

some scholars (and many contemporaries) that had *Buchanan* come out the other way, “racial apartheid might have swept the south” (90). Klarman is obviously correct in emphasizing that racial segregation persisted—and indeed spread to the North—despite *Buchanan*. Restrictive covenants, redlining, exclusionary zoning, real estate practices, and violence all contributed to the unprecedented segregation of African Americans throughout the country. Still, Klarman’s confident assertion that *Buchanan* was wholly irrelevant is misplaced.

Klarman appears to presume that following the Civil War, the United States was immune from the worst evils that have befallen other parts of the world—that full-scale legalized apartheid or even the horrors of intentional racial genocide couldn’t happen here. Charles Lofgren’s analysis of *Plessy* suggests an alternative read of *Buchanan*: it is an example of the Court setting limits against what Charles Lofgren terms the “worst deprivations” (*The Plessy Case*, 201). Indeed to a far greater extent than *Plessy*, the *Buchanan* Court rejected the view that “the Constitution recognized two categories of citizenship, one for whites and the other for non-whites” (id.). One need not soft-pedal the horrors that African Americans experienced during Jim Crow to realize that in the twentieth century at least, our country managed to stave off the grossest manifestations of white supremacy—and that Supreme Court decisions like *Buchanan* may have played some role.

Rachel D. Godsil

Seton Hall University School of Law

Christopher Waldrep, *Vicksburg’s Long Shadow: The Civil War Legacy of Race and Remembrance*, Lanham, Md.: Rowman & Littlefield, 2005. Pp. 344. \$26.95 (ISBN 0-7425-4868-6).

“Democracy,” John Quincy Adams once asserted, “has no monuments. It strikes no medals. It bears the head of no man on a coin.” (Quoted in Michael Kammen, *Mystic Chords of Memory: The Transformation of Tradition in American Culture* [1993], 19.) If Americans ever held to this principle, they turned rather decisively away from it as the Civil War came to a close. As David Blight has observed, “death on such a scale demanded meaning” (David W. Blight, “Decoration Days: The Origins of Memorial Day in North and South,” in *The Memory of the Civil War in American Culture*, ed. Alice Fahs and Joan Waugh [2004], 94). The nation faced “an overwhelming burden of memorialization” (ibid., 97), a task for which “unornamented,” anonymous obelisks, like those commemorating the Battle at Bunker Hill and the nation’s first president on the Mall in Washington, D.C., would not suffice (Kammen, *Mystic Chords*, 19). Heroes needed to be personally identified, honored, and, where politically expedient, permanently installed in public space, not only to preserve their status qua heroes, but to preserve specific ideas about the social, political, and legal meaning of the war.

Consider, for example, the final selection of the Ladies Calhoun Memorial Association in Charleston, South Carolina, for a monument to the state’s controversial pro-slavery senator. A “colossal statue of a caped and imperious Calhoun” stands

atop a column reaching ninety feet above Marion Square (Thomas J. Brown, "The Monumental Legacy of Calhoun," in *Memory of the Civil War*, 148). Viewers are literally dwarfed by the towering, unrepentant figure. And there is, of course, the Lincoln Memorial, a temple fronted by thirty-eight Doric columns in which sits a massive, 175-ton statue of Lincoln, staring across the reflecting pool toward Washington's obelisk. Somber, contemplative, and perhaps more importantly, larger than life, Lincoln's statute looms nineteen feet over visitors.

In the Civil War and Reconstruction, a nation preternaturally obsessed with growth, progress, and the promise of the future suddenly confronted a tragic past considerably more vexed than its triumphant founding, indeed, a past that implied a flawed founding. And so the memory work of what Bruce Ackerman has called a "refounding" (*We the People: Transformations* [1998], 2) was different, not only more hotly contested, but less quickly covered in univocal patriotic cant, though a fervent, nostalgic patriotism did come with time. Did the loss of so many lives to save the Union confirm a new balance of power between the federal and state governments? Or did it preserve the status quo antebellum? Would the terms of peace include a genuine commitment to the egalitarian ideals embodied in the Reconstruction Amendments? Or would reconciliation between northern and southern whites come at the cost of equality for newly freed blacks? Who were the heroes and villains?

Faced with these and other questions, historians have rather meekly conceded that their own work pales in significance to the power of collective memory. As Michael Kammen insists, "It is not by its history that the mythology of a nation is determined, but conversely, its history is determined by its mythology" (Kammen, *Mystic Chords*, 30). More than that, professional history, what Kammen calls "responsible history," has "really not become a corrective to memory" (*ibid.*, 37–38). Whether it should be such a corrective is perhaps less immediately interesting than that some historians have responded to the problem of collective memory by simply turning their archival and analytic tools to study the history of collective memory itself. Memory, once thought the antithesis of dispassionate investigation of the past, now has its own history.

Collective memory of the Civil War and Reconstruction has rightly received special attention at least in part because the social and legal consequences of the period remain so salient. It took a second, still contested, reconstruction a full century later before the nation would recall the promise of the Reconstruction Amendments, our national landscape is dotted with monuments to generals, politicians, and preachers of the period, many of whom held views as divergent from one another as Calhoun and Lincoln, and there are countless military cemeteries and parks commemorating both major and minor battles and the soldiers who fought and died in them. Our long national debate about federalism has also been revived by the Supreme Court in a series of cases which turn heavily on how the exercise of national power in the war and Reconstruction period is remembered (see, e.g., *United States v. Morrison*, 529 U.S. 598 [2000]). As Alice Fahs and Joan Waugh note, every generation since 1865 "has actively reinterpreted the Civil War to support its own ideological agenda," and the reinterpretations often break

sharply from the very ideas taken for granted in prior understandings (*Memory of the Civil War*, 3).

Vicksburg's Long Shadow is an addition to the now substantial body of literature on the history of collective memory regarding the war. Christopher Waldrep focuses on the memory work surrounding the battle of Vicksburg, described by James McPherson as "the most important northern strategic victory of the war" (*Battle Cry of Freedom* [1988], 637). "Battle" is a bit of a misnomer. Vicksburg was the principal Confederate stronghold along the Mississippi River. Several disastrously failed approaches, an ingenious and daring end run around the city's cannons perched above the river, and a long siege, all were required for Grant to secure General Pemberton's surrender on July 4, 1863. Grant's victory in Vicksburg broke the back of the Confederacy more directly than did Lee's defeat at Gettysburg the day before. For with Vicksburg in hand, the north controlled the entire Mississippi and Sherman was clear to begin his devastating eastward march. Black soldiers also proved their mettle against a Confederate attack at Milliken's Bend before the full siege began, bolstering northern confidence in Lincoln's Emancipation Proclamation and his decision to enlist blacks in military service.

Despite all this, Vicksburg remains almost forgotten in our collective memory relative to Gettysburg, Appomattox, and other eastern battles. This is so notwithstanding the rather elaborate national military park, cemetery, and other commemorative sites in and around the city. Waldrep carefully reconstructs the history of the battle and its commemorative sites, but one is left with the distinct impression that Vicksburg never cast that long a shadow at all. War dead lay rotting "and the stench of death still hung over the farms around Vicksburg three years after the battle ended and three years after Lincoln had dedicated Gettysburg's National Cemetery" (72). Although the government finally got around to building a national cemetery at Vicksburg in 1866 (72), the more expansive national park did not receive federal approval and funding until 1899 (166), was not completed until more than a decade later, and there might not have been any park at all without the influence of the Illinois Central Railroad, which had an interest in promoting travel on its Mississippi valley line (145, 268). In stark contrast to Gettysburg, moreover, Vicksburg's use for public events waned with the generation of veterans who served in the war on the western front (248–49). And unlike the Lincoln Memorial, it has not been appropriated for the symbolic purpose of reminding the nation of the legal commitments undertaken as a result of the war and Reconstruction.

Instead, it appears that the construction and use of commemorative space in Vicksburg reflected larger, national trends well documented in the literature: the national retreat from Reconstruction to "home rule" and Jim Crow segregation; the rise and proliferation of Lost Cause ideology in histories, school texts, and public space—even space dedicated to the memory of Union soldiers; the sentimental celebration of military valor to reunite Union and Confederate soldiers and sympathizers on a nationalist and distinctively apolitical terrain; the production and promotion of a highly idealized and nostalgic image of southern culture and values to foster tourism and assuage northern anxieties about Gilded Age industrialization and corruption; the transition from bloody-shirt politics to what might be called

the politics of veterans' social welfare; the strategic use of memories of Civil War valor to support American imperial and militarist ambitions in the early twentieth century; and finally, the establishment, across the country, of formal, bureaucratic park management as part of the New Deal.

Waldrep concedes as much about the rather humble place of Vicksburg's memory sites when he writes that "Memory records prevailing power, the structure of society, the hierarchy of sovereignty, the most fundamental ways a nation organizes itself" (xiii). This is, however, the most passive, unrevealing role collective memory can play. At sites where collective memory is truly active or contested, it does more than reflexively record prevailing power, the structure of society, and the hierarchy of sovereignty, it shapes them, and in so doing, much like myth, it makes history. Law, politics, social action all bend to its will (hence John Quincy Adams's aversion to monuments in democratic societies). By this measure, in any event, the shadow cast by the memory sites at Vicksburg was short indeed. As a nation, we have given pride of place to General Lee's audacious northern foray and the three day battle which ensued over the grinding campaign Union soldiers won in the heart of the south. In the same way, we have privileged what David Blight has called a "reconciliationist" view of the war, predicated on the heroism and mutual sacrifice of Union and Confederate soldiers, over the difficult work an "emancipationist" view would still demand (Blight at 2, 57). Vicksburg's obscurity is truly telling.

Norman W. Spaulding
Stanford University

Adriaan Lanni, *Law and Justice in the Courts of Classical Athens*, Cambridge: Cambridge University Press, 2006. Pp. x + 210. Price \$65.00 (ISBN 0-521-85759-7).

If ideal courts in a democracy resolve disputes according to law, then the most democratic courts of the world's first and most democratic state seem far from ideal. Litigants in Athens's popular courts often use arguments that appear prejudicial, based upon character invectives, pleas for pity, and boasts of past civic service. These arguments may show that Athenian courts had more of a political than a judicial role in Athens' participatory democracy. This conclusion has consequences beyond historical debate. On this premise, Richard Posner recently criticized Justice Stephen Breyer's argument that American courts should follow Athenian courts in encouraging democratic participation. Posner argues Athenian courts are a dangerous model because in Athens "[t]he only justice was popular justice." Posner, "Justice Breyer Throws Down the Gauntlet," *Yale Law Journal* 115 (2006): 1701.

In her book, Lanni argues that "popular justice" does not mean Athenian courts were primarily political. "[T]he primary aim of [popular] courts was to resolve disputes justly, taking into account the circumstance of each case" (176). Athenian popular courts, like modern courts, sought to resolve disputes according to law. However, Athenians valued a jury's discretion to hear and evaluate arguments be-