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Bertram H. Groene



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## JUSTICE SAMUEL DOUGLAS AS GOVERNOR MARVIN REMEMBERED HIM

by BERTRAM H. GROENE\*

**I**N FEBRUARY OF 1896 forty-seven year old Bettie Douglas Lewis of Tallahassee, Florida, wrote a letter<sup>1</sup> to aging William Marvin, former governor of the state of Florida.<sup>2</sup> Mrs. Lewis' mother was "Lizzie" Brown, oldest of former Governor Thomas Brown's four daughters.<sup>3</sup> Bettie's father was Judge Samuel James Douglas, once Florida's territorial judge of the middle district, located in Tallahassee, and later an associate justice of the Florida supreme court. Douglas died in 1873, and twenty-three years later, Bettie (Mrs. George Lewis) sought to preserve his history. Aside from her mother, Lizzie, there were few people then living who knew the early life of her father better than William Marvin, who had served as southern Florida's United States district court judge at Key West from 1840 to 1845 and later as circuit court judge. In the early days he regularly sat with Douglas on the territorial court of appeals that met each January in Tallahassee.<sup>4</sup> A life-long friendship developed between these two men.

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\* Mr. Groene is associate professor of history at Southeastern Louisiana University, Hammond.

1. A copy of this letter was made available by the late Mrs. William S. Manning of Jacksonville. Additional information on Judge Douglas was supplied by Mrs. John Ward Henderson of Tallahassee, granddaughter of Samuel J. Douglas.
2. William Marvin (1808-1902) was appointed provisional governor of Florida by President Andrew Johnson, July 13, 1865. He was elected to the United States Senate from Florida in late 1865, but the Radical Republicans refused to allow him to take his seat. He moved to Skaneateles, New York in 1867. Kevin E. Kearney, ed., "Autobiography of William Marvin," *Florida Historical Quarterly*, XXXVI (January 1958), 179-222.
3. The other three daughters of Governor Brown (1849-1853) were Mary, Margaret (Mag), and Virginia (Ginnie). Bertram H. Groene, "Lizzy Brown's Tallahassee," *Florida Historical Quarterly*, XLVIII (October 1969), 155.
4. Each January all of the United States federal district judges met at the Capital, Tallahassee, to sit as the federal appeals court. Marvin was appointed United States judge of the southern district by President Van Buren on April 21, 1840. Clarence E. Carter, ed., *Territorial Papers of the United States: Florida Territory, 1821-1845*, 26 vols. (Washington, 1956-1962), XXVI, 132.

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In January 1861, when Florida seceded from the Union, Circuit Judge Marvin, a New Yorker by birth, remained loyal to the federal government. Douglas at the time was a prominent Key West attorney. With the coming of the war, the Union forces, which controlled the island with its town and naval facilities, kept a close watch on Douglas and his fellow secessionists. Marvin in his letter called this difficult time, "the saddest period of my life."<sup>5</sup> Douglas, who had cast his fortunes with the South, patiently waited his chance for escape to the Confederate mainland. Finally, one spring evening, leaving behind all his possessions except one trunk of belongings, he was able to take his wife and two children aboard a sailing vessel. At midnight an ebb tide carried them under furled sails silently away from the docks. Then with a good wind the sails were set for the trip north to St. Marks, the port of entry for Confederate Tallahassee.<sup>6</sup>

Little is known of Judge Douglas' services to the Confederacy other than what Governor Marvin disclosed to Bettie in his letter. After the war Marvin served for a brief time as provisional governor of occupied Florida, and he appointed his old friend, Douglas, as his secretary. Marvin's biographical sketch of the judge unfortunately ends here. Douglas was appointed the following year as an associate justice of the Florida supreme court, and he served through 1868. Again the judge dropped from public life. He died five years later in Tallahassee, November 1873, at the age of sixty-one.<sup>7</sup>

Governor Marvin's letter to Bettie is reproduced here in its entirety. It was written in ink on twenty-three eight by ten pages. He lived for six more years and died in 1902 at his home in Skaneateles, New York. Bettie died in 1919. She was buried in the old Tallahassee City Cemetery near her father of whom she was so proud.<sup>8</sup>

Mrs. George Lewis;

My dear Bettie,

I shall take pleasure in complying with your request contained in your letter of January 22nd to write down and send

5. Kearney, "Autobiography of William Marvin," 214.

6. Mrs. John Ward Henderson, to author, March 1, 1970.

7. *Ibid.*

8. *Ibid.*

you such reminiscences of your dear father, Judge Douglas, as may occur to me.

Your father and I were friends, and were very much together during a large portion of his life, and to recall to mind the events which occurred in his history during this time will be very much like living a large part of my own life over again.

I met your father for the first time in 1842, or 1843, I *think* in 1842, at Mrs. Chandler's boarding house in Tallahassee.<sup>9</sup> He had, not long before, been appointed by President Tyler, Judge of the Superior Court of Middle Florida.<sup>10</sup> I had come on from Key West to attend a session of the Court of Appeals, to commence there early in January. The Court of Appeals was composed at that time of the Judges of the Superior Courts of the several districts, . . . presiding Judges [Samuel W.] Carmack, from the Appalachicola, Samuel J. Douglas from the middle, Isaac Bronson from the eastern, and Wm. Marvin from the Southern district.<sup>11</sup> *Your* father was the youngest of them. He appeared to me, at that time, to be about twenty-eight or thirty years of age, about five feet eleven inches tall, weighing about one hundred and sixty pounds; well proportioned, having small feet and hands, well rounded limbs, thick, bushy auburn and white hair, and light blue or greyish eyes; always well dressed, a close observer might notice that when he walked one shoulder was a little higher than the other, which helped to give him a sort of stylish, jaunty air.<sup>12</sup> Altogether, he was a handsome, attractive looking man.

Judge Douglas, although the youngest man on the Bench, and not quite so well acquainted with the laws of the Territory as some of the older Judges, did his full share of the work,

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9. Judge Marvin must have met Judge Douglas in December 1841, or January 1842, as Douglas was commissioned on October 12, 1841, and the court of appeals "met the following January.
  10. John Tyler commissioned Douglas as judge of the middle district of Florida on October 12, 1841. Carter, *Territorial Papers*, XXVI, 379.
  11. There were eventually five superior courts: western (Pensacola); middle (Tallahassee); eastern (St. Augustine); southern (Key West); and the Apalachicola district. W. T. Cash, *The Story of Florida*, 4 vols. (New York, 1938), II, 620-25. Marvin had been appointed April 21, 1840, by President Van Buren; Isaac Bronson by Van Buren, March 14, 1840; and Samuel Carmack by President Tyler, September 13, 1841. Carter, *Territorial Papers* XXVI, 132, 123, 372.
  12. Judge Douglas was born in October 1812 at Petersburg, Virginia. This would make him twenty-nine at his first appeals court session in January 1842. Mrs. Henderson to author, March 1, 1970.



Bettie Douglas and her mother, Lizzie Brown Douglas ca. 1856.



Governor Thomas Brown with daughter "Mag" shortly before his death in 1867.

writing as many opinions as any of them, and as able and well considered ones.<sup>13</sup> He was highly respected by his associate Judges for his integrity, ability, and pleasant manners. Nevertheless, he encountered much opposition, both from the bar and from the people, in holding the Superior Courts in his own district. The planters in Middle Florida were very generally, at this time, largely in debt. They had borrowed money from any quarter where they could get it, but especially from the Union Bank of Florida, which had become crippled if not quite insolvent, and could lend them no more. Many of them were sued, and probably the largest number of cases for trial in the court, ever known in Florida, was on the docket at the time Judge Douglas assumed the duties of his office.<sup>14</sup> The real desire of the people generally, was that he should not hold his court at all, and so no judgements could be rendered against them for their debts, and not a few members of his bar sympathized with the people. He had but little moral support from his surroundings. Besides this condition of general indebtedness, a bad and somewhat lawless state of policy prevailed in the district.<sup>15</sup> General Read, a distinguished citizen, who had married Governor Branch's daughter, had been shot down in the street by Willis Alston, a short time previous[ly].<sup>16</sup> Young Ward, a cadet or graduate of West Point, brother of George Ward, had been recently killed, and several other murders less conspicuous, had been committed and yet the murderers had not been arrested. Under such circumstances it required some degree of courage to enable a judge, especially one recently appointed from a distant state to hold his court and administer justice with an

13. From November 29, 1841 to February 12, 1842, Douglas disposed of 2,000 cases and expected a total of 4,000 cases disposed of by that June in his middle district court. Carter, *Territorial Papers*, XXVI, 434.

14. The Union Bank of Tallahassee was primarily for planters. It loaned money unwisely on land and slaves. The bank collapsed in 1843, and its passing was the great banking scandal of antebellum Florida. David Y. Thomas, "A History of Banking in Florida," 19, 74-82. A typed copy of the Thomas manuscript is in the Robert Manning Strozier Library, Florida State University, Tallahassee.

15. 1835 to 1842 were the most lawless years in antebellum Tallahassee. Bertram H. Groene, "Ante-bellum Tallahassee: It Was a Gay Time Then" (Ph.D. dissertation, Florida State University, 1967), 213-16.

16. Willis Alston was released on bond. He jumped his bond and fled to Texas where he was lynched following another murder committed by him. Groene, "Ante-bellum Tallahassee: It Was a Gay Time Then," 208-09.

impartial hand.<sup>17</sup> This, Judge Douglas did, and, as I think, with some danger to his personal safety. He was well supported in the discharge of his duties by his Marshal, Major Camp, and by some of the lawyers.<sup>18</sup> The bar in Tallahassee was composed of strong men, such as Thomas Baltzell, Wm. H. Brokenborough, Leslie Thompson, Thomas Wagner, Thomas Archer, George and David Walker and others.<sup>19</sup>

In the ensuing summer vacation Judge Douglas returned to his home in Virginia, where I stopped over on my way to the north and visited him for a day or two. He lived in [a] moderate sized house, large enough however for his family, located in or near the little hamlet of Jerusalem in Southampton County. On this occasion I became slightly acquainted with his wife and his mother-in-law, Mrs. Kello. His wife seemed to me to be a very lovely, refined spiritual-minded woman, with a delicate white complexion and soft, gentle manners. I was generously and hospitably entertained. In the morning before I left my room, a servant brought to me a large glass holding at least a pint of mint julep! This drink is composed of water, whiskey, sugar, nutmeg, mint just gathered from the garden, and ice, well shaken together so as to extract the juices of the mint, I've been told by Virginians that this attention is a common act of hospitality in their state. They sometimes call this drink an anti-fogmatic. It is pleasant to the taste, but if I should drink much of it before breakfast, I am quite sure I should be drunk all day.

When I left to continue on my journey, Judge Douglas joined me and we proceeded together to Washington, where we stopped at Gadsby's hotel. We called on President Tyler and were invited to take a family room dinner with him the next day. We accepted the invitation. The President, his two daughters, one of them Mrs. Semple, and his son, John, and ourselves

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17. It is a Douglas family tradition that President Tyler was fond of saying that the judge "was not afraid of the devil himself." Interview with Mrs. Henderson, February 1970.

18. John G. Camp was appointed a United States marshal of the middle district, July 22, 1841. Carter, *Territorial Papers*, **XXVI**, 359.

19. William H. Brokenborough was president of the Florida senate, 1842: Thomas Baltzell was chief justice of the Florida supreme court, 1854-1860; Leslie Thompson was four times mayor of Tallahassee; and David Walker was a supreme court justice, 1860-1865, and governor, 1865-1868. Allen Morris, *Florida Handbook, 1949-1950* (Tallahassee, 1949), 10, 114; Dorothy Dodd, "The Corporation of Tallahassee, 1826-1869," *Apalachee* (1948), 95.

composed the party. The dinner was good but plain, among the dishes was one of bacon and greens. The conversation was pleasant and agreeable. It was quite evident that the President and the Judge had been sometime acquainted with each other. I think the President's friendship for the Judge was quite as much a reason for his appointment to office as his fitness for it. We spent several days very pleasantly in Washington, visiting the White House frequently and becoming quite well acquainted with the ladies of the household. Our visit being ended, I went on to New York, and the Judge returned to Virginia.

The Territory of Florida was admitted into the Union as a State in 1845 and as a consequence thereof the Court of Appeals and the Superior Courts which were held under authority of Acts of Congress were superceded by the State Courts, and Judge Douglas and others were left out of office. The Judge returned to the practice of the law. I saw but little of him and know but little of his life from this time till he came to Key West in 1849 or '50, he having been appointed Collector of the port of that place by President Taylor or President Fillmore.<sup>20</sup> His wife had died sometime before, and he had married Elizabeth Brown, daughter of Thomas Brown, an eminent citizen of Tallahassee afterwards Governor of the State.<sup>21</sup> This, in my judgement was a very suitable match. Her home being at the seat of government Miss Brown came to be very generally known, and to be acknowledged as the wit and belle of the Territory. So far as an outsider is competent to judge, I believe that his happiness was promoted by this marriage.

The performance of his duties as Collector did not occupy his whole time, and by the aid of good officials under him, he had plenty of time to give to the practice of his profession and he soon had his full share of the business of the courts, counting among his clients the principal merchants of the Island. Among them William H. Wall, Oliver O'Hara, Borme and Curry, Ava

20. President Taylor appointed Douglas collector of customs for Key West on August 9, 1849. He entered upon his duties October 1 of that year and left the position May 8, 1853 to continue his law practice in Key West until the outbreak of the Civil War. Walter C. Maloney, *A Sketch of the History of Key West, Florida* (Newark, 1876; facsimile edition, Gainesville, 1968), 77.

21. Douglas married Francis Elizabeth Brown in 1847. Interview with Lizzie Brown's two granddaughters, Mrs. Henderson and the late Mrs. Manning, spring, 1966.

Tift and others. Among his associates at the bar were Stephen R. Mallory, afterwards Senator in Congress and at a later period Secretary of the Navy of the Confederate States, Thomas T. King, afterwards Judge of the Circuit Court of the State, Adam Gordon and others.

With an income more than sufficient for his immediate wants, derived from his salary as Collector, from the practice of the law, and from the wages of a few slaves, surrounded by numerous friends, and in the bosom of an interesting and growing family, this was probably the happiest period of his life. He and his wife often entertained their friends at delightful little dinners and suppers, and their house was always a charming place to visit.

But the current of his life was destined not to flow on so gently and smoothly for any long time. In the fall or early winter of 1860 news was brought to Key West from Tallahassee proclaiming that the Legislature had passed a law calling a convention with a view to passing an ordinance of secession.<sup>22</sup> This measure at once divided the people of Key West into two parties; one in favor of secession, the other against it. The inhabitants were all ablaze with excitement. Delegates were to be elected to the Convention. Judge Douglas took his stand in favor of the Union, and made able speeches on that side of the question.<sup>23</sup> But after the war had broken out and Virginia had seceded from the Union, it seemed to him, and to many of his friends at Key West, that the Union *was* likely to be broken up and dissolved into its original elements. In this state of things, he decided to cast in his lot with his native state. He thereupon moved himself and his family to Tallahassee, and afterwards to Virginia. This decision changed the whole current of his after life, whether for better, or for worse, no one can tell. Had he remained quietly in Key West, he would, in *all* likelihood have been employed as an attorney and Counsellor [sic] in many prize causes, thereby adding very considerably to his means of living, and, at the close of the war he would have stood a fair chance of being appointed a judge on the Bench of the United States Supreme Court. But, "It is not in man that

22. The convention met January 3, 1861; secession was voted 62 to 7 on January 10, 1861.

23. Maloney, *A Sketch of the History of Key West, Florida*, 63.

walketh to direct his steps;" "There is a divinity that shapes our ends, rough-hew how we may."<sup>24</sup>

I know almost nothing of the life of Judge Douglas during the war. I have been told that he accepted the office of Judge of some military tribunal established by the Confederate Congress for the trial of military offences, and that he discharged its duties with his customary fairness and impartiality.

In July 1865, the war being over, President Johnson appointed me Provisional Governor of Florida. The State Government had been overthrown by the army of the United States, and martial law everywhere prevailed. My duties consisted principally, not wholly, in inaugurating and carrying out such measures as would enable the people to reconstruct their State Government. In the discharge of these duties I needed the services of a secretary or clerk, and was empowered to employ one at a moderate salary. On my arrival in Tallahassee I was received and welcomed at the State House by a large number of citizens, and among them I soon discovered my dear old friend—We spontaneously embraced each other. The ties of mutual affection had not been weakened by war and separation. My friend was four years older than when I last saw him. His hair was white as snow. He had been through the war and had come out with a loss of all his property. I was glad to be able to help him a little by appointing him to the Secretaryship, and equally glad to have his valuable services. He discharged the duties of this office to the satisfaction of all parties interested.

In my daily and confidential intercourse with him for several months together, I found that he fully and honestly "accepted the situation," as the expression then was. Nevertheless, he had two grievances, which he sometimes spoke of with some degree of bitterness. One was that he felt as if he had been personally injured by being dragged out of the Union four years before against his consent by the leaders of the secession party. He had been all his life-time a whig in politics and a lover of the Union. He now entertained a positive dislike of the secession leaders. The other grievance was that the Congress, in its recent legislation, had not discriminated between the old Union-men in the South and the Secessionists. This legislation

24. "There's a divinity that shapes our ends, rough-hew them **how we will.**" William Shakespeare, "Hamlet," Act V, scene ii, 1.10.

declared in substance that no person should hold any office under the government of the United States without first taking an oath declaring that he had never sworn to support the Constitution, and had afterwards joined in, aided, or abetted the Rebellion. The inability to take this oath disqualified Judge Douglas and many other old Union-men, from holding any Federal office, for they had in years gone by, been Judges, Collectors, Justices of the Peace etc. and had taken an oath of office promising to support the Constitution. Yet, at the same time, leading men among the secessionists, in many instances could conscientiously take the oath, for, in their dislike of the Government of the United States, they had for years refused to hold office under it, and therefore had never taken any oath to support the Constitution. For instance, the President of the Secession Convention in Florida, it is said, had never held any office requiring him to take an official oath. He, therefore, was not disqualified by this legislation from holding office under the Government of the United States; whereas Judge Douglas, an old Union man, was disqualified by it.<sup>25</sup>

As a Judge, Judge Douglas was capable, and honest; as a practicing lawyer, loyal to his clients, and in arguing his causes before a court or jury was often eloquent. As a patriot he loved the whole Union, especially his native state, as a husband he was faithful and affectionate, as a father, considerate and indulgent. He was moderately fond of society, easy and graceful in his bearing, fond of dancing and always courteous and agreeable. He enjoyed, too, a dinner with his friends, at his own house or theirs, but was moderate both in his eating and drinking. In his church relations he was an Episcopalian.

Dear Betty:

I conclude these reminiscences of your dear father by expressing the hope, that his children, grandchildren, and de-

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25. Douglas had been appointed to the Florida supreme court by Governor Walker in 1866. The law that embittered Douglas was the oath to which he could not swear found in the Second Reconstruction Act of March 23, 1867. It read in part, "I have never been a member of any State legislature, nor held any executive or judicial office in any state . . . engaged in insurrection or rebellion against the United States." Henry Steele Commager, *Documents of American History*, 2 vols. (New York, 1949), II, 38. It is remarkable that the radical government allowed former confederate Judge Douglas to remain on the bench until 1868.

**JUSTICE SAMUEL DOUGLAS**

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scendants to the third and fourth generation will cherish his memory and practice his virtues.

With much love to yourself, your mother, George and the children, I am your old friend,

Wm. Marvin

Skaneateles

February twenty-first

1896