cwru.edu/ech-cgi/article.pl?id=GJR1> (Accessed: March 21, 2009).

³⁹ *Id.*

⁴⁰ Joblin, *Cleveland Past and Present*, 288.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *A Brief History of Akron*, 8-9, W.H. Parish Publishing Co. (1898).
<http://www.summitmemory.org/u/?art.71>

County six years before Spalding took office.⁴⁵ Lawmakers had drafted an initial plan to create a new county in 1833, but from the start, it was plagued with problems. Under the proposed plan, land from the western townships of Portage County, eastern townships of Medina County, and northern townships of Stark County was to be taken in order to create the new county.⁴⁶ Representatives from Portage County were opposed to the plan.⁴⁷ The reason for this was that under the plan, the majority of land taken to create the new county was coming from Portage.⁴⁸ Spalding and his supporters passed the legislation to create Summit County following the election in 1839. After winning more seats in the General Assembly the Whigs and Democrats were able form a coalition strong enough to get the necessary votes.⁴⁹

Immediately following the creation of the new county controversy arose over where the county seat would be. The city of Akron, which eventually won the seat, was challenged by both Summit City and Cuyahoga Falls.⁵⁰ Rufus oversaw the creation of a legislative commission, which would assess the cities and make a determination.⁵¹ North and South Akron reached an agreement to unite, and the commission awarded the county seat to Akron.⁵² The following year, the General Assembly passed a bill which required the commission to review its choice, and if necessary change the seat to another location.⁵³ Upon

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 8-9.

review, the commissioners could not agree on whether to keep the seat in Akron, or move it.⁵⁴ The commission debated the change all summer, and the commission moved to let the voters decide, in the election of 1841.⁵⁵ The voters decided to keep the seat in Akron by a wide margin. Akron received more than double the votes that both Cuyahoga Falls and Summit City combined.⁵⁶

With the creation of Summit County, Spalding relocated to Akron.⁵⁷ Later he was reelected to the General Assembly, as a representative from the newly created Summit County. Shortly afterwards, Spalding was made Speaker of the House.⁵⁸

Spalding's major achievement during his time as speaker was the defeat of a bill that sought to repudiate the state debt.⁵⁹ During the 1840's, many state governments, including Ohio, suffered from an inflationary boom.⁶⁰ Consequently, Ohio's state government faced repayment of their debt in dollars that were now more valuable than the ones they had borrowed.⁶¹ A popular solution at the time, was to repudiate the debt all together.⁶² 28 other states repudiated their state debts between 1841 – 1849.⁶³ Spalding was an outspoken opponent of debt repudiation.⁶⁴ He felt that it was both unethical and politically

⁵⁴ *Id.* at 9.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Joblin, *Cleveland Past and Present*, 288.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Murray N. Rothbard, *Repudiating the National Debt*, (located at: <http://mises.org/article.aspx?Id=1423>).

⁶¹ *Id.*

⁶² Joblin, *Cleveland Past and Present*, 288.

⁶³ Rothbard, *Repudiating the National Debt*.

⁶⁴ Joblin, *Cleveland Past and Present*, 288.

suicidal.⁶⁵ Spalding argued that if Ohio repudiated its state debt, and did not repay its debtors, then no one would lend the state money in the future.⁶⁶ Despite Spalding's outspoken opposition to the scheme, the idea was not dropped until the State Auditor, John Brough joined the cause.⁶⁷ With opponents in both the executive and legislative branches of the state government, supporters of debt repudiation let the bill die, and Ohio continued to honor monetary obligations.⁶⁸

Judicial Career:

In 1848, both houses of the General Assembly elected Spalding to be a justice on the Ohio Supreme Court for a seven-year term.⁶⁹ Spalding served on the bench for three years.⁷⁰ In 1851, voters amended the state constitution so that the public would popularly elect Supreme Court Justices rather than have the General Assembly appoint them. Spalding chose not to seek reelection, and stepped down from the Ohio Supreme Court in the winter of 1851.⁷¹ Joblin writes:

No decisions were held in greater respect by the lawyers and the public, for their uprightness and justice, whilst to the legal fraternity in particular, they commended themselves by their logical force and their terse, clear, emphatic style and precision of expression that rendered them models of judicial literature.⁷²

A review of Spalding's decisions shows that he was very concerned with criminal defendant's receiving fair trials. In *Busick v. State*, Spalding wrote the

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 288.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

majority opinion, reversing both the Appeals and trial court.⁷³ In *Busick*, Spalding found that a juror who told others before the trial that if the defendant was not hanged then he had “no use for the law” constituted a mistrial.⁷⁴ Spalding wrote that the juror in question not only was “totally disqualified to act as a juror by reason of his preconceived and publicly expressed opinion” but that he was “incompetent for the want of a sound moral sense” as well.⁷⁵

In *Henry v. State*, Spalding held that a man who discharges a loaded gun with powder and wadding, at a person who is far away, is not a violation of a criminal statute which made it a felony to fire a gun at a person with the intent to harm.⁷⁶ Spalding based his decision on the fact that the gun was not loaded with “harmful materials”.⁷⁷ Further, he found that the defendant fired the pistol at the victim from a distance of fifty feet.⁷⁸ For these reasons, the act of the defendant could not possibly harm the victim, and was therefore outside of the statute.⁷⁹

Finally, in *Wilson v. State*, Spalding and the majority held that the lower court committed a reversible error.⁸⁰ In *Wilson* a man who was charged with “assault with intent to murder” and “shooting with intent to kill”.⁸¹ The jury returned one guilty verdict for “assault with intent to kill”, a combination of both

⁷³ *Busick v. State*, 19 Ohio 198, 1850 WL 78.

⁷⁴ *Id.* at 200.

⁷⁵ *Id.* at 201.

⁷⁶ *Henry v. State*, 18 Ohio 32, 1849 WL 79.

⁷⁷ *Id.* at 34.

⁷⁸ *Id.*

⁷⁹ *Id.* at 35.

⁸⁰ *Wilson v. State*, 20 Ohio 26, 1851.

⁸¹ *Id.* at 26.

counts.⁸² Spalding held that this was insufficient and that the prosecuting attorney must decide on which charges to pursue before indicting the defendant.⁸³

Return to Private Practice – Cleveland:

Upon retiring from the bench, Spalding once again relocated.⁸⁴ He chose to move to Cleveland, which was enjoying a population boom.⁸⁵ Spalding had visited Cleveland only once before, in 1823. At the time, he was living and working in Warren.⁸⁶ Spalding compared the two cities, writing in his journal:

At this time, the village of Warren, where I lived, was considered altogether ahead of Cleveland in importance; indeed there was very little of Cleveland, at that day, east and southeast of Public Square. The Population was estimated at four hundred souls.⁸⁷

During his 1823 visit, Spalding visited with many of Cleveland's most important legal scholars.⁸⁸ He spoke highly George Tod, the presiding judge of the common pleas court, writing that [Tod] was a "well-read lawyer and a courteous gentlemen."⁸⁹ Spalding also visited all of the associate judges of the Common Pleas Court as well as the Cuyahoga County prosecuting attorney, the sheriff, and many other lawyers.⁹⁰ Spalding's 1823 visit played a major role in his decision to

⁸² *Id.*

⁸³ *Id.* at 27.

⁸⁴ Harrison Kennedy, *A History of the City of Cleveland*, 215, Imperial Press (1896).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 216.

⁸⁹ *Id.*

⁹⁰ *Id.*

move to Cleveland in 1852. He wrote in his journal that he was excited with how much the city had grown in the intervening decades.⁹¹

Spalding's reputation as a politician and judge allowed him to quickly establish himself in his new home. Joblin writes "the same characteristics that made him [Spalding] powerful in Congress had great effect on the most intelligent juries and exercised a marked influence on judges engaged in trying the causes in which he was interested in as an advocate."⁹²

Free-Soil Party:

Following his move to Cleveland, Spalding found himself at a political crossroads, over the issue of slavery. During his tenure with the General Assembly and even as a Judge on the Ohio Supreme Court, Spalding was an ardent Democrat.⁹³ In 1847, he delivered a passionate speech in Akron in which he argued that "if the evil of slavery had been restricted, as it should have been, to the thirteen original states, self interest might have lead to the extinction of practice long before now."⁹⁴ While Spalding may have bitterly hated the practice of slavery, he was not an abolitionist.⁹⁵ Spalding's views of slavery were practical, and political.⁹⁶ He never advocated the interference of slavery in states in which it already existed, but took his stand that "under no circumstances should slavery be extended into the territories."⁹⁷

⁹¹ *Id.* at 215.

⁹² Joblin, *Cleveland Past and Present*, 288 – 289.

⁹³ Joblin, *Cleveland Past and Present*, 289.

⁹⁴ Rufus F. Spalding, *Oration on the Causes Which Led to Our National Independence, and the True Means for Preserving the Same*.

⁹⁵ John S. Still, *The Life of Rufus Spalding: An Ohio Politician*, 62, The Ohio State University Press, (1948)..

⁹⁶ *Id.* at 62.

⁹⁷ *Id.*

The Free-Soil party was formed in 1848 in Buffalo New York by disaffected Whig party members who felt that their party was not doing enough to stop the spread of slavery into newly formed western states.⁹⁸ The “conscience” Whigs were joined by the anti-slavery faction of the Democratic Party, as well as many from the short-lived Liberty Party.⁹⁹

In 1849, Free-Soil party leaders invited Spaulding, who was still a Democrat, to give a speech at a convention in Cleveland.¹⁰⁰ In his speech, Spaulding maintained that he was still a strict party man. His speech however, was filled with complaints against southern democrats.¹⁰¹ Spaulding continued to argue that slavery should not be extended into the American territories and closed his remarks with a call to Free-Soilers to “stand fast.”¹⁰²

Spaulding’s apparent support of the Free-Soil party caused friction among him and his Democratic colleagues.¹⁰³ Historian John Still writes that following the 1849 speech at the Free Soil Convention Spaulding “appeared to be keeping one foot in each camp, waiting to see which would turn out to be the more advantageous.”¹⁰⁴ Nonetheless, the Democrats selected him as a delegate to the Old Line Democratic Convention in January 8th 1850.¹⁰⁵ The Cleveland Herald, a pro-Democratic newspaper was especially critical of Spaulding.¹⁰⁶ The paper

⁹⁸ *Free-Soil Party*, Encyclopedia Britannica, 2009, (Available at: <http://www.britannica.com/EBchecked/topic/218365/Free-Soil-Party>)

⁹⁹ *Id.*

¹⁰⁰ Still, *The Life of Rufus Spaulding*, 64.

¹⁰¹ *True Democrat*, July 13, 1849,.

¹⁰² *Id.*

¹⁰³ Still, *The Life of Rufus Spaulding*, 64.

¹⁰⁴ *Id.* at 63.

¹⁰⁵ *Id.* at 64.

¹⁰⁶ *Id.* at 63.

accused him of “half-hearted allegiance to Free-Soil Party”¹⁰⁷ and wrote that his actions were “wrong; morally wrong, in every way”.¹⁰⁸

The greatest motivating factor in Spaulding’s decision to leave the Democratic Party was their support of the Fugitive Slave Act of 1850.¹⁰⁹ Spaulding felt that by supporting the act, the party had essentially become pro-slavery.¹¹⁰ Before the passage of the act, Spaulding had delivered numerous anti-slavery speeches all over the state, however after the law was enacted, Spaulding accelerated his efforts. As a result, Spaulding finally defected from the Democrats and joined the fledgling Free-Soil Party.¹¹¹

In 1852, the Free-Soil party held their national convention in Pittsburgh to select a presidential candidate.¹¹² The party selected Spaulding as one of the thirteen delegates chosen to attend the convention.¹¹³ The Free-Soilers went to their convention with two strong presidential candidates in Salmon Chase, and John Hale.¹¹⁴ Spaulding and Chase were long time associates, and both Ohioans.¹¹⁵ Two years before Spaulding and Chase had toured Toledo and Cleveland speaking out against the Fugitive Slave Act.¹¹⁶ Despite the prior relationship, Spaulding chose to support Hale, a New Hampshire senator, at the convention.¹¹⁷ During the

¹⁰⁷ *Id.*

¹⁰⁸ *Cleveland Herald*, September 17, 1849, 2:1.

¹⁰⁹ Joblin, *Cleveland Past and Present*, 289..

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Still, *The Life of Rufus Spaulding*, 65.

¹¹³ *Id.*

¹¹⁴ William E. Gineapp, *The Origins of the Republican Party 1852-1856*, 19, Oxford University Press (1987).

¹¹⁵ Still, *The Life of Rufus Spaulding*, 65.

¹¹⁶ *Id.* at 64.

¹¹⁷ *Id.* at 65.

campaign, Spalding was an outspoken supporter of Hale.¹¹⁸ He was especially active in Northeast Ohio, giving speeches in Ravenna, Ashland, Warren, Mansfield, and Bedford.¹¹⁹ The *True Democrat* reported that Spalding spoke “in defense of the oppressed slave” and offered a “withering rebuke of the intense servility of the leaders of the Democratic and Whig parties.”¹²⁰

During the election, Hale received only 150,000 popular votes, and did not carry a single state.¹²¹ Still writes that although the Free-Soil party suffered a major defeat the party “was commended as one possessing vitality, hope, and aspiration” and that “the party in Ohio, amid many discouragements, have much to hope for.”¹²²

Birth of the Republican Party:

Spalding was a major figure in the creation of the Ohio Republican Party. Following the passage of the Kansas-Nebraska act in 1854, anti-slavery politicians from all the major parties convened in the Town Street Methodist Episcopal Church in Columbus.¹²³ At the convention, Spalding chaired the Resolutions Committee.¹²⁴ The committee drafted six resolutions, including one that pledged that the party would “render inoperative” the portion of the Kansas-Nebraska act which abolished freedom in the territory withdrawn from the Missouri Compromise of 1820.¹²⁵ The convention paid off politically, and in the

¹¹⁸ *Id.* at 67.

¹¹⁹ *Id.*

¹²⁰ *True Democrat*, August 16, 1852, 2:2.

¹²¹ Still, *The Life of Rufus Spalding*, 66.

¹²² *Id.* at 67.

¹²³ *Id.* at 73.

¹²⁴ *Id.*

¹²⁵ *Id.*

fall elections the “fusion” ticket won by “tremendous majorities.”¹²⁶ The newly formed “Fusion” party – which would later become the Ohio Republican party – was so named because it was made up of Free Soilers, Free Democrats, liberal Whigs, and even Know-Nothings.¹²⁷

The first Republican presidential convention was held in 1856 in Philadelphia.¹²⁸ Spalding was selected to be the delegate at large from Ohio.¹²⁹ In addition to his position as a delegate, Spalding also served as the manager of John McLean’s campaign for the nomination.¹³⁰ McLean was major political figure from Ohio. He had served in the House of Representatives, and later as a justice on the Ohio Supreme Court.¹³¹ McLean also served as Postmaster General under President Monroe, and in 1829 was appointed to the United States Supreme Court by President Jackson. Spalding and McLean were close friends, and confidants.¹³² McLean faced a strong challenge for the nomination from John C. Fremont a military hero, and explorer.¹³³ Writing to McLean the night before the convention, Spalding felt confident in McLean’s chances of winning the nomination.¹³⁴ Spalding wrote “my best judgment informs me that your name will combine more strongly than his [Fremont], the essential elements of success.”¹³⁵

¹²⁶ *Id.* at 74.

¹²⁷ *Id.* at 71-75.

¹²⁸ Joblin, *Cleveland Past and Present*, 289.

¹²⁹ *Id.* at 289.

¹³⁰ Still, *The Life of Rufus Spalding*, 73.

¹³¹ John McLean, Ohio History Central, July 1, 2005, (<http://www.ohiohistorycentral.org/entry.php?rec=266>)

¹³² *Id.*

¹³³ Joblin, *Cleveland Past and Present*, 289.

¹³⁴ Thomas E. Carney, *The Political Judge: Justice John McLean’s Pursuit of the Presidency* (<http://publications.ohiohistory.org/ohstemplate.cfm?action=detail&Page=0111121.html&StartPage=121&EndPage=&volume=111¬es=&newtitle=Volume%20111%20Page%20121#f82>)

¹³⁵ *Id.*

The following day, McLean and his supporters were optimistic that they could defeat Fremont and win the nomination.¹³⁶ Thomas Carney writes that shortly after the nominating process began encouragement for McLean “quickly turned to surprise, then anger and frustration.”¹³⁷ Shortly before the voting process began Spalding mounted the podium and announced to the gathered delegates that McLean was withdrawing his name for consideration of the presidency.¹³⁸ Scholars debate whether Spalding made the announcement in good faith. John Allison, a delegate from Pennsylvania wrote to McLean after the convention:

Judge Spalding’s course was exceedingly ill advised, and I do not believe that he has at heart your friend. I would not like to charge Judge Spalding with treachery, but I think that his conduct was unpardonable. I believe that he had become a Fremont Man, and at heart wished for his success.¹³⁹

Other’s felt that Spalding acted reasonably. Professor William Gienapp argues that McLean did not lose the nomination because of Spalding’s actions at the podium.¹⁴⁰ Gienapp believes that McLean lost the nomination because Salmon Chase, a third candidate, deprived McLean of the essential support he needed to defeat Fremont.¹⁴¹ Professor Carney argues that Ginenapp overstates Chase’s influence.¹⁴² Carney writes that “one must consider the psychological effect

¹³⁶ *Id.*

¹³⁷ Thomas E. Carney, *The Political Judge: Justice John McLean’s Pursuit of the Presidency*

¹³⁸ *Id.*

¹³⁹ Letter from John Allison to John McLean, 20 July 1856.

¹⁴⁰ Thomas E. Carney, *The Political Judge: Justice John McLean’s Pursuit of the Presidency.*

¹⁴¹ *Id.*

¹⁴² *Id.*

Spalding's action might have had upon the many delegates who were inclined to vote for McLean's nomination."¹⁴³ Carney believes that Spalding's abrupt withdrawal of McLean's name may have driven wavering or weakly committed delegates out away from McLean's camp, or even give more support to Fremont.¹⁴⁴

In his biography of Spalding, historian John Still offers another possible explanation behind Spalding's actions at the convention. Still writes that in 1852 a ship called The Ogedensburgh collided with a steamer named The Atlanta on Lake Erie. The crash caused over \$3,000 in damage to the Ogedensburgh and over \$75,000 to the Atlanta.¹⁴⁵ In the lawsuit that followed, the owner of the Ogedensburgh hired Spalding to represent him.¹⁴⁶ The jury returned a verdict in favor of the plaintiff for \$3,000.¹⁴⁷ The defendant appealed the decision to the Circuit Court, which McLean presided over.¹⁴⁸ On appeal the Circuit Court reversed the decision and awarded the owner of the Atlanta \$36,000. Still writes that the verdict "brought financial ruin" upon Spalding's client.¹⁴⁹ According to Still, Spalding "swore revenge" upon McLean.¹⁵⁰

McLean himself made no attempts to hide his contempt for Spalding's actions.¹⁵¹ In early 1861, McLean said that but for Spalding's speech to the convention he would have won the nomination and elected President that

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ Still, *The Life of Rufus Spalding*, 75.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at 75-76.

¹⁴⁹ *Id.* at 76.

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 76.

November.¹⁵² McLean went so far as to blame Spalding for the secession of the South, saying that he would have chosen a more “conservative” approach to dealing with the eventual dissolution of the Union.¹⁵³

Fugitive Slave Cases:

Although very active in politics, Spalding also maintained his law practice. As an outspoken opponent of slavery, Spalding began to rally other Cleveland attorneys against southern slaveholders who came to the North looking to claim fugitive slaves.¹⁵⁴ In 1859, Spalding represented Underground Railroad supporter Simon Bushnell in *Ex Parte Bushnell*.¹⁵⁵ At trial, a jury convicted Bushnell of violating Article 4 Section 2 of the Constitution, and the Fugitive Slave Act because Bushnell obstructed a slaver-owner from capturing a fugitive slave name John.¹⁵⁶ At trial, Spalding argued that the Fugitive Slave laws were unconstitutional. During his argument Spalding declared that Bushnell was “in danger of losing his liberty, for obeying the injunction of Jesus Christ” who commanded that we should do unto others as you would have others do unto you.¹⁵⁷ Despite Spalding’s efforts, Bushnell was found guilty and sentenced to serve sixty days in the Cuyahoga County jail, and to pay a fine of six hundred dollars.¹⁵⁸

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Encyclopedia of Cleveland History, <http://ech.cwru.edu/ech-cgi/article.pl?id=SR3>.

¹⁵⁵ *Ex Parte Bushnell*, 9 Ohio St. 77, 1859 WL 2.

¹⁵⁶ *Id.*

¹⁵⁷ Still, *Life of Rufus Spalding*, 80.

¹⁵⁸ *Ex Parte Bushnell*, at 81.

Spalding filed a writ of habeas corpus and the case was appealed to the Ohio Supreme Court.¹⁵⁹ In a 3-2 decision, the Court upheld the constitutionality of the Fugitive Slave laws, but the challenge stirred public opinion.¹⁶⁰ In his closing remarks Swan wrote:

As a citizen, I would not deliberately violate the constitution or the law by interference with fugitives from service. But if a weary, frightened slave should appeal to me to protect him from his pursuers, it is possible I might momentarily forget my allegiance to the law and constitution, and give him a covert from those who were upon his track.¹⁶¹

Two years later, Spalding would again argue for the non-enforcement of the Fugitive Slave laws.¹⁶² In 1861, a runaway slave named Lucy was captured in Cleveland. Spalding appeared at the jail, and argued for the release of the prisoner.¹⁶³ Again Spalding argued that enforcement of the Fugitive Slave laws was both unconstitutional, as well as immoral.¹⁶⁴ The Cleveland Leader quoted Spalding as saying that submission to these laws amounted to “contravention of a Christian’s duty to his God.”¹⁶⁵ Like his efforts in the Bushnell case, Spalding was unsuccessful, and Lucy was returned to her owner.¹⁶⁶ Some good did result

¹⁵⁹ *Id.* at 81.

¹⁶⁰ Encyclopdia of Cleveland History, <http://ech.cwru.edu/ech-cgi/article.pl?id=SR3>.

¹⁶¹ *Ex Parte Bushnell*, at 198.

¹⁶² Still, *Life of Rufus Spalding*, 81-82.

¹⁶³ *Id.* at 81.

¹⁶⁴ *Id.*

¹⁶⁵ Cleveland Leader, January 22, 1861 1:2-5.

¹⁶⁶ Still, *Life of Rufus Spalding*, 82.

from Spalding's efforts. Lucy was the last slave to be sent back to the South from Ohio under the Fugitive Slave laws.¹⁶⁷

United States Congress:

In 1862, Spalding was nominated by the Republicans to represent the Eighteenth Congressional District. Spalding won the election and was sworn in as a member of the Thirty-Eighth Congress.¹⁶⁸ As a freshman congressman Spalding was appointed to the Standing Committee on Naval Affairs, the Committee on Revolutionary Pensions, and served as the chairman on the Select Committee on Bankruptcy Law.¹⁶⁹ The most important bill introduced by Spalding during his first term was an act that repealed the fugitive slave laws of 1793 and 1850. Still writes that the final passage of the laws in 1864 "served as a great personal triumph for him [Spalding]".¹⁷⁰

Spalding was a great supporter of President Lincoln. Following the President's assassination, Spalding was one of twenty-two representative selected to meet the remains at the funeral train in Springfield.¹⁷¹ At a memorial service held in honor of Lincoln at the First Baptist Church in Cleveland Spalding spoke eloquently of the President saying that "we have suffered the last victim to be sacrificed to the 'Moloch of Slavery', in the person of Abraham Lincoln, the much loved President of the United States."¹⁷²

¹⁶⁷ *Id.*

¹⁶⁸ Still, *The Life of Rufus Spalding*, 87.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.* at 69.

¹⁷² *Id.* at 68.

In 1864, Spalding was re-elected.¹⁷³ During his second term, he was made a member of the Standing Committee on Appropriations and retained his Chairmanship on the Bankruptcy Committee.¹⁷⁴ Spalding also Delivered a speech to Congress on January 22, 1864 on the subject of confiscation of rebel property.¹⁷⁵

Spalding was re-elected for the third term in the House of Representative in 1866.¹⁷⁶ In early January, Spalding delivered another speech concerning Reconstruction in which he outlined five major goals he wanted accomplished during Reconstruction. Still writes:

Spalding proceeded to enumerate five basic requirements which he declared would satisfy the re-admission of the rebel states. They were: First, ‘to give a qualified right of suffrage to the freedmen in the District of Columbia’; Second to ‘so amend the Constitution of the United States that people of color shall not be counted with the population in making up the ratio of representation in Congress; Third, ‘to insert a provision in the Constitution prohibiting nullification and secession’; Fourth, ‘to insert a provision in the Constitution prohibiting the repudiation of the National debt and also prohibiting the assumption of the rebel debt; and Fifth, to provide in the Constitution that ‘no person who has at any time

¹⁷³ Joblin, *Cleveland Past and Present*, 290.

¹⁷⁴ *Id.*

¹⁷⁵ Still, *The Life of Rufus Spalding*, 87.

¹⁷⁶ Joblin, *Cleveland Past and Present*, 290.

taken up arms against the United States shall ever be admitted to a seat in the Senate or House of Representatives.¹⁷⁷

As evidenced by his speech, Spalding took a leading role in the Congressional debates over Reconstruction.¹⁷⁸ The most important piece of legislation enacted by Congress during Reconstruction was the Fourteenth Amendment. On April 30 1866, the House reported out H.J Res 127.¹⁷⁹ The resolution was a combination of two proposals introduced to the House in late 1865.¹⁸⁰ The first was a resolution initially introduced to the House by Representative Thaddeus Stevens in December 5 of 1865, and the second was H.J. Res 65, proposed by Representative John Bingham on December 6.¹⁸¹ The combined resolution was argued in the House from May 7 through the 10.¹⁸² On May 10, the house passed the proposal with a vote of 128-37. Spalding was among the majority of Congressmen to approve the proposed amendment.¹⁸³

The Amendment then proceeded to the Senate. The Senate made changes to the resolution. Among the changes was an adjustment to section three of the amendment.¹⁸⁴ Under the Houses, proposal the third section was designed to punish members of the Confederacy by disenfranchising them for a period of four

¹⁷⁷ Still, *The Life of Rufus Spalding*, 90.

¹⁷⁸ *Id.*

¹⁷⁹ Senate Committee on the Judiciary, *Amendments to the Constitution: A Brief Legislative History*, 30, Senate Library.

¹⁸⁰ *Id.* at 30.

¹⁸¹ *Id.* at 30-31.

¹⁸² *Id.*

¹⁸³ Edward McPherson, *The Political History of the United States of America During the Period of Reconstruction: April 15, 1865 – July 15, 1870*, 103, Da Capo Press (1972).

¹⁸⁴ Senate Committee on the Judiciary, *Amendments to the Constitution: A Brief Legislative History*, 31.

years.¹⁸⁵ The Senate amended this section to only prohibit former U.S. office holders who defected to the Confederacy, from seeking office in the future.¹⁸⁶ On June 8, 1866 the amended resolution passed the Senate by a vote of 33 – 11.¹⁸⁷ The following week, on June 13, the House passed the Senate’s amended proposal by a vote of 138-36. Spalding once again supported the resolution.¹⁸⁸

The Congress also passed The Civil Rights Act in 1866. Congress designed the Bill to accomplish three main objectives. The first was to help integrate newly freed slaves into American society.¹⁸⁹ The act accomplished this by granting full citizenship to all persons born in the United States.¹⁹⁰ Second, the act specifically defined the rights guaranteed to citizens.¹⁹¹ Finally, the act made it unlawful to deprive any person of the rights described.¹⁹²

The Civil Rights Act was brought to a vote in the Senate on February 2, 1866.¹⁹³ The Senate passed the bill by a vote of 33 – 12. On March 13, the House

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ McPherson, *The Political History of the United States of America During the Period of Reconstruction*, 102.

¹⁸⁸ *Id.* at 102 – 103.

¹⁸⁹ Christopher A. Bracey, *Civil Rights Act of 1866* (Available at: <http://www.enotes.com/major-acts-congress/civil-rights-act>).

¹⁹⁰ *Id.*

¹⁹¹ *Id.* The act read: “Such citizens, of every race and color, and without regard to any previous condition of slavery or involuntary servitude, ... shall have the same right in every state and territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding.”

¹⁹² *Id.*

¹⁹³ McPherson, *The Political History of the United States of America During the Period of Reconstruction*, 80.

also passed the Bill by a vote of 111 – 38.¹⁹⁴ Spalding once again showed his commitment to the Reconstruction acts, and voted to make the bill law.¹⁹⁵

On March 27, 1866, President Johnson vetoed the Civil Rights Act.¹⁹⁶ Johnson’s primary objection to the Act was that the Congress lacked the authority to enact the bill because eleven of the thirty-six states were unrepresented in Congress at that time.¹⁹⁷ He also rejected the notion of the Federal Government extending protections to African Americans. He wrote that the bill marked a move “toward centralization and concentration of all legislative powers in the National Government.”¹⁹⁸ Johnson filled his veto message with racist and inflammatory remarks.¹⁹⁹ He wrote that blacks were unprepared to become citizens compared to immigrants because they were “less informed as to the nature and character of our institutions.”²⁰⁰ The veto of the Civil Rights Bill is viewed by many as a primary motivator behind Congress’ later impeachment of Johnson.²⁰¹ Historian Benjamin Kendrick writes, “The veto of the Civil Rights bill... fully assured the President would yield nothing of his policy for the sake of acting harmoniously with the conservative republicans.”²⁰² Even *Harpers Weekly* conceded that the veto reassured many in Congress that “there was no longer room to doubt that the breach (between Johnson and Congress) was beyond repair.”²⁰³

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ Christopher A. Bracey, *Civil Rights Act of 1866*.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ Benjamin Kendrick, *The Journal of the Joint Committee of Fifteen on Reconstruction: 39th Congress, 1865-1867*, 237, Negro Universities Press (1969).

²⁰² *Id.*

²⁰³ *Id.* at 238.

On April 6, the Senate voted to override the President's veto, by a count of 33-15.²⁰⁴ The House followed, and on April 9 the Speaker of the House declared the bill law by a vote of 122-41.²⁰⁵ Spalding voted to override the President's veto, and pass the Civil Rights Act notwithstanding the objections of Johnson.²⁰⁶

A third piece of key Reconstruction legislation was the Freedman's Bureau Bill of 1866. In 1864, during the Lincoln administration, Congress authorized the creation of the Bureau of Refugees, Freemen and Abandoned Lands (The Freedmen's Bureau).²⁰⁷ Congress designed the Bureau to provide former slaves with health care, education, employment, and other needs.²⁰⁸ Under the original legislation, Congress intended the Bureau to last only one year. When it became apparent that aid provided by the Bureau was necessary beyond the one-year period, the Thirty-Ninth Congress proposed legislation to increase the Bureau's power and scope.²⁰⁹ The new bill continued the operations of the Freedmen's Bureau for another two years.²¹⁰ Additionally, the bill authorized the Secretary of War to "direct such issues of provisions clothing and fuel, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen."²¹¹

²⁰⁴ McPherson, *The Political History of the United States of America During the Period of Reconstruction*, 80-81.

²⁰⁵ *Id.* at 81.

²⁰⁶ *Id.*

²⁰⁷ *The Freedmen's Bureau*, Encyclopedia Britannica, (Available at: <http://www.britannica.com/EBchecked/topic/218498/Freedmens-Bureau>).

²⁰⁸ *Id.*

²⁰⁹ McPherson, *The Political History of the United States of America During the Period of Reconstruction*, 149-150.

²¹⁰ *Id.* at 149.

²¹¹ *Id.*

On February 19, 1866, President Johnson vetoed the Freedmen’s Bureau Bill.²¹² Later that summer Congress revised the bill, and again Johnson vetoed it.²¹³ Similarly to the Civil Rights Act, Congress voted to override the very same day as Johnson’s veto.²¹⁴ The veto put Johnson increasingly at odds with Congress. Following the veto of the Freedmen’s Bureau Bill the Chicago Republican wrote that the veto represented an “irreparable break between the President and Congress.”²¹⁵

On July 16, the Senate voted to override the presidential veto 33-12.²¹⁶ The House followed suit and voted to override the veto 103-33.²¹⁷ While Spalding was not present to vote for the first Freedman’s Bureau Bill, he did participate in the second version’s passage, and the subsequent veto override.²¹⁸ Not surprisingly, Spalding voted to approve the bill both occasions.²¹⁹

Based on this brief glimpse into Spalding’s voting record during the Thirty-Ninth Congress, it would be easy to place him among the other “radical” Republicans who battled President Johnson for control of United States policy during Reconstruction. However he faced considerable opposition during his 1866 campaign for re-election.²²⁰ Radical Republicans in the House had become increasingly frustrated with President Johnson’s repeated blocking of important

²¹² *Id.* at 147.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Kendrick, *The Journal of the Joint Committee of Fifteen on Reconstruction* at 237.

²¹⁶ McPherson, *The Political History of the United States of America During the Period of Reconstruction*, 147.

²¹⁷ *Id.* at 147.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ Still, *The Life of Rufus Spalding*, 91.

Reconstruction legislation.²²¹ Still writes that Spalding was “inclined to support President Johnson on some issues”.²²² Joblin takes a less severe approach, noting that Spalding was “not so thoroughly partisan as to accept all the measures proposed in the name of the Republican Party.”²²³ In an effort to consolidate support, the Radicals began targeting Republican Congressmen who seemed sympathetic towards the President’s policies.²²⁴ In an effort to placate his constituents, Spalding gave a speech in Cleveland, and reaffirmed his position as a Radical.²²⁵ Johnson’s “swing around the circle” speech in Cleveland in September of 1866, further eroded Spalding’s support of the President.²²⁶

Despite the attempts to frame Spalding as a Johnson supporter, he was re-elected in the fall of 1866. During the next Congress, the Radicals fears were somewhat confirmed when during the House’s first attempt to impeach the president Spalding made a motion to table the proceedings.²²⁷ The House quickly voted against the measure, but the damage was done.²²⁸ As a result he was “violently denounced by his erstwhile supporters in Ohio.”²²⁹

Swift writes that by 1868, Spalding had become a “full-fledged” radical.²³⁰ In February of 1868, the House succeeded in impeaching President Johnson.²³¹ At

²²¹ *Id.*

²²² *Id.*

²²³ Joblin, *Cleveland Past and Present*, 290.

²²⁴ Still, *The Life of Rufus Spalding*, 91..

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ Hans L. Trefousse, *Andrew Johnson: A Biography*, 282 W. W. Norton (1989).

²²⁸ *Id.*

²²⁹ Still, *The Life of Rufus Spalding*, 91.

²³⁰ *Id.* at 92.

²³¹ *Id.*

that time, Spalding took the floor of the House and “earnestly supported” the proceedings.²³² Spalding went on to vote in favor of impeachment.²³³

Retirement from Public Life:

Spalding did not seek a fourth congressional term in 1868. Instead, he withdrew from public life, and returned to the private practice of law.²³⁴ That year Spalding turned seventy-seven.²³⁵ Maurice Joblin notes that despite his age he still had his faculties, “physical and mental, and was the picture of sound health and mental vigor.”²³⁶ In 1882, Spalding journeyed to Hawaii to visit his oldest son Zephaniah. Zephaniah had been a soldier in the Civil War.²³⁷ Following the war, “Zeph” accepted a position with the State Department and was appointed consul for Hawaii.²³⁸ While he was there, Zeph acquired interests in several successful sugar plantations, and he chose to remain on the island permanently.²³⁹

Spalding remained civically active after his retirement.²⁴⁰ In 1883 he oversaw the construction of a statue of General Moses in Cleveland’s Public Square.²⁴¹ Additionally, he took a “keen” interest in the Early Settlers Association of Cuyahoga County.²⁴²

Death:

²³² *Id.*

²³³ *Id.*

²³⁴ Joblin, *Cleveland Past and Present*, 292.

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ Still, *The Life of Rufus Spalding*, 94-95.

²³⁸ *Id.* at 84

²³⁹ *Id.*

²⁴⁰ *Id.* at 95.

²⁴¹ *Id.*

²⁴² *Id.*

Spalding died on August 27, 1886 in his home at 264 Prospect Street in Cleveland.²⁴³ He suffered from catarrh for a number of years, and his death was hastened because of his weakened condition.²⁴⁴ He was buried in Lakeview Cemetery.²⁴⁵

Conclusion:

The life and works of Rufus P. Spalding reminds us that even the minor figures of history can have a large impact of those around them. Perhaps more importantly, Spalding's life demonstrates the positive social change the legal profession can bring about.

As a young lawyer, Spalding apprenticed under Zephaniah Swift. Swift was an outspoken opponent of slavery and fierce defender of the principals of liberty and equality established by the founding fathers. Spalding emulated these values in his own legal and political careers.

In private practice, Spalding became a passionate challenger of Fugitive Slave laws. While he may have been unsuccessful in his attempts to exonerate those individuals prosecuted under them, because of his public standing as a respected judge and politician he was able to draw public attention to the injustices.

As a judge, Spalding was practical and pragmatic. His decisions, especially in the area of criminal law, show a judge that was concerned with protecting the rights of the accused.

²⁴³ *Id.* at 95.

²⁴⁴ *Id.*

²⁴⁵ *Id.*

During his time in Congress, Spalding repeatedly demonstrated his commitment to the ideals of the early Republican Party. He consistently voted in favor of Reconstruction legislation favored by the more radical branch of his party following the civil war. In the face of a hostile White House, Spalding stuck with the republicans to help overturn vetoes on important bills like the Freedman's Bureau Bill, and the Civil Rights Act. Spalding, however, demonstrated that he was more than a party man, by supporting a motion to table impeachment proceedings against President Johnson, even at the sake of not being re-elected.

While Spalding may not appear in history textbooks alongside Lincoln, Bingham, or even Chase his contributions to American history remain just as noteworthy.