

tions in Baltimore. Others in the military Department of Maryland occupied Annapolis, defended Relay House and the railroad to Washington, and were headquartered at Cockeysville and Havre de Grace to safeguard the railroads to York and Philadelphia. Federal troops encamped in Cumberland, Williamsport, and other points along the C&O Canal. Union commanders continually requested more men, estimating the number needed in and around Baltimore at seven thousand and describing the city as an excellent place to break in raw recruits.³⁵

Union men and women were happy to have order at last, but there was no mistaking the weight or character of federal power. Mid-June congressional elections in Baltimore corresponded with the arrival of General Nathaniel P. Banks—a Massachusetts Republican, former Speaker of the House of Representatives and state governor—who had steeled himself for any challenge. He assured Mayor Brown that no Union soldiers would be permitted to leave their posts or otherwise interfere with the election, that he had confidence in the Baltimore police “to suppress ordinary election tumults.” He also had his men armed with forty rounds each and prepared to march instantly; he ordered liquor stores closed and warned Brown that if the people took advantage of the situation “to organize anarchy and overthrow all forms of government,” responsibility for whatever resulted would be theirs alone. Before departing in July he brought some of his troops in from the countryside so as to exercise a “moral effect upon the disaffected inhabitants of the city.” Marylanders who voted returned a pro-Union delegation to Congress.³⁶

Banks’s replacement, John A. Dix, approached his duties with puritan pleasure. A New Hampshire native who in the 1820s had studied law with William Wirt, Dix had no doubt that since 1812 Baltimore domestic violence had been the worst in the Union. “A city so prone to burst out into flame, and thus become dangerous to its neighbors,” he later wrote, “should be controlled by the strong arm of the government wherever these paroxysms of excitement occur.” Dix extended the crusade against secessionist flags and paraphernalia to the latest Confederate colors, red and white—their appearance together, he said, was provocative. Amused Baltimoreans issued a mock bulletin in the name of “His Majesty (Abraham 1st),” requiring all persons having red hair and moustaches to have one side or the other dyed blue. One stanza of a song celebrating “Dix’s Manifesto” went: “On Barber’s pole, and mint stick / He did his veto place / He swore that in his city / He’d red and white erase.”³⁷

“In times of civil strife,” read an earnest War Department order of the day, “errors, if any, should be on the side of the safety of the country.” The Lincoln administration left considerable room for discretionary power among its friends and little for dissent, doubt, or even indifference among others. Baltimore police, by reports reaching General Scott, had discouraged citizens from greeting Union troops with food and water. Banks ordered Marshal Kane arrested on 27 June; several days later, at four in the morning, Union

troops seized all four members of the city police board and put them in cells at Fort McHenry without specifying charges against them. Afterward the city lay under the authority of provost marshals. Military forces seized former governor Thomas G. Pratt early in the summer, Judge Richard Henry Alvey of Hagerstown (he opposed coercion of the South), and Baltimore Congressman Henry May, who favored peace negotiations with the Confederacy. In the fall, as the assembly prepared to reconvene, the army arrested twenty-six suspicious or pro-secession legislators—Winans (again), Wallis, and Kilbourn among them. The clerks of the house and senate went to Fort McHenry. Pinkerton secret service agents jailed the editors of two newspapers devoted to Maryland secession: Frank Key Howard (grandson of Francis Scott Key) and William Wilkins Glenn of the *Baltimore Daily Exchange* and Thomas W. Hall of the *South*. After also arresting Mayor Brown in a dispute over payment of Baltimore police during federal occupation, Dix complained in September that Fort McHenry had grown so crowded with prisoners that one cell had twenty people in it. So many disloyalists had been placed in tents on the drill field that there was "hardly room left for the guard to parade."³⁸

Whatever the value of Lincoln's object, saving the Union, these means led to serious questions and earlier had produced a dramatic confrontation between the president and the Maryland native, then eighty-four, who sat as federal chief justice. The protagonist was John Merryman, a Baltimore County Democrat who in 1861 was president of the Maryland Agricultural Society and an officer in a local militia unit that under orders had helped break Baltimore's rail links after the 19 April riot. For that act federal troops arrested him in May. Merryman's friends quickly obtained a hearing with Chief Justice Taney in his capacity as judge on the federal circuit court for Maryland. Taney had issued a writ of habeas corpus, calling on the commander holding Merryman at Fort McHenry to bring him to court on 27 May and explain the reasons, if any, for his imprisonment. Though Taney feared his own arrest, he believed it important to defend the rule of law against arbitrary authority, even in perilous times. "I am an old man, a very old man," Taney had said to his friend the mayor, "but perhaps I was preserved for this occasion."³⁹

At the appointed hour a blue-coated officer with red sash appeared in Baltimore federal court and handed the chief justice a paper. It announced that authorities suspected Merryman of treason and repeated that they, under presidential power, had set aside the habeas corpus protection. Taney ordered the Union general, George Cadwalader, to appear in court the next day, but there was scant hope he would obey and none of compelling him. The chief justice then wrote Lincoln an opinion that amounted to a lecture: the president assumed a power that the Constitution granted not to him but to the Congress; military officers had no right to arrest anyone not subject to army discipline except by judicial order. If the executive and the military



Baltimore from Fort Federal Hill. Photograph probably taken in September 1862, when Union troops had fortified the position Butler secured in the spring of 1861. *Peale Museum, Baltimore City Life Museums*



Roger Brooke Taney (1777-1864), the chief justice who, in his last, sad years, defied President Lincoln in the belief that no circumstances set aside constitutional safeguards. *MHS*

usurped such power, Taney declared with stirring choice of words, "the people of the United States are no longer living under a government of laws, but every citizen holds life, liberty, and property at the will and pleasure of the army officer in whose military district he may happen to be found."⁴⁰

Dix's rule, like Lincoln's presidency, exhibited some latitude and humanity under the circumstances. Dix demanded proof of a person's alleged disloyalty and discharged some prisoners on insufficient evidence. He advised Union troops not to assume that Marylanders carrying shotguns on a "sporting excursion" were rebel soldiers. He did not use troops to search private homes and declined a request from Harford County that the army administer loyalty oaths at polling places. A few Confederate sympathizers Dix kept in perspective. One exotic war prisoner was Richard Thomas, who called himself "Zarvona" and who became known as "the French Lady" for his part (bustled and petticoated) in capturing a steamboat and sailing it into Confederate waters. After capturing "Zarvona" on another escapade, Dix eventually paroled him as a small man, "crack-brained," whose danger related directly to his stature.⁴¹

Still, no one could mistake the folly of open opposition to the federal government. Lincoln had made no reply to Taney's defense of civil liberties in *Ex parte Merryman*. The arrests continued. Perhaps the most abusive of them involved Richard Bennett Carmichael, a state circuit court judge for Talbot, Queen Anne's, and Kent counties. Objecting bitterly to arbitrary arrests on the Eastern Shore, Carmichael instructed grand juries to indict anyone making or abetting them. Late in 1861 Secretary of State William Seward ordered Dix to arrest Carmichael. Dix described Carmichael's courtroom statements as "inflammatory" and "insulting" to the federal government but postponed action on the advice of Eastern Shore Unionists who feared that more harm than good would come from forcibly quieting the judge. When a bill came down against Dix's deputy provost marshal for the Eastern Shore, Dix wrote Augustus Bradford, newly elected governor (and father of a Confederate officer), that Carmichael was a dishonor to the state. Finally, in late May 1862, federal troops entered Carmichael's court at Easton and literally pulled him off the bench. When Carmichael kicked back, he was pistol-whipped into submission. First taken to Fort McHenry, the judge spent six months in prison with no charges ever filed against him. Except for the staunchest supporters of the Union cause, Marylanders found Carmichael's arrest, as much the manner as the deed itself, appalling.⁴²

A Maryland native in Louisiana, James Ryder Randall, wrote a poetic protest to all these attempts at military control, "My Maryland," and Baltimoreans set it to music. The song became popular among all Southern soldiers. James J. Archer, a Marylander who as a Confederate general later fell at Gettysburg, conveyed home the same sentiments. "Our Maryland is throttled," he wrote sadly. "Every day I see her across the Potomac—the armed heel of the disgusting despot trampling upon her bosom."⁴³

MARYLAND

A Middle Temperament

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Robert J. Brugger

with the assistance of

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