

TOO CLOSE TO CALL

Late in the evening on election night, waiting for results from the last few states, the race was still too close to call. Neither candidate had the requisite number of electoral votes to secure the presidency. Three states were late to report, and the results from Florida were, well, shall we say, rather murky. America went to bed that night, not knowing who would be president. It was no clearer the next morning. In fact, it would take several months, the intervention of Congress and even the Supreme Court to finally award the Presidency to the Republican candidate.

Am I talking about the 2000 election, Bush vs. Gore? No, I'm talking about the election of 1876, and Rutherford B. Hayes' defeat of Samuel Tilden. Yes, Rutherford B. Hayes, So, here come I, a newbie, bringing my maiden paper, in homage to our illustrious fellow Literarian, Rutherford B. Hayes.

Historians have been lukewarm in their assessments of Hayes' Presidency. In a 2014 poll, he was ranked 30th out of 44. (In the 2018 poll, he rose to 29th, due to the addition of a new name at the very bottom of the list.) However, considering that he entered office without a clear popular mandate and was beset with a plethora of

challenges throughout his one term, and I believe there is much to praise about Rutherford B. Hayes. I'd like to talk about his early life, his military career, his political career, his accomplishments following his presidency, and his ties to us.

EARLY YEARS

Rud, as he was known to his friends, was born October 4, 1822, in Delaware Ohio. The Hayes family emigrated to Ohio from Vermont in 1817. Unfortunately Rud and his sister Fanny were the only two of five children to survive into adulthood. In addition, Rud's father died 2 months before he was born. He was raised by his mother, Sophia, and her bachelor brother, Silas Birchard. (That's where the B. comes from.) Birchard was a successful businessman and a devoted father figure to the young orphans. He moved the family to Lower Sandusky, Ohio, now Fremont, where he built a home in Spiegel Grove. RBH spent much of his life there, is buried there, and Spiegel Grove is now the home of the Rutherford B. Hayes Presidential Library and Museum, the first presidential library. This library was a tremendous source of information for this presentation.

EDUCATION AND LIFE IN CINCINNATI

RBH attended Kenyon College where he graduated first in his class in 1842. He went on to Harvard Law School, graduating in 1845. While many presidents had been lawyers, they were either self taught or apprenticed. RBH was the first president to actually attend law school. He was admitted to the Ohio Bar in 1845, and set up practice in Fremont. Business was slow, and after 5 years, some of his Kenyon classmates convinced him to resettle to Cincinnati. While he initially litigated commercial issues, he became prominent as a criminal defense lawyer, representing several high profile murder suspects with great success, once using the insanity plea to keep a woman from execution. Cincinnati City Council appointed RBH to fill a vacancy in the office of City Solicitor, and he was elected to a full two year term in the following election. This was his first elected political office.

In 1850, Congress passed the Fugitive Slave Act, which President Millard Fillmore immediately signed into law, compelling both citizens and law enforcement in free states to return fugitive slaves to their masters. Being on the mason-Dixon line, Cincinnati received quite a few of these fugitive slaves. In spite of an abundance of pro slavery sentiment in Southwestern Ohio, RBH gave legal representation to many of them, often winning them freedom., As he said, "My services were always freely

given to the slave and his friends, in all cases arising from the Fugitive Slave Law from the time of its passage.” He went on to say of African Americans, “Whether we prefer it or not, they are our countrymen and will remain so forever. They are more than our countrymen, they are citizens. Our government has been called the white mans’ government. Not so. It is not the government of any class, or sect, or nationality, or race. It is a government founded on the consent of the governed. It is not the government of the native born, or the foreign born, or the rich man, or of the poor man, or of the white man or of the colored man. It is the government of the free man.”

While in Cincinnati, RBH courted Lucy Webb, a graduate of Ohio Wesleyan University, (she became first president’s wife to have graduated from college.) She was a strict Methodist, a staunch abolitionist, and a pro temperance teetotaler. They were married right around the corner at her home at 141 West Sixth Street. Over the next five years they went on to have three sons.

Also, in 1850, as a fresh young attorney in town, RBH was elected to join the new Cincinnati Literary Club, which had been founded only 2 months before. As Dr. Eslie Asbury, our fellow Literarian, wrote in an 1989 monograph, “the club never had a more devoted member...nor one who contributed more to its

development and to the atmosphere which gave it immortality.” He was the fourth president of the Club, and encouraged many prominent Cincinnatians to join this upstart institution, including Salmon P. Chase and Alphonso Taft. Dr. Asbury went on to say, “He never willingly missed a meeting. During his three terms as Ohio Governor, he frequently slipped down for the Saturday night meetings, and even attended two meetings while President of the United States.” RBH himself stated that the Literary Club was his greatest intellectual experience, and that it prepared him for politics by sharpening his knowledge of the issues and training him for public oration.

THE CIVIL WAR

After the election of Abraham Lincoln, southern states began to secede from the Union and the Nation prepared for war. After the firing on Fort Sumpter, members of the Literary Club enthusiastically joined in on the Union side. From a letter to his uncle Silas Birchard April 20, 1861: “I have joined a volunteer home company to learn to drill. It is composed chiefly of the Literary Club...we wish to learn how to ‘eyes right and eyes left,’ if nothing more.” Just two months later, Ohio Governor William Dennison appointed RBH and his fellow Literarians to the 23rd Regiment of Ohio Volunteer Infantry. He was

inducted as Major, but was soon promoted to Lieutenant Colonel. As an interesting aside, future President William McKinley served as a private in the regiment. They set out for Virginia where they joined the Army of the Potomac, engaging the Confederates at the Battle of South Mountain. RBH led a charge against an entrenched Confederate position, and was shot through his left arm, shattering the bone. He continued to lead his troops through Maryland, Virginia, and West Virginia as part of the Army of the Shenandoah drawing praise from Ulysses S. Grant who wrote, "his conduct on the field was marked by conspicuous gallantry as well as the display of qualities of a higher order than that of mere personal daring." By the War's end, Hayes had been promoted to major general. After Lee's surrender at Appomattox, the 23rd Ohio Regiment returned home and mustered out.

While serving in the army, RBH was nominated by the Ohio Republican party to run for the United States House of Representatives from the Second District. He refused to leave the military to campaign, saying "an officer fit for duty who at this crisis would abandon his post to electioneer for a seat in Congress ought to be scalped." None the less, even without campaigning, he was elected and was sworn in December, 1865.

EARLY POLITICAL CAREER

He represented the second district of Ohio for 2 terms, where he advocated for passage of the 14th amendment to the Constitution, assuring protection for freedmen and other black southerners following restoration of the Southern States to the Union. He was also instrumental in establishing the modern Library of Congress, and he appointed three fellow Literarians, Ainsworth Spofford, Manning Force, and John Shaw Billings to administer it.

After two terms in Congress, Hayes returned home to Ohio and ran for Governor. The centerpiece of his campaign was an amendment to the Ohio Constitution guaranteeing suffrage to black male Ohioans. Although he won the governorship by a slim margin, the State Legislature went Democratic, and the amendment failed. In his second term, the Republicans took the Legislature as well and suffrage was expanded. He was also instrumental in establishing the Agricultural and Mechanical College, later to become the Ohio State University. Although he planned to retire from politics in 1872, he was renominated for Governor in 1875. He accepted the nomination and served for a third term.

THE ELECTION OF 1876

In 1876, the nation was celebrating its centennial, yet still licking its wounds from the Civil War. Fed up with the contentiousness of the Andrew Johnson administration and the scandals of the Grant administration, Americans craved clean, honest government.

The Republican National Convention of 1876 was held about a mile and a half from here at Cincinnati Music Hall. The party's favorite, Congressman James G. Blaine of Maine, and former Speaker of the House of Representatives, led a field of seven candidates. He was described as a guy you either loved or hated. James Russell Lowell, the prominent poet and Harvard Professor, put RBH name into nomination. He was an ideal candidate: a Civil War hero, a two term Congressman, and a three term Governor.

378 votes were required to secure the nomination. On the first ballot, Blaine led with 285, and Hayes trailed the field with only 60. The next three ballots saw similar results, but by the fifth ballot Hayes had secured third place. On the sixth ballot, all the other candidates save Blaine withdrew and ceded their votes to Hayes. Blaine had 308 votes of the 378 needed, and Hayes was moving up with 113. As the delegates prepared for the seventh ballot, suddenly, Music Hall went dark. There was insufficient gas to power the lights, so the convention

was adjourned for the night. Hayes supporters worked the delegates all night in their smoke filled rooms, and the next morning, on the seventh ballot, Hayes was declared the nominee, with 384 votes. (By the way, there was plenty of gas to light Music Hall that night as the delegates celebrated Hayes's nomination.) RBH was a perfect candidate for that time, squeaky clean, honorable and upright.

The Democrats, met in St. Louis 9 days later and, on the second ballot, overwhelmingly nominated Samuel Tilden, Governor of New York. A Yale graduate with a law degree from New York University. Tilden was also squeaky clean, the man who sent Boss Tweed to jail, ending the corruption of Tammany Hall.

For two men of such upstanding morality and virtue, the election of 1876 was one ugly, contentious affair. As was the custom of the times, the candidates themselves did not actively campaign but left the stumping to surrogates. Both sides did their share of mud slinging. Journalist Henry Adams described Hayes as a "third rate nonentity whose only recommendations are that he is obnoxious to no one." Journalist John Defrees described Tilden as a "very nice, prim, little, withered up, fidgety old bachelor, about one hundred and twenty pounds, avoirdupois, who never had a genuine impulse for many nor any affection for woman." There was wide spread

voter suppression and intimidation, particularly in the South. Interestingly the presidential election of 1867 had the highest voter turnout in the history of the nation. For comparison, 62.8% of the electorate tuned out to give JFK victory in 1960; 49% of Americans voted in the Clinton v. Dole election of 1996; 81.8% of eligible Americans voted in 1876. Of interest, the State of Colorado was admitted to the Union August 1, 1876 and had neither the time nor the money to organize a presidential election. The legislature appointed three electors who gave their votes to Hayes, the last time a state legislature chose electors.

Now back to Tuesday, November 7, 1876. 185 electoral votes were required to secure the presidency. On election night, with 3 states yet to report, Tilden had accumulated 184 electoral votes to Hayes 165.

Yet to be heard from were Louisiana, South Carolina, and Florida, accounting for 19 votes. In addition, one of the Oregon electors, former Postmaster John Watts was declared ineligible because he was “a person holding an office of trust or profit under the United States.”

The three Southern States reported results favorable to Tilden, but in each of those States, there were reports of fraud, and violent voter intimidation, primarily against Republican voters by local Democrats. South Carolina’s final tally actually came up with 101% of all eligible

voters. Due to reconstruction, the Secretaries of State in all three southern states were Republican, and they refused to certify the results as were reported, but instead gave the votes to Hayes.

As all 20 of the contested votes were awarded to Hayes, he had a majority of electors, 185 to Tilden's 184. The Democrats cried "fraud." A shot was fired at Governor Hayes' home in Columbus. President Grant quietly mustered a military force in Washington.

With a constitutional crisis looming, congress passed an emergency new law which established a fifteen member commission specifically to settle the results of this election. The commission consisted of five senators, five members of the House of Representatives, and five Justices of the Supreme Court. The majority party of each branch of Congress named three delegates while the minority party named two. Two Republican Justices and two Democratic Justices were chosen, with the Justices themselves selecting the fifth. All the remaining Justices were Republican so the most impartial Justice was chosen. The final composition of the Commission was eight Republicans, and seven Democrats. The Commission spent over a month hearing arguments from each of the three contested states as well as the Secretary of State of Oregon. On March 2, only two days before Inauguration Day, the Commission voted along

straight party lines to give all the disputed electoral votes to Hayes. He had won the Electoral College 185 -184 even though he lost the popular vote 4,300,000 to 4,000,360. On Sunday, March 4, 1877, Rutherford B. Hayes was sworn in as nineteenth President of the United States in the Red Room of the White House. Two days later, he addressed the nation from the portico of the capitol. In his inaugural address, he pledged to support “wise, honest, and peaceful local self government.” He tried to cool the partisan passions of the election controversy by stating, “The President of the United States should always be mindful of the fact that he serves his party best who serves his country best.”

One month later, the Constitution of the Literary Club was amended to allow for honorary membership, and President Hayes was the first to receive this title. However, don't think that our Literary club was immune from the election controversy. Democrats in the Club vociferously opposed his honorary membership status. Literarian Donn Piatt, publisher of a magazine in Washington called “The Capitol,” was so extreme in his accusations against the new President, that the Attorney General indicted him for inciting rebellion. President Hayes pardoned him.

Remember that the new First Lady was a strict Methodist and pro temperance teetotaler. Perhaps as a

reaction to President Grant, the Hayses decided that for their administration, the White House would be dry. This earned the First Lady the sobriquet, "Lemonade Lucy."

On October 28, 1877, three days after the annual Anniversary Dinner of the Literary Club, a second Anniversary Dinner, without wine or spirits, was given at the White House for Literarians living in Washington, mostly as Hayes appointees. One of the guests said of the libations, "the water flowed like wine." Hayes had appointed fourteen Literarians to government positions high enough to require Senate confirmation

THE PRESIDENCY

Many new Presidents have a "honeymoon period" after the election, when the nation as a whole gives the chief executive a chance. Not so RBH. He was called RutherFRAUD B. Hayes and "his fraudulency." To quote Dr. Asbury, "During the first two years, no President ever suffered the vilification heaped upon him by a hostile press, a hostile Congress, or by Democrats in general who thought they had been robbed of the election."

After the trauma of the nomination and of the contested election, President Hayes inherited a nation fraught with disasters.

RECONSTRUCTION

Reconstruction was the painful process of bringing the Southern States back into the Union after the Civil War. The southern states were left with thousands of freed slaves, disrupted state and local governments, and acres of abandoned southern land. Thousands of Northern whites descended on the southern states as businessmen, teachers, missionaries, but especially as politicians. The local white citizens pejoratively referred to these interlopers as carpetbaggers. New governments were established in all eleven states, all controlled by the Republican Party.

Congress passed the thirteenth amendment, abolishing slavery, the fourteenth amendment, granting citizenship to all freed slaves, and the fifteenth amendment, giving suffrage to all African American males. Freedmens' Bureaus were established to protect newly freed slaves from injustice, help them find work and receive fair wages, provide basic education, and administer abandoned southern lands. Of interest, the sitting president at the time, Andrew Johnson, a son of Tennessee and a former slave holder vetoed all laws established by Congress to aid the black community in the south. Congress overrode his veto, the first instance of that happening in the United States, and articles of impeachment were brought.

Local opposition to Reconstruction was strong with racist groups such as the Ku Klux Klan coming to power with a campaign of intimidation and even murder against freedmen and Republican politicians. The United States Army was sent into the southern states to keep order, protect the freedmen, and aid in reconstruction. The South was, in effect, under military occupation.

Slowly the southern States came back under home rule, and by late 1876 only Florida, Louisiana, and South Carolina were still occupied by the U.S. Army. You may recall that these were the very states whose election results were disallowed on election night.

As the bipartisan election commission, established to certify the presidential race deliberated, they entered into secret negotiations with Democratic representatives from these three states. The Compromise of 1877 was an informal, unwritten deal which granted the Presidency for the Republican Hayes, while pulling all federal troops out of the South. This essentially ended Reconstruction.

CIVIL SERVICE REFORM

Hayes took office determined to reform the way Civil Service appointments were made, which, since the administration of Andrew Jackson, was based on the spoils system. Rather than granting federal jobs to

political supporters. Hayes advocated for a merit system with applicants required to pass an examination. Congress balked at legislation outlawing spoils, so RBH signed an executive order during a congressional recess forbidding political parties from coercing Federal appointees from to make political contributions or participate in party politics. The Collector of Customs of the Port of New York, Chester A. Arthur refused to comply with the executive order and RBH threw him out.

Hayes continued to press congress for meaningful Civil Service reform and establish the United States Civil Service Commission, but this legislation did not pass during his Presidency. The Pendleton Act, which finally established merit based federal appointment was passed by Congress in 1882 and was signed into law by, President Chester A. Arthur.

THE PANIC OF 1873

The panic of 1873 was a world-wide financial crisis which lasted until 1879. This was known as the Great Depression until 1930. The main cause in the United States was over investment in railroads. After the Civil War, the railroads boomed, laying 33,000 miles of new track. The railroads were the nation's largest employers.

They had overexpanded and in September, 1873, the economy entered a crisis. Banks failed, the stock market closed, 55 railroads failed. Construction of rail lines came to a halt. 18,000 businesses failed. Wages were cut, real estate values plummeted, and corporate profits vanished. Unemployment rose to 8.25%

THE GREAT RAILWAY STRIKE

One result of the panic was the great railway strike of 1877. On July 14 of that year, railroad workers in Martinsburg, West Virginia, walked off the job after the Baltimore and Ohio Railroad cut their wages for the third time in one year. They were followed by sympathetic workers in New York, Pennsylvania, Maryland, Illinois and Missouri. All in all, 100,000 workers went out. They destroyed both physical facilities as well as rolling stock. Hayes reluctantly sent in troops to protect federal property. In two weeks, the strike was broken and the railroad workers returned to their jobs. They were guaranteed no further price cuts and general improvement in working conditions. It was the first use of federal troops to break a strike against a private company. While Hayes was praised by the business community, he was not so certain. As wrote in his diary, "the strikes have been put down by force, but now for the real remedy. Can't something be done by education

of strikers, by judicious control of capitalists, by wise general policy to end or diminish the evil? The railroad strikers, as a rule, are good men, sober, intelligent, and industrious.”

AFTER HIS PRESIDENCY

Hayes never intended to run for a second term, and he was gratified that fellow Ohio Republican James Garfield succeeded him. He and his family returned to their beloved Spiegel Grove. While he retired from political life, he had a very active 12 years back in Ohio. He advocated for federal education subsidies for all children in the United States, both vocational as well as academic. He was on the board of the Slater Fund, which distributed money for scholarships for African American men. One of the recipients in 1892 was W. E. B. Dubois. He addressed the issue of prison reform. He was a trustee of the Ohio State University.

Presciently, he was very concerned with the disparity in distribution of wealth in the United States. He wrote, "In church, it occurred to me that it is time for the public to hear that the giant evil and danger in this country, the danger which transcends all others, is the vast wealth owned or controlled by a few persons. Money is power. Excessive wealth in the hands of a few means extreme poverty, ignorance, vice, and wretchedness as the lot of

the many. We may reach and remove the difficulty by changes in the laws regulating corporations, descents of property, wills, trusts taxation and others.” In 1890, he chaired the Lake Mohonk Conference on the Negro Question, a meeting of reformers to discuss racial issues.

A few fun facts; RBH signed legislation allowing women to argue cases before the Supreme Court; His White House pet was the first Siamese Cat in America, sent as a gift from the American Ambassador to Bangkok; he started the tradition of the White House Easter Egg roll; he was the first President to have a telephone and a typewriter in the White House.

Rutherford B. Hayes died at home of a heart attack on January 17, 1893 at the age of 70. His wife Lucy preceded him by four years. His funeral procession was led by Grover Cleveland and William McKinley.

RBH made his last visit to the Literary Club in 1890. He was welcomed by all, even the Democrats. In his remarks, he stated that he was indebted to Cincinnati for his wife, and that he owed his success to training, experience and stimulus in the Club. He expressed thanks for the support and influence of its members in all of his campaigns.

He was remembered by co-contemporary Literarians as genial, quiet, never dogmatic; a well organized man; a

sound thinker, a good speaker, a fair debater, and always a gentleman.