

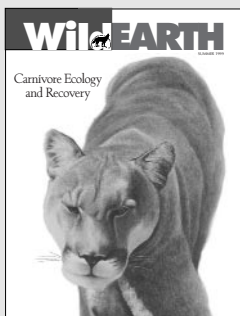
JOSEPH BATTELL

Once and Future Wildlands Philanthropist

by Jim Northup

The story of Joseph Battell's intended—and partially circumvented—wildlands philanthropy is a rich and complex one that is still unfolding in the hills of Vermont.

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KNOW ALL MEN BY THESE PRESENTS: That I, Joseph Battell of Middlebury, in the County of Addison and State of Vermont, in consideration of One Dollar to me in hand paid and in consideration of the love I bear my native state, do give, grant, bargain, sell, convey and confirm to THE STATE OF VERMONT for a STATE PARK a mountain called CAMELS HUMP...

Trees growing on the land herein conveyed are not to be cut except those which it is necessary to remove in building paths or roads, and the whole forest is to be preserved in a primeval state....

So begins Joseph Battell's deed conveying to the citizens of Vermont some 1200 acres, including the alpine summit of Vermont's fourth highest and perhaps best loved mountain. With this act, he created Vermont's first natural area strictly protected for its wilderness character. Four years later, through his last will and testament, Battell would add to this already extraordinary legacy by placing over 30,000 acres of Vermont's mountain forests in trust forever as "wild lands." Mr. Battell didn't receive even one dollar for this second generosity; he gave the land away purely out of love for the people and forests of his native state.

The story of Joseph Battell's intended—and partially circumvented—wildlands philanthropy is a rich and complex one that is still unfolding in the hills of Vermont. His unorthodox desire "to preserve considerable tracts of mountain forests in their original and primeval condition" perplexed many people, including the trustees of his estate. After all, the norm at the turn of the last century was widespread clearcutting and deforestation—"working" forests run amok. Because people could not fully grasp the ecological, economic, and social benefits of wild forests, they found ways to interpret Battell's will to allow logging and development, in direct contradiction to his wishes, on much of the land he once owned.

The summit of Camel's Hump now stands proudly preserved as forever wild; Battell would be pleased. The other 30,000 acres of Battell's former holdings are another story; most are now owned by the public and managed as part of the 370,000-acre Green Mountain National Forest (GMNF). Unfortunately, the United States Forest Service (USFS) has logged old-growth forests, clearcut large sections of mountainside, and allowed intensive ski area development on the land that Battell intended to be forever wild.

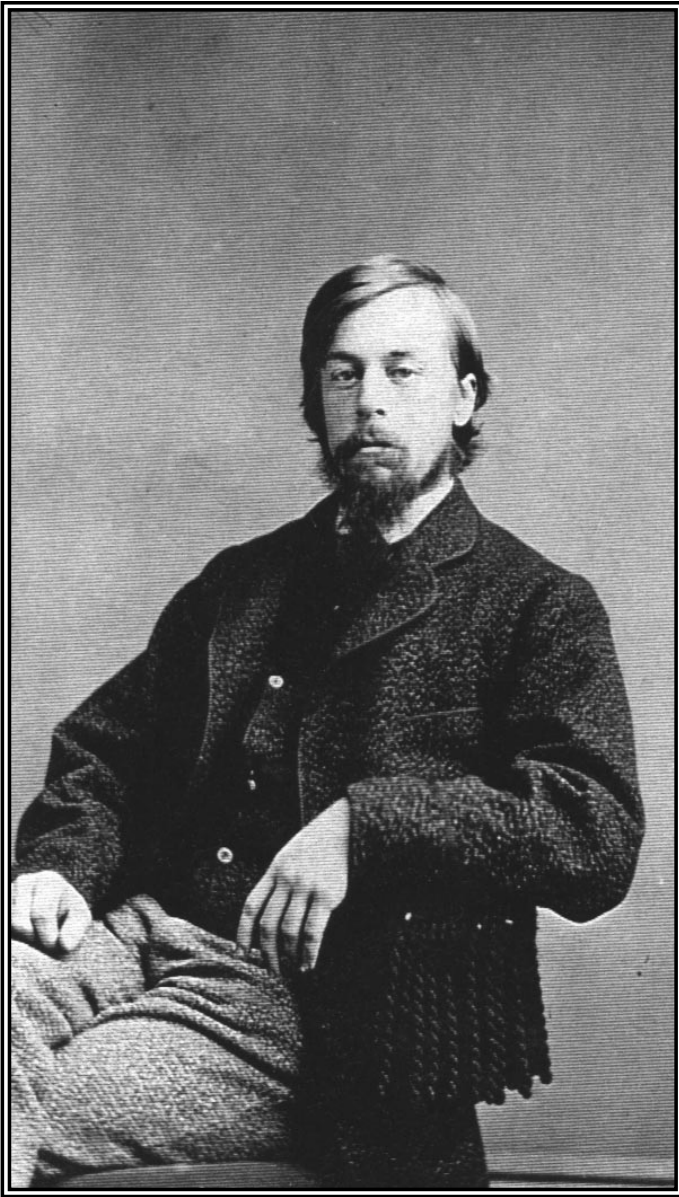
This dark cloud obscuring Battell's wildland vision is not without a silver lining: the 140,000-acre northern unit of the GMNF, including the 22,000-acre Bread Loaf Wilderness, would not exist today if it were not for Battell's foresight and generosity, and it is not too late to make right many of the historical wrongs inflicted by past Forest Service management. Congress can create the Joseph Battell Wilderness out of the heart of Battell's former wild forests, and the USFS can end logging and ski area expansion and restore ecological integrity on the rest of the lands.

Taking the Path Less Traveled

Joseph Battell was born on 15 July 1839 to a wealthy and influential Vermont family. His father, also named Joseph, was a highly successful, Connecticut-born merchant who built the Battell Chapel for Yale University. The elder Joseph Battell and his brother Phillip were distinguished graduates of Middlebury College. The strong family ties to and affection for Middlebury College led young Joseph Battell to enroll there in the early 1860s and likely prompted the lifelong bachelor to name the college as the primary beneficiary of his will.

Battell was forced to leave Middlebury College due to ill health and never completed his degree requirements. He spent the next several years traveling the world before returning to the Middlebury area and purchasing a high-elevation farm in nearby Ripton, Vermont, where, according to his doctor, the clear mountain air would help cure his ailing lungs.

The farm eventually became the Bread Loaf Inn, named for the mountain that looms in the east. Over the years, numerous new buildings, ells, porches, and barns were added in order to accommodate Battell's many friends and guests. The Inn and



In a passionate 1891 speech, Battell called on the Vermont legislature to preserve and protect the state's forests from "timber butchers, lumber merchants and firebugs."

surrounding mountains served as Battell's home, personal sanatorium, and sanctuary for the rest of his long life. Today, the grand, rambling Victorian resort created by Battell is home to Middlebury College's renowned summer writer's school.

In addition to his social and political prominence (Battell owned and edited a newspaper, authored several books, served in the Vermont legislature, and was a Trustee of Middlebury College), Battell was well known for his unconventional philosophies. He expressed disappointment in people's inability to get out and stay out of the conceptual "ruts" that culture and technology create. In the preface of *Ellen or Whisperings of an Old Pine*, his quirky treatise on philosophy and science, he mused:

We are aware that it is very difficult and in some if not many cases impossible for those educated in a system of either politics, science, or religion to relinquish tenets that they have always been instructed in and supposed to be correct....It is therefore a slow process for the world to leave the paths, however erroneous, in which it has long traveled, and many who succeed will be constantly slipping back. (Battell 1903)*

Battell found the challenges of thinking outside-the-box to be especially true regarding people's concepts of Nature and their relations to the natural world. For instance, he stridently opposed the displacement of pedestrian and equestrian modes of transportation by the automobile and advocated for the preservation of these quiet travelways when building the noisy, new auto routes.

Similarly, he held progressive views on forest protection. At a time when conservation was a concept alien to most people and pioneer conservationists were viewed as misdirected eccentrics, Battell abhorred and spoke against stripping trees from the mountains of New England. In a passionate 1891 speech, Battell called on the Vermont legislature to preserve and protect the state's forests from "timber butchers, lumber merchants and firebugs." An early proponent of eco-tourism, he said, "This mighty rib of old forest that runs through our state is by far the most beautiful bit of scenery we have. Preserved, it would itself attract yearly and for all time thousands of summer visitors."

Quick to speak for forest protection, he was equally quick to act. One account says that when Battell saw clearcutting begin on a mountainside near his beloved Bread Loaf Inn, he feared the magnificent scenery would be ruined, soils would erode, and pristine streams would be impaired, so he bought

*Note in this quotation the possible basis for Robert Frost's poem "The Road Not Taken." Frost was in residence at the Bread Loaf school for many years and undoubtedly read Battell's book—at least the preface.

that mountain on the spot for ten thousand dollars, thus beginning his quest of “preserving the wealth of Bread Loaf scenery for posterity” (Dorn 1965). Perhaps referring to this initial act of land preservation, Battell once said, “Some folks pay \$10,000 for a painting and hang it on the wall where their friends can see it while I buy a whole mountain for that much money and it is hung up by nature where everybody can see it and it is infinitely more handsome than any picture ever painted” (Lee 1936).

Battell went on to purchase over 30,000 acres of forestland within and beyond the view of the Inn. At his death in 1915, he was the state’s largest individual landowner, and he left nearly all of his holdings in trust as “wild land” to “the citizens of the State of Vermont and the visitors within her borders.”

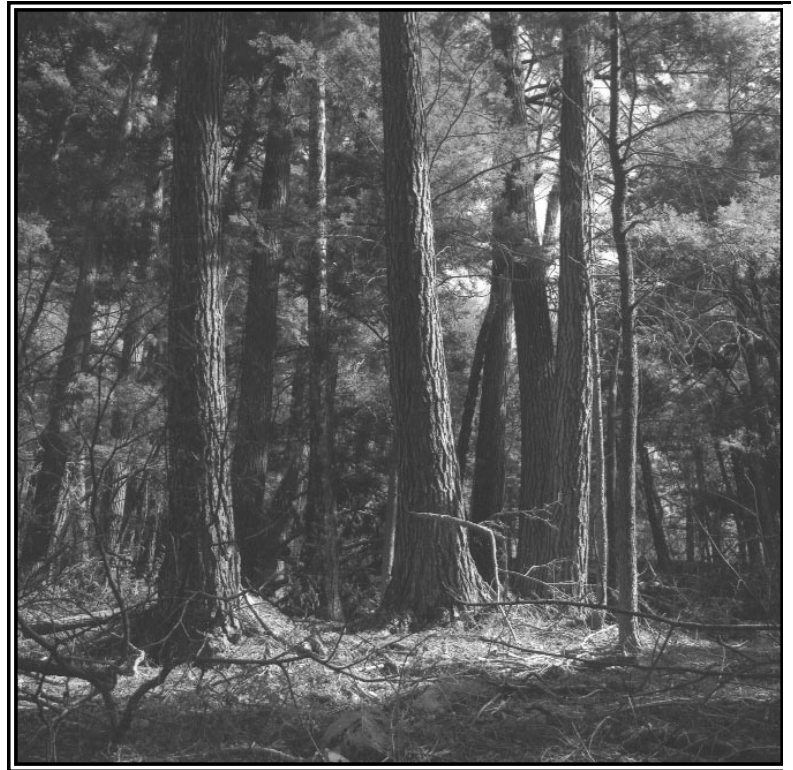
Battell’s Bequest and Its Deconstruction

A 9 June 1915 press release by the Vermont Forestry Department celebrated Battell’s passion for land conservation and noted the impressive wildlands legacy that he left:

It is seldom that the will of a Vermont man has had as far reaching an influence as that of the late Col. Joseph Battell of Middlebury. For many years he had been collecting wild lands, much as a schoolboy collects postage stamps, and like some stamps collected only from sentiment, many of these tracts have become valuable owing to the growing scarcity of timber. These large holdings have now been divided through gift and bequest among Middlebury College, the State of Vermont, and the United States Government.

Battell divided his lands legacy into three main pieces: 1) Camel’s Hump was deeded to the State of Vermont; 2) more than 25,000 acres surrounding the Bread Loaf Inn and the Inn itself were left to Middlebury College; and 3) roughly 5000 acres on the ridge from Mount Ellen to Mount Abraham were willed to the United States Government for a National Park. Since the federal government declined Battell’s gift, this extraordinary tract of primeval mountain forest went also to Middlebury College as part of the “residue” of the estate.

The language of Battell’s last will and testament is impressive in its clarity of purpose and its straightforward directives to the trustees overseeing his charitable gifts (see sidebar). Battell said he wanted “...preservation of a considerable tract of mountain forest in its virgin and primeval state...in trust forever...neither to cut nor permit to be cut thereon any trees whatsoever...it being a principal object of this devise to preserve intact said wild lands...and...considerable tracts of mountain



Old-growth hemlocks on former Battell lands.

forests...in their original and primeval condition....” Unfortunately, the interpretation and execution of Battell’s last wishes were anything but straightforward.

The money managers, lawyers, and foresters who were asked to interpret and implement Battell’s will looked upon truly wild, uncut forests as a wasteful use of land yielding no economic, biological, or social benefits. They were stuck in the conceptual ruts created by their professions and by the dominant societal views of the time and assumed Battell could not have intended what the plain meaning of his words expressed—that essentially no logging should be allowed in order to preserve and create “...considerable tracts of mountain forests...in their original and primeval condition.”

Interpretation of the will generated much discussion and disagreement among Middlebury College’s administrators, trustees, and attorneys. In a 6 March 1916 letter to college president John Thomas, one lawyer said, “I saw plainly that you were disquieted by some suggestions made as to the proper attitude of the College towards the park. I should be disquieted, too, if I thought the College was likely to assume any position with respect to Battell’s bequest which was unsympathetic with the plans and purposes he had in mind” (Partridge 1916). Then as now, finding the proper attitude toward wild land was no easy task.

In the end, the official assessment was that Battell desired to restrict—but not eliminate—logging on most of the land. The will’s interpreters assumed that if the forests were left

Excerpts from Battell's Last Will and Testament

FROM CLAUSE 3: *Being impressed with the evils attending the extensive destruction of the original forests of our country, and being mindful of the benefits that will accrue to, and the pleasures that will be enjoyed by, the citizens of the State of Vermont and the visitors within her borders, from the preservation of a considerable tract of mountain forest in its virgin and primeval state, and believing that the popularity of Middlebury College will be greatly enhanced, I therefore further give and devise to the presidents and fellows of Middlebury College in trust forever, all those portions of wild lands in...Hancock, Rochester and Goshen as are visible in a southerly, southwesterly and southeasterly direction from said Silent Cliff; also all those parts of the mountains visible from the Bread Loaf Inn in easterly, northeasterly, northerly, southeasterly and southerly directions...; also, the wild land...generally including parts of Romance Mountain at the south, Worth Mountain at the east and parts of Bread Loaf Mountain with the arm extending northwesterly from it, at the north; together with the range connecting said mountains.*

And it shall be the duty of said trustees to preserve as far as reasonably may be the forests of said park, and neither to cut nor permit to be cut thereon any trees whatsoever except such as are dead or down and such as it may be necessary to cut in making and repairing needful roads; it being a principal object of this devise to preserve intact said wild lands, especially the Hancock part thereof, as a specimen of the original Vermont forest.

FROM CLAUSE 7 AND CODICIL (SUPPLEMENT) 3: *The lands in the town of Lincoln and Warren in the State of Vermont..., I hereby give and devise to the United States of America for a national park....I make this devise in the hope and belief that the trust hereby established will be so administered as to fulfill the objects mentioned in the third clause of this, my will and that the (trustees) will not allow my desire to preserve considerable tracts of mountain forests (from which Vermont derived her name) in their original and primeval condition, to be defeated by the cutting of trees on said lands or otherwise.*

untouched, insects, disease, and fire would surely destroy them, along with Battell's wish to keep them intact. That is, they believed preservation of forests and scenery *required logging*. They even concluded that logging some of the old growth was acceptable: "While the Committee doubts whether Battell intended to have left untouched all the first growth within the Park, it does seem clear that he intended some...well defined areas should be left in their virgin and primeval state" (Committee on Battell Forest 1925).

A myopic economic view, in addition to ecological ignorance, also shaped the decision to log, and later sell, the land. In his will, Battell talked about the "...benefits that will accrue to, and the pleasures that will be enjoyed by, the citizens of the State of Vermont and the visitors within her borders." He also directed that "...the residuary portions of my estate are to be invested as prescribed in my will and the income used by the trustees." Since the interpreters of his will believed uncut or

unsold forestland could not provide benefits or generate income, they concluded that logging and selling the land would be consistent with Battell's intent.

An advisory report to the Board of Trustees declared:

This cutting limitation in its most literal sense would be well calculated to defeat the object which Battell had in mind and would not be consistent with regard to the land in question or the general purpose, which we now know from the evidence of his associates, he had in mind for the preservation of this land. On the other hand, it could not be said that Battell did not mean anything by the cutting restriction....In this connection it is to be noted that the cutting restriction is made a duty and is not expressed as a condition or command and that it is expressly limited by the words as far as reasonably may be (Committee on Battell Forest 1925).

Wild Lands Lost

Middlebury College began logging the land shortly after receiving it from Battell. Hundreds of thousands of board feet of spruce were sold to the United States government for use in building airplanes for World War I (Rutland Daily Herald 1/11/28). More wood was cut to construct Forest Hall and other campus buildings. When economic hard times hit the nation in the early 1930s, the college decided to sell roughly two-thirds of Battell's forestland.

No private buyers could be found who were both able to pay the substantial sum of money the well-stocked forests were worth and who were willing to honor the trust, even when loosely interpreted, that Battell imposed on the land. The college turned instead to the federal government, the principal buyer of large tracts of forestland during the Great Depression. An official proclamation boundary had been established in 1932 within which purchases of land could be made for the Green Mountain National Forest in southern Vermont; however, this purchase area (now the Manchester District) did not include the land the college wished to sell. A 9 June 1933 "Report to the Board of Trustees on the Proposed Sale of the Battell Forest" said, "In order to put this sale through it would be necessary to persuade President Roosevelt to proclaim a purchase area to include Battell Forest, and for the National Forest Reservation Commission to change its policy regarding the purchase of mature timber—*something that will be very difficult to achieve.*"

Difficult indeed, but Middlebury College succeeded and was able to sell almost 20,000 acres to the US Forest Service in the 1930s and another 10,000 acres to the agency in the 1950s. The Addison County Court of Chancery—a court of equity or conscience, not a typical court of law—was asked to review and approve the second sale to the Forest Service. Among other things, the Court had to determine if the land sale would uphold the public trust duties created by Battell: preservation of the wild forest and public access for recreation.

The Court approved the transaction, believing that landowners must "properly operate" wild forests in order to preserve them and that Middlebury College could no longer afford to do so. The Court said on 28 May 1949, "That unless such sale is authorized and carried out there is grave danger that said trust will fail for...lack of funds and proper facilities with which to properly operate said forests, they may become so impaired or ruined through the inroads of pests and forest fires that they will cease to exist as *a considerable tract of mountain forest in its virgin and primeval state.*"

The land was sold to the USFS conditioned by the public charitable trust created by Battell's will, but without any restric-

tions imposed in the deeds transferring title. Over the years, the agency lost sight of its duties as trustee and developed and heavily logged much of the land once owned by Battell. The Sugarbush Ski Area, under lease from the Forest Service, covers most of the east side and portions of the summit of the ridge Battell wished to be preserved in its "original and primeval condition" as a National Park. The scars of large clearcuts—sanctioned by the agency—are still visible on the western flank of that ridge and elsewhere on the former Battell land.

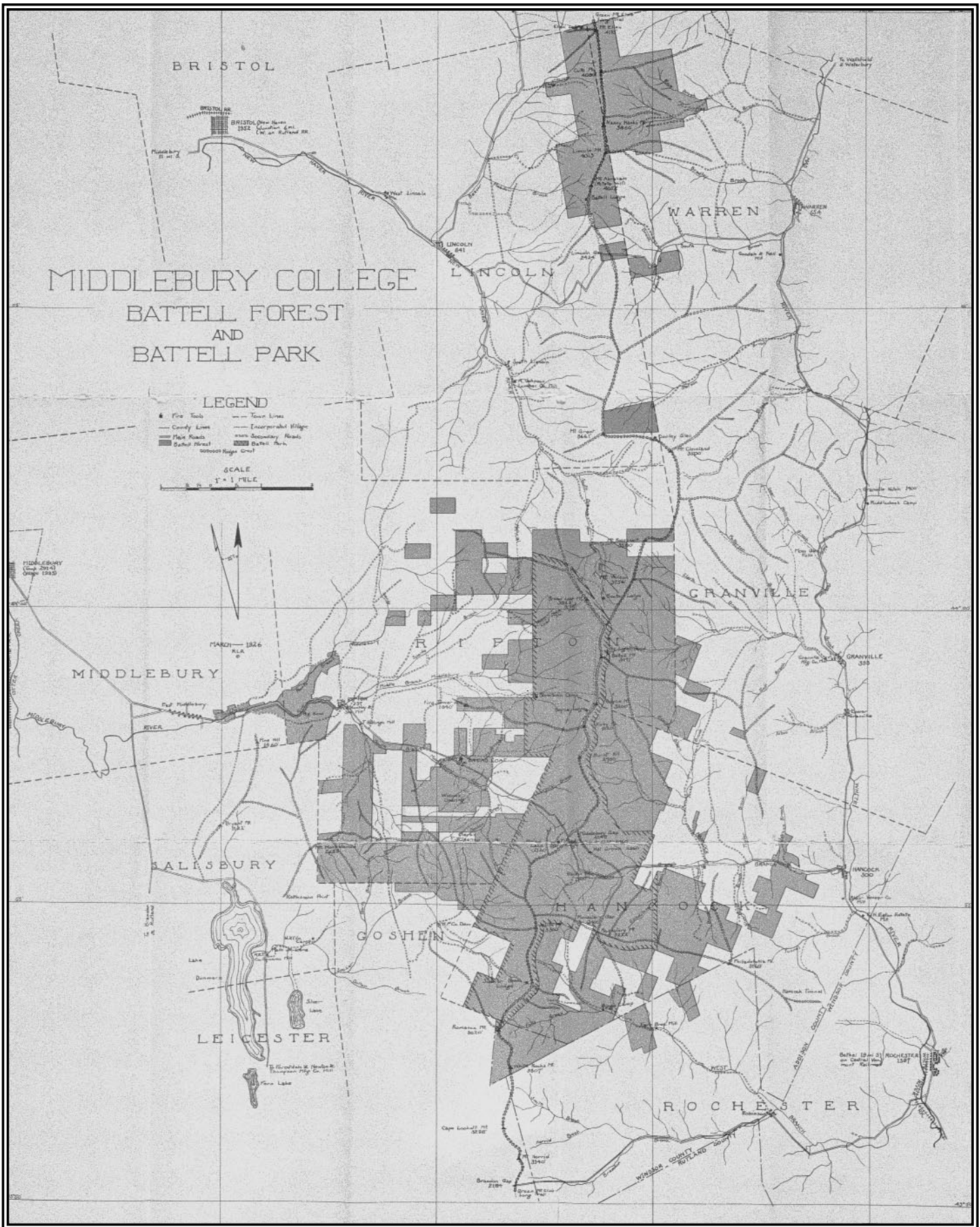
In keeping with his last wishes, but not in direct response to them, the vast tract Battell owned along Bread Loaf Mountain is protected from logging and development by the 1984 Vermont Wilderness Bill's designation of the 22,000-acre Bread Loaf Wilderness. In stark contrast to his wishes, most of the rest of the land he once owned, including the 10,000 or so acres of "...wild lands in...Hancock, Rochester and Goshen," is now being managed by the USFS for timber production. This can and must change. The United States government must substantially reform its management and fulfill its duties as trustee overseeing the forests that Joseph Battell intended to remain forever wild.

Wild Lands Found

The State of Vermont, through a 1969 act of the legislature, formally chose "to maintain the present near-wilderness aspect of the [Camel's Hump] region for present and coming generations and fulfill the original wish of Joseph Battell to see *the whole forest preserved in a primeval state.*" State officials believed that in accepting Battell's gift, "a promise was made"—to the man and to the mountain—and it was the state's duty to uphold it (Vermont Agency of Environmental Conservation 1973).

After a group of Environmental Studies students reminded Middlebury College of its promise to Battell, the trustees promptly passed a resolution on 8 May 1999, ensuring that Battell's wishes would be honored on the few hundred acres of former Battell land that the college still owns:

Be it resolved, that the undeveloped lands within the Bread Loaf Campus area, the lands along the Middlebury River Gorge, and the lands along the Otter Creek Gorge, devised to Middlebury College pursuant to the Last Will and Testament of Joseph Battell be preserved and protected all in accordance with the terms and conditions imposed upon and required by said Article Third of said Last Will and Testament of Joseph Battell and that the trustees of Middlebury College will fulfill its fiduciary duty as trustee of the trust under will of Joseph Battell.



Middlebury College map of former Battell lands, circa 1926

Now it will be up to the students and administrators to keep that promise alive.

Hopefully, these decisive conservation actions taken by the State of Vermont and Middlebury College will inspire the federal government to take similar steps, for it too must live up to the promise made to Battell. While the Forest Service cannot put back the thousands of acres of old growth and other timber it has removed over the years, it can cease all future logging on the Battell lands. And, while it may not be feasible immediately to eliminate the ski lifts, trails, buildings, and parking lots of the Sugarbush Ski Area from the former Battell land, it is possible to prohibit all future development of that land and to initiate reasonable restoration activities, including removal of ridgeline communication towers and abandoned ski lift facilities from the summits.

Joseph Battell knew that the wild forests he cherished were the original home of the human spirit and would need to be preserved where intact—and allowed to recover where diminished—if future generations were to experience and gain wisdom from them. It is only right that visitors to his mountains be able to learn the lessons that wild forests teach and also to learn of Joseph Battell, their benefactor.

In addition to the management actions outlined above, Congress should designate as Wilderness the area of the Green Mountain National Forest that Battell willed to be forever wild—the rugged mountains in Hancock, Rochester, and Goshen that he so loved—plus any adjoining land that would add to the new Wilderness Area's ecological integrity. This fitting act would properly honor the memory of Joseph Battell, would gratefully acknowledge his priceless charitable gifts to the nation, and would officially commemorate his once and future vision of “considerable tracts of mountain forests in their original and primeval condition.” ☾

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*You'll find his name written in men and women
Who never knew him and may never know him
But who grow bigger in the space he left them.*

—from “Mountains and a Man,
A Glimpse of Joseph Battell”
by Charles Malam

JIM NORTHUP, a former planner on the Green Mountain National Forest, is executive director of the regional conservation group **Forest Watch** (10 Langdon St., Montpelier, VT 05602; 802-223-3216; jnorthup@together.net). Forest Watch is working to have Battell's wishes honored by the Forest Service, to protect and restore wild forests, and to reform public land management throughout New England. Visit the Forest Watch website (www.forestwatch.org) to find out how you can help protect Battell's wildlands legacy.